

# European perspectives of the Western Balkans countries I

Afrim HOTI – Igor KOSÍR  
(editors)



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**(editors)**

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AAB College

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## Preface

All parts of European continent were impacted by the process that was not known as dominant in international economic relations among the nations at the beginning of the second half of the 20<sup>th</sup> century. It is a process of approaching, adaptation and sustainable linking deliberately of two or more national economies, firstly neighbouring, later the other ones in order to form more efficient economic system, motivating and interesting for entrepreneurs, businessmen, bankers, traders, producers and finally for all parts of population – consumers: the process of international economic integration.

There were several examples of this type of intensively cooperating neighbourhood: Prussia and later German Customs Union (Zollverein), successful during the 19th century and efficiently contributing to a realization of ambitions of Prussia to unify German speaking small, medium and bigger states into the unified German state in 1871 (Deutsches Reich). Southern African Customs Union, organized and set up by London based British Empire in 1910, was an interesting model of this process in the practice, too, but was organized among not independent countries but four British colonies. But the customs union, created and functioning between small European countries from the beginning of the 1920s as between Belgium and Luxembourg (BELUX) in 1921 and between Switzerland and Liechtenstein in 1923, were the perfect pioniers of building the closer and efficient economic relations between the nations. By adding an example of BENELUX (customs union of Belgium, Luxembourg and the Netherlands, being realized four years after signing the London convention in 1944) we are approaching the era of the great personalities of the economic theory which used the practical experience of existing functioning small customs unions as well as the theoretical conclusions of Jacob VINER's theory. There were namely Jan TINBERGEN, Dutch economist, the first European Nobel prize winner in economic sciences, and Béla BALASSA, U.S. economist of Hungarian origine. They created a theoretical basis for using a new economic cathegory – international economic integration. And this process had been developed dynamically until now. It represents a very important subsystem of today's globalization and impacted all continents.

European integration is assessed as the most experienced and successful in many dimensions. It has, parallelly with interesting economic results, the peace creation function, too. The team of university teachers and researchers of four countries (Albania, Egypt, Kosovo and Slovakia) and four universities tried to analyze not only historical aspects of a specific development in the Western Balkans region, and in the territory of former Yugoslavian federation, but the authors tried to contribute to a discussion and a presentation of the vision of European perspectives of these nations as Slovenia, the first ex-Yugoslavian republic, and Croatia, the first Western Balkans country - are the good examples. Of course, all Western Balkans countries are geographically in Europe. But European perspectives, using the „Brussels English“, mean a building, developing and widening of existing potential for efficient transformation of national economy and society in order to create the real conditions for becoming an EU associate country, later EU candidate country and finally to join the European integration process fully.

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Afrim HOTI and Igor KOSÍR,  
Prishtina, August 2015

# 1 The Balkans – Crossroads of Interests of Superpowers During 1878-1914<sup>1</sup>

*Mária HOLUBOVÁ\* - Ľubica SAKTOROVÁ\*\**

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**Abstract:** *Crimean War (1853 - 1856) caused major shifts in the balance of forces between European powers. Together with Russia, the French government tried to undermine the Turkish, British and Austrian influence in the Balkans. The preliminary San Stefan peace treaty between Russia and Turkey (March 1878) anticipated adjustment of the political situation in the Balkans essentially following the national borders. The definitive peaceful conditions were established by Congress of Berlin (June - July 1878). The complete independence of Serbia, Montenegro and Romania was confirmed. In September 1908 Austria-Hungary declared the annexation of Bosnia and Herzegovina as a unilateral act. The Bosnian crisis contributed to a further escalation of conflicts between Austria-Hungary, Germany and the countries of the Triple Entente. In 1912, the Turkish dominion in Europe was almost completely destroyed. Results of the First Balkan War meant the strengthening of Serbia and in particular the impact of the Triple Entente in the Balkans. Among the countries of the Triple Entente and the Triple Alliance occurred a battle regarding the influence on Romanian, Bulgarian and Turkish government in 1913. Next year, European powers, which followed its own objectives, were preparing for war.*

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<sup>1</sup> Note: In 1878, under the guarantee of Germany and Chancellor Otto von BISMARCK held the Congress of Berlin, where the great powers and the Ottoman Empire agreed and defined spheres of interests in the Balkans. In 1914, after the Sarajevo assassination of Franz Ferdinand d'Este, the successor to the Austro-Hungarian throne, the First World War broke out.

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**Keywords:** *Balkans, European powers, territorial and political interests, national liberation, Balkan wars, Ottoman Empire, Triple Entente, Triple Alliance, First World War*

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For an assessing the developments in the Western Balkans region now it is very interesting as well as useful to imagine the “map” of developments and the main trends and impacts of them on the following evolution, including the changes - alternations of the stable periods with the turbulences since the 1870s. It is of the first importance in any analysis of Western Balkans developments totake into account the deeper history of the region and of its individual countries in relation to the overall pattern of industrialisation and society development in Europebeing linked to theterritorialandpolitical interests of European powers there. The 100<sup>st</sup> anniversary (1914 – 2014) gave us a perfect occasion for it.

## **1.1 Conflict of Territorial and Political Interests of European Powers in the Balkans**

Crimean War<sup>2</sup> caused major shifts in the balance of forces between European powers. Russia lost the position of the leading continental power in Europe in favour of France. Discrepancies between Russia and Britain have been deepening. Even the Russo-Austrian relations resulted in a substantial cooling that, during a clash interests in the Balkans, led to open

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<sup>2</sup> Note: Crimean War took place from 1853-1856, when sharpened Russia's relations with Turkey, where a mission of Prince MENSHIKOV, on behalf of the Russian government demanded the right to protect the Orthodox population. Following the rejection of Russian demands, without a declaration of war, the Russian troops occupied Danubian principalities of Wallachia and Moldova, which were under the sovereignty of the Turkish sultan. The Turkish government, which was supported by Great Britain demanded the withdrawal of Russian troops from the Danubian principalities. As a result of increased British and French influence in Constantinople, Turkey has declared war against Russia on 4<sup>th</sup> October 1853.

hostility. Russia on the other hand came together with Prussia and gradually well with France<sup>3</sup>. The conclusions of the Paris peace conference of 1856 were not strictly followed, some of the requirements of the United Kingdom France did not support at all. Together with Russia, the French government tried to undermine the Turkish, British and Austrian influence in the Balkans.<sup>4</sup>

### 1.1.1 Russo-Turkish War and the Congress of Berlin in the context of international relations

National liberation war against the Turkish occupation in the Balkans again ignited traditional rivalry of the Russian and the Austrian policies in this area. The British government has shown a commitment to maintain the integrity of the Turkish Empire and did not want to accept penetration of Russia to the Black Sea straits. Not even the German diplomacy was willing to wholeheartedly support Russian politicians and was the first for conveying the agreement between Austria-Hungary and Russia.

*In July 1875 uprising has begun in Herzegovina* and shortly after that in Bosnia. It was exactly these events that allowed the Austrian and the Russian government to seek to expand their own influence in the Balkans *under the slogan of "protecting the Christian population"*.

The great powers requested by the note of Foreign Minister of Austria-Hungary from 30<sup>th</sup> December 1875 and by the Memorandum of the Russian Prime Minister GORCHAKOV of 13<sup>th</sup> May 1876 from the Turkish government to adhere to reforms and to grant autonomy to the states. Turkey rejected the requirements.

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<sup>3</sup> Note: French Emperor Napoleon III. and Foreign Minister WALEWSKI were not interested in total weakening of Russia, as it would significantly strengthen the UK.

<sup>4</sup> Note: Despite the radicalism of the powers during 1858-1859, France supported the unification of Wallachia and Moldova to the Romanian national state and provided moral support to the anti-Turkish movement in Serbia and Montenegro.

After a new uprising in Bulgaria in May 1876, when the news about the Turkish violence and atrocities against civilians spread across the whole Europe, ***Serbia declared the war against Turkey on 30<sup>th</sup> June and Montenegro on the 2<sup>nd</sup> July 1876.***

Despite the partial successes of Montenegro and the help of Russian volunteers, the military operations of Serbia were held unsuccessfully. The Russian government did not want to accept Turkey's victory, but planned strategy to not enter a military confrontation with Austria-Hungary.

The contentious issues were discussed at ***a meeting in Zákupy on 8<sup>th</sup> of July 1876, where the Russian Tsar Alexander II. and Chancellor GORCHAKOV met the Austrian Emperor Franz Joseph I. and Minister ANDRÁSSY.*** Both sides have come to differing interpretations of the results of this meeting.

A secret Austro-Russian conference in Budapest held on ***15<sup>th</sup> January 1877 brought a temporary solution promising neutrality of Austria in case of Russo-Turkish War. It also brought an agreement on the Austrian occupation of Bosnia and Hercegovina. Moreover, the parties agreed that, in the Balkans, therefore, no new Slavic power will come into existence.***<sup>5</sup>

Under the guise of promoting the resolution of Constantinople, ***Czarist Russia declared war against Turkey on 24<sup>th</sup> of April 1877.*** The Russian army crossed the Danube and seized the Shipka (Šipka) pass. After several months of fighting, they managed to conquer the Bulgarian city of Plevna and then it progressed very quickly. On 20<sup>th</sup> of January 1878 the fortress of Edirne fell down and on 31<sup>th</sup> of January 1878, the parties of conflict agreed on a ceasefire. The UK government has strongly warned Russia before proceeding to Istanbul.

The preliminary ***peace treaty between Russia and Turkey was signed on 3<sup>th</sup> of March 1878 in San Stefan near Istanbul. It anticipated adjustment of the political situation in the Balkans essentially following the national borders.***

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<sup>5</sup> Note: The results of The Istanbul Conference of Ambassadors of the great powers held during the 23<sup>th</sup> of December 1876 -20<sup>th</sup> of January 1877 led to recommendations/proposals of internal reforms in the Balkan provinces of the Turkish (Ottoman) Empire. The Turkish Government, supported by the UK, rejected these proposals.

Serbia, Montenegro and Romania should become a fully independent state and territory should be extended. Great Bulgaria, which included the Macedonia, should be extended from the Black Sea to the Aegean Sea. Kars, Ardahan, Bajazid, Batumi and south western part of Bessarabia, which Russia lost in the 1856 should be connected to Russia. Romania should be compensated by the northern part of Dobrogea.

English and Austro-Hungarian government felt aggrieved by the Treaty of San Stefan and refused to recognize it. Great Britain promised to help Turkey in case they withdraw Cyprus and in case Turkey would be threatened by new military danger. However, definitive peaceful conditions were established by *Congress of Berlin, which was held on 13<sup>th</sup> of June till 13<sup>th</sup> of July 1878.*

Russia has managed to retain the remaining parts of Bessarabia towards the Danube Delta and cities in Asia Minor, except Bajazid. The biggest dispute between the superpowers has occurred because of Bulgaria, which was divided despite the initial decision not to do so. Only the northern part remained in fact separate, although formally dependent. Southern Bulgaria also called Eastern Rumelia received partial autonomy and Macedonia returned back under Turkish supremacy. Russian occupation in both parts of Bulgaria was limited to nine months.

The complete *independence of Serbia, Montenegro and Romania* was confirmed. Right to occupy Bosnia and Herzegovina, including Novopazarskog Sandžak that separated Serbia from Montenegro was confirmed to Austro-Hungary. The territory of Greece should be partially extended to the part of Epirus and Thessaly. *After the Berlin Congress, even more than before has the Balkans peninsula become a meeting place for interests of the great powers known as the “powder keg of Europe”.*

### 1.1.2 Outbreaks of conflict in the Balkans as a prerequisite of the First World War

Penetration through the Balkans to Turkey and to the Middle East has become the essential direction of expansion of the German colonial policy. The British government saw in this an effort to threaten the access routes to India and tried to face this German influence by exerting pressure on the

Turkish Sultan, for example, by not providing financial assistance and the promotion of reforms in Macedonia. Influential circles in Austria-Hungary began to strive for subjugation of *Serbia*, which was *the epitome of national liberation fight in the Balkans*. As a first step towards this goal they prepared annexation of the occupied provinces of Bosnia and Herzegovina, which at the Congress of Berlin in 1878 formally remained under Turkish sovereignty. After the defeat of Japan and the subsequent internal turmoil, the Czarist Russia put a considerable effort into foreign policy regarding getting free passage through the Black Sea. At the same time however, Russia did not exclude a separate agreement with other powers at the expense of Turkey.

The diplomatic activity of the European powers in the Balkan issue peaked *after winning the Young Turkish revolution*. Russian Foreign Minister IZVOLSKIJ<sup>6</sup> undertook a journey through Europe promoting the regime change in the Black Sea straits. When negotiating on 15<sup>th</sup> of September 1908 at the castle Buchlov near Brno (now in the Czech Republic) with the Austro-Hungarian Foreign Minister AEHRENTHAL, he promised in exchange for support to his initiatives, that he will give a consent with the annexation of Bosnia and Herzegovina and proposed the convening of an international conference in order to review the Berlin agreement of the 1878. *During the 15<sup>th</sup> to 16<sup>th</sup> September 1908 Austria-Hungary declared the annexation of Bosnia and Herzegovina as a unilateral act 7* which provoked outrages in Turkey, Serbia and large

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<sup>6</sup> See: MITTERAND, F. *Zvrhnutí orli*, 2013, Kaligram, Bratislava, p. 416, ISBN 978-80-8101-760-5. Note: Count Alexander Petrovich IZVOLSKIJ was a Russian diplomat who served as Russia's ambassador to the Vatican, Belgrade, Munich, Tokyo and Copenhagen. In the years 1906-1910 he was Minister of Foreign Affairs, later ambassador in Paris, where he died in 1919. He was the major architect of Russia's alliance with Great Britain and France as well as he supported the Russian armaments. He became famous nevertheless for his saying pronounced in the First World War (those reason was his hostility against Austria-Hungary, due to the fact that in 1908 with the annexation of Bosnia and Herzegovina the Russians were deceived) „C'est ma Guerre!“ (This is my war!)

<sup>7</sup> See: MITTERAND, F.: „Zvrhnutí orli“, 2013, Kaligram, Bratislava, p. 416, ISBN 978-80-8101-760-5. Note: Austro-Hungarian Foreign Minister tried to obtain the consent of Russia with annexation of Bosnia and Herzegovina by fraud, where the promise of the minister IZVOLSKIJ of free hand in the Balkans, was misexplained as consent to annexation. Hostility of Russia towards Austria

disagreement of powers. Several months persisting Bosnian crisis, during which the Austro-Hungarian army in December 1908 and March 1909 partially mobilized against Serbia, ended up in compromise of the opponents of the annexation. The Turkish government waived the sovereignty over Bosnia and Herzegovina for compensation 2,500,000 pounds sterling by the Treaty of 26<sup>th</sup> of February 1909. Austria-Hungary has again abolished occupation of the Novopazarskog Sandžak. Under an open pressure from Germany, the Russian government has approved the annexation on 22<sup>th</sup> of March 1909. On the 31<sup>th</sup> of March 1909 the Serbian government approved the annexation. Austro-Hungarian Foreign Minister tried to obtain the consent of Russia with annexation of Bosnia and Herzegovina by fraud, where the promise of the minister IZVOESKIJ of free hand in the Balkans, was misexplained as consent to annexation.

*The Bosnian crisis contributed to a further escalation of conflicts between Austria-Hungary, Germany and the countries of the Triple Entente.* Only the Italy continued in its secret move away from the Triple Alliance and concluded the agreement on the status quo in the Balkans with the Russian government on 24<sup>th</sup> of October 1909 in Raconigi. The Italian government has promised to support Russian plans in the Black Sea straits and Russia has committed not to obstruct the Italian claims to Tripoli. New efforts of the German policy on secession of the Czarist Russia from the Triple Entente, which were demonstrated during a visit of Tsar NICHOLAS II. and Foreign Minister SAZONOV in Potsdam at the William II. residence on 4<sup>th</sup> - 5<sup>th</sup> November 1910 remained without success. Instead of a general political agreement was on 19<sup>th</sup> of August 1911 signed only German-Russian agreement, which determined the interests in Turkey and Persia<sup>8</sup>.

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Hungary, which was manifested later, was therefore understandable. Russian diplomacy expected something on return on the side of the Bosphorus, but got nothing. Austrians betrayed them. The annexation of 1908 will play a very important role in unleashing the First World War, when Russia will be stronger and when it becomes apparent that the Austro-Hungarian domination over Bosnia and Herzegovina is fragile and uncertain.

<sup>8</sup> Note: Germany yet suffered a diplomatic defeat during the second Moroccan crisis in 1911 after the German demonstration in Agadir. Under pressure from the British government the German diplomacy had to recognize French protectorate over Morocco and Germany received as a compensation a small area in the French Congo all legalized by the Agreement of 4<sup>th</sup> of November 1911. Agadir

Rivalry of the European powers in the Balkans has been closely linked with the national liberation movement of the Balkan nations against the Turkish occupation and also with the efforts of individual governments to extend the Balkan area. At the initiative of Serbia and the active diplomatic support from Czarist Russia, *the Serbian-Bulgarian negotiations* were led since April 1911 on the establishment of the Balkan alliance against Turkey, possibly *against Austria-Hungary*. Disputes arose on the question of Macedonia, the territory which was claimed by Serbia and Bulgaria. Another disputed territory in the Balkans was Albania, which was nevertheless required by Serbia, Austria-Hungary and Italy.

The allied Serbian-Bulgarian Treaty, which was signed on 13<sup>th</sup> March 1912, included a commitment to mutual support in case of an attack of third country, especially of Austria-Hungary. Moreover, the secret annex to the treaty anticipated joint military appearance between the two countries against Turkey. The treaty determined the Serbian and the Bulgarian claims on *Macedonian territory*, but the question of the midrange area has been left upon the decision of Russia. The French and the British Government agreed with the treaty, which was yet amended by the military agreement on 12<sup>th</sup> May 1912. After a short negotiation, the Treaty of alliance between Bulgaria and Greece was concluded on 29<sup>th</sup> May 1912. The treaty aimed to provide even more offensive and completely unrestricted choice of pretext for declaring war to Turkey. Russian, French and Austro-Hungarian government tried in vain to prevent the outbreak of the First Balkan War.

*Military actions against Turkey began on 9<sup>th</sup> October 1912 by Montenegro, on 17<sup>th</sup> October by Serbia and on 18<sup>th</sup> October by Bulgaria and Greece.* Within a few weeks Serb forces captured area of Novopazarskog Sandžak and the northern part of Albania, the Greek army occupied Thessaloniki and Bulgarian army was approaching Istanbul. Turkish dominion in Europe was almost completely destroyed. On 3<sup>th</sup> November 1912, the Turkish government turned to the powers with the request for mediation of peace. The Russian government has warned

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Crisis led to a spectacular expansion of chauvinistic sentiments in the press and in public opinion of European powers. The outbreak of the Italo-Turkish War of Tripoli, did not result in increased diplomatic activity due to the fact that all the great powers were committed contractually to not interfere Italians in this aggression.

Bulgaria against occupation of Istanbul. The Austro-Hungarian government flatly refused to accept the accession of Serbia to the Adriatic Sea. This attitude was supported by the governments of Germany and Italy.

*The truce between Turkey, Bulgaria and Serbia* was concluded on 3<sup>th</sup> December 1912; it suspended military operations. The only exception was the Albanian town Shkodra, which was surrounded by the Montenegrin troops as well as Edirne and Janina, where the Greek unit operated. Since the 17<sup>th</sup> of December 1912 at the same time two conferences were held in London; one of State representatives, which were at war and the other of the six powers. On the 27<sup>th</sup> of December 1912, at the insistence of Austria-Hungary and Italy, the Conference adopted the decision on *the establishment of the Albanian state*, where a provisional government under the sovereignty of Turkey should be instituted, but still under surveillance of great powers. Other conflicts arose not only between Turkey and victorious Balkan countries, such as the city of Edirne and the Aegean islands, but also between Bulgaria and Serbia on Thessaloniki and Eastern Thrace.

On 3<sup>th</sup> of February 1913, after the January coup d'état in Turkey were the military action renewed. Turkish troops suffered defeat again, mostly by the fall of fortress in Edirne on 26<sup>th</sup> March 1913. Turkey concluded the new truce with Bulgaria on 16<sup>th</sup> April and with other countries on 20<sup>th</sup> April 1913. However, discrepancies yet again broke out between the Balkan countries and also between the superpowers at the resumption of negotiations in London. The critical situation arose on 22<sup>th</sup> of April 1913 regarding the town of Shkodra that was occupied by Montenegro and that they refused to pass to Albania. Based on the ultimatum of British Foreign Minister Lord GREY, the Balkan states were forced to adopt a decision of the great powers.

*London peace treaty between Turkey and the victorious Balkan countries signed on 30<sup>th</sup> May 1913* left from the entire Turkish rule in Europe only Constantinople (Istanbul) and a narrow strip of land around the Black Sea waterways in the south-east of the line Enos-Midia. The whole rest of the country was divided between Serbia, Montenegro, Greece and Bulgaria, except for Albania, whose constitutional status should be designated by the great powers. Moreover, the issue of the Aegean islands was the subject of resolution and subsequent decision of the great powers. *Results of the First Balkan War meant the strengthening of Serbia and in*

*particular the impact of the Triple Entente in the Balkans.* Position of the Austria-Hungary and the Triple Alliance after the first Balkan War was seriously weakened.

German and Austro-Hungarian diplomacy used the dissatisfaction, which originated in Bulgaria due to the occupation of Macedonia and Serbia and tended to support the aggression of the Bulgarian Government against the other Balkan states. On the contrary, Serbia and Greece in particular have tried to obtain further concessions from Bulgaria and on 1<sup>th</sup> of June 1913 entered into a secret agreement, which was later joined by Romania. The Russian government has attempted to mitigate the conflict between the Balkan countries, but on the 29<sup>th</sup> July 1913, the Bulgarian Government began military action against Serbia and Greece. ***Bulgaria suffered a rapid defeat*** in the second Balkan War, in which Romania and Turkey participated accordingly.

On 10<sup>th</sup> August 1913 States signed the peace treaty in Bucharest, which declared to Serbia the greater part of Macedonia. Greece gained the southern part of Macedonia including the city of Thessaloniki and the Western Thrace. Romania received southern Dobrogea. According to the Bulgarian-Turkish agreement of the 29<sup>th</sup> of September 1913, the European part of Turkey was extended to the Eastern Thrace with Edirne. ***After the Second Balkan War, Bulgaria and Turkey began to sympathize with the line of the foreign policy of Germany and Austria-Hungary. Among the countries of the Triple Entente and the Triple Alliance occurred a battle regarding the influence on Romanian, Bulgarian and Turkish government.***

## **1.2 Balkan War – the End of the Struggle for National Emancipation and the Beginning of a New Conflict**

In 1912, four of the five Balkan states - Serbia, Greece, Montenegro and Bulgaria - which gradually emerged in the 19th century after they gained final independence of the Orthodox population from Ottoman domination, agreed on a common military action. Their aim was to conquer the remaining European part of the Ottoman Empire. Members of ***Balkan***

*League* submitted ultimatum to the Sublime Porte on 17<sup>th</sup> September <sup>9</sup> asking it for an immediately granted autonomy to all areas of the Christian population in the Balkans. Istanbul rejected the ultimatum note. In fact, the requirements could not even be realized in the specified time period. Military action against the Ottoman Empire was started by Montenegro on **9<sup>th</sup> October 1912**; ten days later it was followed by Bulgaria, Serbia and Greece<sup>10</sup>. Since the beginning of the war armies of the Balkan Association had much higher morale. The euphoria from the belief that they were fighting for a just cause of their nation and fulfilment of desires was probably close; created wonders. The second war showed that the common goals however were not so common.

The military operations of the first Balkan war were very successful and proceeded in parallel on two fronts: Thrace and Macedonia. Thracian front was crucial, it defended the access to Istanbul and therefore the Ottomans focused most of its military power there. Greek navies took the lead at sea. It started hindering the supplies of the Ottoman Balkan troops via marine arteries and began to occupy the eastern islands. Disintegration of the Ottoman army was accomplished. Bulgarians conquered Edirne and Greek Serbian and Montenegrin army conquered Janina and Shkoder. The Sublime Porte signed a peace treaty on 17<sup>th</sup> May 1913, by which it gave up all its European territories, including most of the Aegean islands<sup>11</sup> to the benefit of the Balkan League.

Conflict of the Second Balkan War arose from disagreements between members of the Balkan League about conquered territories; therefore the ***Second Balkan War was also known as interlined war. The Russian diplomacy*** had a share in the conflicts. It was the emissaries who convinced the Orthodox Balkan states of the currently favourable conditions, therefore of the apparent chance to achieve great territorial gains rather than focusing on the details.

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<sup>9</sup> Note: Dates are given according to the Orthodox Julian calendar.

<sup>10</sup> Note: Historians point out that a quick decision and an appropriate timing of the ultimatum arose from the fact that just before the outbreak of fighting in the Balkans the Ottoman Empire fought an unsuccessful war with Italy on the territory of today's Libya. This conflict revealed its military weakness to the world.

<sup>11</sup> Note: Crete, Samos, Chios, Lesbos, Thasos, Samothraki.

Russian interests can be seen in the background of their initiatives. Weakening or direct elimination of the Ottoman Empire was the long-term aim of Czarist Russia. Russian diplomacy also believed that they could play the role of an arbitrator after the war, assigning the conquered territories. That would only strengthen Russian influence in the Balkans and indirectly imply a weakening of the position of Austria-Hungary in the Balkans.

Each party winning the Balkan alliance wanted to keep the whole territory conquered by their troops. A new fact provides explanation. Just at the time of the Balkan wars the *sixth Balkan country* – *Albania* started to form<sup>12</sup>. States of the Balkan League first did not recognize the declaration of Albania and fought in the new state as in the Ottoman territory. It soon became clear, however, that the idea of territorial gains were considerably adjusted by this new reality. Everyone sought compensation in Macedonia and its reallocation.<sup>13</sup>

***Balkan nations reached the peak of emancipation and empowering and a completion of their liberation match in Balkan Wars.*** Events of the Balkan wars may serve as a suitable balance sheet in search of certain historical facts. European powers found that the Balkan Peninsula was definitely becoming an arena measuring forces between them. Balkan states ranked into their camps based on how convenient were the results of their own military efforts. Balkan wars have thus become a prelude to an even greater conflict. The First World War did not start in South-Eastern Europe in 1914, but two years earlier.

In early 1914, Armaments of the European powers reached unprecedented dimensions. A key factor in international relations on the eve of the First World War was the British-German conflict, accompanied and

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<sup>12</sup> Note: The united Albanian political representatives declared 28<sup>th</sup> of November, 1912 full Albanian independence from Ottoman Empire vilayets Bitlis, Skadar, Ioannina and Kosovo.

<sup>13</sup> Note: The most disappointing were the territorial gains of Bulgaria. Despite significant Macedonian gains, its would lose further projected territories this way, which it previously protected by a contract with Serbia and decided to settle their dispute by military intervention against Serbia. This plan failed. Secluded Bulgaria lost a significant part of the Macedonia gains, but also of southern Dobrogea with port Silistrato, Romania by signing the peace treaty of Bucharest on 28<sup>th</sup> of July, 1913. City Edirne which its army conquered at the cost of large human casualties, had to be returned to the Ottoman Empire.

complicated by further contradictions in Europe and other parts of the world.

German land forces were better trained and equipped than the Triple Entente States, but its lead dwindled over time, therefore the Germans were most interested in accelerating the military conflict. They underestimated the coherence of the Entente powers and did not accept the secret Franco-Russian Naval Convention of 16<sup>th</sup> July 1912. Despite the ongoing Anglo-German negotiations on non-European issues, like envisaged agreement of 15<sup>th</sup> June 1914 on the definition of spheres of influence in the Middle East and increasing of the Anglo-Russian disputes in Persia, hope of the escalation of disputes between the Triple Entente States was not fulfilled.

*Other European powers, which followed its own objectives were preparing for war.* Great Britain wished for a disposal of Germany from the colonial policy as the most serious competitor; France wanted to restore the supremacy in Europe and to acquire Alsace-Lorraine; Tsarist Russia wanted to strengthen positions in the Black Sea straits and the Balkans, where Austria-Hungary, which wanted to destroy Serbia, also had their interests. In that atmosphere, really little incentive, such as a shot in Sarajevo, was needed to initiate an armed conflict.

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## 2 Forming the European Economic Continental Complex

Igor KOSÍR\* – Sherif SHEHATA\*\* – Peter SMERIGA\*\*\*

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**Abstract:** *The process of international economic integration totally changed the postwar international relations. The second part of the 20<sup>th</sup> century was much different than the first one. European Union represents the mainstream of European integration process. Today's EU's integration unit of 28 members – there are 6 EEC founders of 1957, 5 newcomers, additional 6 new members from EFTA (parallel wave of European integration since 1960) as well as 11 new members from former CMEA (COMECON) playing the role of an opposition model of European integration between 1971 and 1991, including the new states of disintegrated USSR, Czecho-Slovakia and Yugoslavia. EU plus EFTA form the European Economic Area, the higher order integration of two existing European integration units. Switzerland, an EFTA member, is not a full EEA member. The Swiss integration with EU is realized thanks to 17 bilateral sectoral agreements on free trade area and common market levels (as EEA). Turkey is integrated with EU on customs union level and there is ongoing process of a creation of free trade area with Mediterranean countries, 3 EU Eastern Partnership countries as well as with Western Balkans countries. This is a longterm process of a creation of the European Economic Continental Complex with a potential to play a role of the important center of economic power in global dimension.*

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There were three collapses of globally important impact within the new global economic organism – the world economy at the beginning and during the first half of the 20<sup>th</sup> century:

1): *The first world war – WWI* (1914 - 1918) began on July 28, 1914, when Austria-Hungary declared war on Serbia. This seemingly small conflict between two countries spread rapidly. Soon, all European powers: Germany, Russia, Great Britain, and France were all drawn into the war. They were involved in treaties that obligated them to defend certain other nations in case of war conflict. But 100 years later, there is general consensus that many European powers waited for any reason, any single occasion to start the war. Germany and Austria-Hungary were active and they were situated soon in the center of this bloody development. Western and eastern fronts quickly opened along their borders. The both fronts gradually locked into place. In the same year 1914, the Ottoman Empire was brought into the fray as well. Germany tricked Russia into thinking that Turkey had attacked it. As a result, much of 1915 was dominated by Allied actions against the Ottomans in the Mediterranean region as well as in Mesopotamia. 1917: The United States declared war on Germany in April, in November, the Bolshevik Revolution prompted Russia to pull out of the war. In 1918, the governments of both Germany and Austria-Hungary began to lose control as both countries experienced multiple mutinies from within their military structures. In the late fall of this year the member countries of the Central Powers signed armistice agreements one by one including Germany as the last, signing its armistice on November 11, 1918. As a result, Austria-Hungary was broken up into several smaller countries, including Czecho-Slovakia and Yugoslavia. German Empire, under the Treaty of Versailles, was severely punished with hefty economic

reparations, territorial losses, and strict limits on its rights to develop militarily. WWI had left Europe devastated. Those countries that had fought in it, had suffered casualties never experienced before. The total deaths of all nations who fought in the war is thought to have been 8.5 million with 21 million being wounded.<sup>1</sup> Many historians believe that the Allies were excessive in their punishment of Germany and that the harsh Treaty of Versailles actually planted the seeds of World War II, rather than foster peace.

2) *The Great Depression (World Economic Crisis – 1929 - 1933)* represented a collapse of economy and society of leading country of the world economy and community – USA, influencing other parts of the world thanks a deep interdependence. Causes of the Great Depression typically include a weak banking system, overproduction, bursting credit bubble, the fact that farmers and industrial workers had not shared in the prosperity of the 1920s, and a government-held laissez faire policy. Herbert Hoover (1874-1964), a Republican, was president when the Great Depression began. He infamously declared in March 1930 that the U.S. had “passed the worst” and argued that the economy would sort itself out. The worst, however, had just begun and would last until the outbreak of WWII (1939).<sup>2</sup> On “Black Tuesday,” October 29, 1929, the beginning of this great and long depression, the market lost \$14 billion, making the loss for that week an astounding \$30 billion. This was ten times more than the U.S. annual federal budget and far more than the USA had spent in WWI. In the 1930s, unemployment reached 25% and the GDP dropped 25% in US economy.<sup>3</sup> Before the start of the Great Depression, there were 25,000 banks in the United States. By 1933, almost half of those banks (11,000) had failed.<sup>4</sup> The

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<sup>1</sup> See: *The Treaty of Versailles*. [Cit. 3.12.2014.] Available at <[http://www.historylearningsite.co.uk /treaty\\_of\\_versailles.htm](http://www.historylearningsite.co.uk /treaty_of_versailles.htm)> as well as *World War I*. [Cit. 2.12.2014.] Available at <<http://www.sparknotes.com/history/european/ww1/summary.html>>.

<sup>2</sup> See: *The Great Depression*. [Cit. 12.2.2015.] Available at <[http://facts.randomhistory.com/2009/04/12\\_great-depression.html](http://facts.randomhistory.com/2009/04/12_great-depression.html)>.

<sup>3</sup> See: *Economists Discuss 2009 vs. the 1930s*. Rock Island, Illinois: Augustana College, January 27, 2009. [Cit. 27.3.2009.] Note: In 2009, during next global economic crisis, unemployment was at 8.1% and the GDP had so far dropped 2%. USA didn't have the “social safety net” in the 1930s that it has today...

<sup>4</sup> See: *Facts About The Great Depression*. [Cit. 22.2.2015.] Croft Communications, Inc. 2015. Available at <<http://thegreatdepressioncauses.com/facts/>>.

Hawley-Smoot Tariff Act of 1930 increased U.S. tariffs which, in turn, decreased international trade (especially in the farming sector) and helped spread the Great Depression worldwide.<sup>5</sup> It peaked between 1932 and 1933. A new economic policy both for intra-American as well as international dimension of U.S. acting was needed.

3) *The Second World War – WWII* (1939 - 1945) began in September 1939 when Britain and France declared war on Germany following Germany's invasion of Poland. Twenty years ago, in 1919, during preparing the Versailles Treaty Georges Benjamin Clemenceau, then French prime minister, wanted revenge. He wanted to be sure that Germany could never start another war again. Germany had to pay 6,600 million pounds for the damage caused by the war. This country could not afford to pay the money and during the 1920s the people in Germany were very poor. There were not many jobs and the price of food and basic goods was high. Plus, there were the strong impacts of the Great Depression there, too. People were dissatisfied with the government and voted to power a man who promised to rip up the Treaty of Versailles. His name was Adolf HITLER, a NSDAP party leader.<sup>6</sup> After becoming German chancellor in January 1933 almost immediately he began secretly building up Germany's army and weapons. In 1934 he increased the size of the army, began building warships and created a German airforce (Luftwaffe). HITLER also made two important alliances two years later. The first was called the *Rome-Berlin Axis Pact* and allied HITLER's Great German Empire with MUSSOLINI's Kingdom of Italy. The second was called the *Anti-Comintern Pact* and allied Germany with the Empire of Japan. The first victim of HITLER: Austria (Anschluss). The policy, adopted by CHAMBERLAIN's British government became known as the policy of Appeasement. Neville CHAMBERLAIN felt that giving in to HITLER's demands would prevent another war. The *Munich Agreement*

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<sup>5</sup> See: HAWKINS, W. (2008): *Panic Control*. Washington, D.C.: The Washington Times, May 12, 2008. [22.3.2015.] Available at <[https://books.google.sk/books?id=64kQBwAAQBAJ&pg=PT93&lpg=PT93&dq=Hawkins:+Panic+control+The+Washington+Times&source=bl&ots=s8jN1IatIS&sig=gVIA3CcppRxvgsR8FjmfGbNtvqw&hl=sk&sa=X&ei=7oA7Vd\\_mKMM0UefTgaAO&ved=0CCQQ6AEwAA#v=onepage&q=Hawkins%3A%20Panic%20control%20The%20Washington%20Times&f=false](https://books.google.sk/books?id=64kQBwAAQBAJ&pg=PT93&lpg=PT93&dq=Hawkins:+Panic+control+The+Washington+Times&source=bl&ots=s8jN1IatIS&sig=gVIA3CcppRxvgsR8FjmfGbNtvqw&hl=sk&sa=X&ei=7oA7Vd_mKMM0UefTgaAO&ved=0CCQQ6AEwAA#v=onepage&q=Hawkins%3A%20Panic%20control%20The%20Washington%20Times&f=false)>.

<sup>6</sup> See: *World War Two – Causes*. History on the net, 14.8.2014. [Cit. 3.12.2014.] Available at <<http://www.historyonthenet.com/ww2/causes.htm>>.

(Germany-Italy-Great Britain-France) stated that HITLER could have the Sudetenland region of Czecho-Slovakia provided that he promised not to invade the rest of this Central European country. When Germany invaded the rest of Czecho-Slovakia in March 1939, British PM was still not prepared to take the country to war over "...a quarrel in a far-away country between people of whom we know nothing..."...and following victims: Poland, BELUX countries, the Netherlands, France, Albania, Denmark, Norway...The invasion of Yugoslavia by Germany and Italy began on 6 April 1941, simultaneously with the new Battle of Greece. On 11 April, Hungary joined the invasion. By 17 April the Yugoslavs had signed an armistice and by 30 April 1941 all of mainland Greece was under German or Italian control.<sup>7</sup> HITLER decided finally to attack the Soviet Union, too. Operation Barbarossa<sup>8</sup> commenced on 22 June 1941. About four million soldiers of the Axis powers invaded USSR along a 2,900 km front. Japanese attacked USA (naval base at Pearl Harbor in Hawaii) on December 7, 1941. This attack led to the United States' entry into World War II. The alliance "**United nations**" against HITLER-MUSSOLINI-HIROHITO pact was created. The Soviet Stalingrad and Kursk victories represented the important turning in the WWII development. D-day invasion of Normandy (6 June 1944),<sup>9</sup> a coordination of the war efforts and strategic operations among U.S., Soviet Union and Great Britain (their leaders summits in Tehran, Yalta) led to the final victory and the total collapse of Nazi Germany in May 1945 (following by Potsdam conference - from 17 July to 2 August 1945).The victorious troika (STALIN-TRUMAN<sup>10</sup>-CHURCHILL<sup>11</sup>) decided there how to administer punishment to the defeated Nazi Germany, which had agreed to unconditional surrender nine weeks earlier, on 8 May 1945. The goals of the Potsdam conference also included the establishment

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<sup>7</sup> See: *Balkan Campaign (World War II)*. [ Cit. 22.3.2015.] Available at<[http://en.wikipedia.org/wiki/Balkan\\_Campaign\\_%28World\\_War\\_II%29](http://en.wikipedia.org/wiki/Balkan_Campaign_%28World_War_II%29)>.

<sup>8</sup> See: *Operation Barbarossa*. [Cit. 20.3.2015.] Available at<[http://en.wikipedia.org/wiki/Operation\\_Barba-rossa](http://en.wikipedia.org/wiki/Operation_Barba-rossa)>.

<sup>9</sup> See: *Normandy landings*. [Cit. 23.3.2015.] Available at<[http://en.wikipedia.org/wiki/Normandy\\_landings](http://en.wikipedia.org/wiki/Normandy_landings)>.

<sup>10</sup> Note: New American President Harry TRUMAN replaced Franklin Delano ROOSEVELT after taking office after former president's death in April 1945.

<sup>11</sup> Note: The British PM Winston CHURCHILL was replaced during the conference as a leader of the British delegation in line with the outcome of the 1945 general election by Clement ATTLEE, the new British Prime Minister.

of post-war order, peace treaty issues, and countering the effects of the war.<sup>12</sup> The WWII involved more countries, cost more money, and killed more people than any other war in human history. Between 50 and 70 million people died. Atomic bombings of Japanese cities Hiroshima and Nagasaki in August 1945 by Americans opened totally new era in human civilisation.

## 2.1 Dynamization of economic internationalization in the second part of the 20<sup>th</sup> century

All these three globally important events influenced deeply the functioning of the world economy during its first 70 years.<sup>13</sup> The linkages among the basic elements of the world economy – national economic complexes – were strongly and deeply impacted and the volume as well as value of the world trade (exports and imports) collapsed three times enormously. The existing system of international trading during these crisis development stages was influenced strongly by the principle of *protektionism* and by the trade policy method of *bilateralism*. Surprisingly, the world economy bastion of this system was based within the national economy of the world economy new leader – USA.

American experts prepared deliberately the system of stabilization of the postwar world economy. It was supposed to be based on three pillars of the world economy: two Bretton Woods institutions – the *World Bank* (originally the International Bank for Reconstruction and Development) and *International Monetary Fund* (in line with the results of Bretton Woods conference of finance ministers of United nations alliance countries in 1944) as well as the *Multilateral Trading System* (MTS) of principles and rules of international trading – firstly as the Geneva based *General Agreement on Tariffs and Trade* (GATT - negotiated and approved by 23 nations in 1947)

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<sup>12</sup> See: *Potsdam Conference*. [Cit. 23.3.2015.] Available at<[http://en.wikipedia.org/wiki/Potsdam\\_Conference](http://en.wikipedia.org/wiki/Potsdam_Conference)>.

<sup>13</sup> Note: New global economic organism – *world economy* – was born at the beginning of the 1870s. The main factors of its creation: 1) international trading widened to the global dimension and 2) colonialism – this system dynamized it by interlinking the international markets.

and after a collapse of the U.S. project of International Trade Organization in 1948 replaced 47 years later by the *World Trade Organization*, the institutionalized MTS, functioning since January 1995.

All this strategic global organizational steps were in line with the U.S. *Reciprocal Trade Agreements Act* (TAA), approved by the Congress in 1934 and the ideas of former U.S. Secretary of State Cordell HULL (1933 - 1944). His new trade policy approaches were based on a support of the *free trade* principle as well as of the *multilateralism* as the favoured trade policy method.

The TAA approval was the total failure of the Hawley-Smoot Tariff Act principles and rules of 1930 and of its old supporters in the Congress. The TAA was against the trade policy obstacles and barriers. Free trade supported by principle of *the most favoured nation* (GATT Article I) became – year by year - the ideal principle of the foreign trade policy of nations, promoted namely among advanced (developed) countries – OEEC members, later OECD<sup>14</sup> members. USA became the new bastion – of the *free trade regime* as a basis of international trade policy elaborated and developed in the framework of MTS.

The third pillar of the world economy – MTS became the instrument of dynamic *economic internationalization*. Being realized mostly by *growth function of foreign trade* of the countries, creating the additional resources of their economic growth, the growing *international trading* initiated and motivated the development of economic theory concentrated on the *international economics* area. Analyzing the results and heritage of Prussian Customs Union (germ.: Preußische Zollverein) existing after 1818, German Customs Union (germ.: Deutsche Zollverein) functioning after 1834, which assisted a lot to the economic and later political unification of the German speaking states (1871) and a creation of the unified German

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<sup>14</sup> Note: OEEC = Organisation for European Economic Cooperation (1948 - 1960) playing the role of European partner of the U.S.-Canada Marshall plan being replaced in 1961 by the OECD – Organisation for Economic Cooperation and Development with membership of non-European countries (USA, Canada, Japan, Australia, New Zealand... since 1994 Mexico, since 2010 Chile), too. This organisation was known longtime as an elite club of the most developed countries, now, since 2010 as G34 – the most recognized economic organization within the world economy. Slovakia joined OECD on 14 December 2000.

Empire (germ.: Deutsches Reich), a functioning of Southern African Customs Union (SACU) established by London in 1910 as well as the *customs union theory* of professor Jacob VINER<sup>15</sup> working for the League of Nations in Geneva, too, and practice of BELUX (1921) and BENELUX later (1944), the researchers developed the *theory of international economic integration*.

Dutch Professor Jan TINBERGEN, the first European Nobel prize winner in economic science (1969) "for having developed and applied dynamic models for the analysis of economic processes",<sup>16</sup> underlined the potential of international trading and *trade liberalization process* in his book "*International Economic Integration*" (Amsterdam: Elsevier 1953). American Professor of Hungarian origin Béla BALASSA presented the "*Theory of Economic Integration*" (Homewood, Illinois: Richard D. IRWIN 1961) and the basic category "*international economic integration*" as a process and as a state. His presentation of the definitions of a *free trade area*, a *custom union*, a *common market*, an *economic union* as well as a *complete economic integration* was a perfect and until now recognized contribution to the scientific characterization of this relatively new international economic process being developed in the international economic practice in characterized stages gradually (ŠÍBL – ČIDEROVÁ 2002a).

In today's European Union and other functioning integration units (EFTA, MERCOSUR, AFTA, NAFTA, EEU, etc.<sup>17</sup>), the first four stages of international economic integration were approved by economic practice.

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<sup>15</sup> Note: Jacob VINER presented an analysis of customs unions functioning and impacts: trade creation and trade diversion. See: VINER, J. (1950): *The Custom Union Issue*. New York: Carnegie Endowment for International Peace 1950. Chapter 4.

<sup>16</sup> See: *All Prizes in Economic Sciences*. [Cit. 11.12.2014.] Available at <[http://www.nobelprize.org/nobel\\_prizes/economic-sciences/laureates/](http://www.nobelprize.org/nobel_prizes/economic-sciences/laureates/)>.

<sup>17</sup> Note: EFTA = *European Free Trade Association* (established in 1960), ASEAN = *Association of South-East Asian Nations* (established in 1967), MERCOSUR = *Southern Common Market* (established in 1991), AFTA = *ASEAN Free Trade Area* (established in 1992), NAFTA = *North American Free Trade Area* (established in 1994), EEU = *Eurasian Economic Union* (established in 2014).

About 90% of existing *preferential regional trade agreements*<sup>18</sup> are linked with free trade area creation, the most of them are bilateral ones. This BALASSA's *complete economic integration* (BALASSA's theoretical 5th stage) represents the completing final phase of the process of *economic union*<sup>19</sup> building (theoretical 4<sup>th</sup> stage), not a special integration stage. The higher integration level than *economic and monetary union*, it is an *international political integration* yet. It is called "*political union*" (ŠÍBL 2006). In Europe, an idea of the "*United States of Europe*" was developed and discussed several times during the last century. One of the last authors of this USE concept was the former Vice President of European Commission and Commissioner for Justice and Fundamental Rights (until 30 October 2014) Viviane REDING of Luxembourg.<sup>20</sup>

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<sup>18</sup> Note: In 2015, there are approximately 400 preferential regional trade agreements (RTAs). RTAs have become increasingly prevalent since the early 1990s. As of 7 April 2015, some 612 notifications of RTAs (counting goods, services and accessions separately) had been received by the GATT/WTO. Of these, 406 were in force. These WTO figures correspond to 449 physical RTAs (counting goods, services and accessions together), of which 262 are currently in force. What all RTAs in the WTO have in common is that they are reciprocal trade agreements between two or more partners. See: *Regional Trade Agreements*. [Cit. 10.3.2015.] Available at <[https://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_e.htm)>.

<sup>19</sup> Note: In European integration since 1980s, the term „*Economic and Monetary Union*“ is used for this fourth stage of international economic integration (BALASSA's *economic union*) underlining the sensitivity and complexity of a creation and a complete building of the monetary part of economic union. EU Economic and Monetary Union was established during 1990s and the single European currency euro (EUR) was firstly issued in the form of banknotes and coins and distributed into the circulation on 1 January 2002 among the population of 12 EU member countries. This eurozone has now 19 members. Slovakia joined EMU fully on 1 January 2009.

<sup>20</sup> See: REDING, V. (2012): *A powerful vision for our future. Why we now need a United States of Europe*. Brussels: EC 2012. [Cit. 10.11.2014.] Available at <[http://ec.europa.eu/commission\\_2010-2014/reding/pdf/use\\_en.pdf](http://ec.europa.eu/commission_2010-2014/reding/pdf/use_en.pdf)>.

## **2.2 International economic integration – the new form of an intensive economic internationalization in the globalization era**

The most valuable and longterm positive gains in the postwar international economic relations' progressive development was impacted by the successful negotiating and finally signing the *General Agreement on Tariffs and Trade* in Geneva in 1947. The GATT implementation in the practice and an increasing of its signatories (since 23 to 123 in 1994) represented a new quality of external factors influencing and motivating the national economies to be more open and more cooperative.

Twenty three trade policy expert teams of the participating countries decided by this new approach in international trade policy to create a new internationally important and perspectively globally functioning system of principles and rules of international trading. It was a very important step, really historical. More then 40 thousand customs concessions were reached during this first multilateral negotiations Geneva round in 1947.<sup>21</sup>

The MTS was created and is valid as well as functioning from 1948. It was not an institutionalized MTS as was predicted by the U.S. project of *International Trade Organization* from the beginning but was a temporary system. The GATT played this role during a period of more than four decades - since 1948 until 1994.

Naturally, the first postwar year's increase of the world trade value (in export as well as in import) was impressive: 50%, being followed by other interesting increasing of the world trade value in 1947 by 22%. The MTS orientation to trade facilitation and liberalization influenced positively the increasing of the world trade value as well as volume during following years, too. During 55 years until 2000 – the end of the 20<sup>th</sup> century as well as of the second millenium – the world trade development was impacted

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<sup>21</sup> See also: BENEŠ, O. (1988): *Všeobecná dohoda o clech a obchodu – GATT*. Praha: ČSOPK 1988.

only by two more important crisis<sup>22</sup> but not comparable with the Great Depression of the 1930s. It was more or less a sustainable growth of the international exchange of goods and services.

This positive development was sustainably impacted by the new phenomenon in then international relations – *international economic integration* (IEI), too. Béla BALASSA linked this process with an elimination of existing customs tariffs and the other trade barriers and obstacles, describing firstly two stages of *trade integration* – free trade area and customs union.<sup>23</sup> But a *common market* – an economic policy regime being characterized by four basic economic integration freedoms (not only by the free movement of goods as trade integration), being characterized as the third theoretical as well as practical stage of IEI,<sup>24</sup> represented the higher level of economic motivation for researchers as well as for practitioners and integration supporters, too. The journalists used the term „common market countries“ for 6 members – founders of the European Economic Community in the period of the customs union building (1958 - 1968) as well as later. We know the idea of a *common market* (new modified term: *single market* - approved to use during the 1980s) was realized in the practice of the European Communities only at the end of 1992.

He compared the classic *international economic cooperation*, being linked with the negotiations on trade facilitation and decreasing of existing barriers level influencing positively the trading between negotiating parties, with this new phenomenon of IEI, being linked with a total elimination of this non acceptable discrimination on the borders. He considered the

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<sup>22</sup> Note: The world trade development was impacted for the first time since 1945 by important crisis only during the first petroleum shock (1973 - 1975). It led to a creation of a global coordination group G6 (1975 – USA, Japan, Great Britain, Germany, France, Italy) in Paris, being transformed to G7 in 1976 (an accession of Canada) and to G8 in 1997 (an accession of Russia). The second petroleum shock (1979 – 1981/82) impacted negatively the development of the world trade, too.

<sup>23</sup> Note: The definitions of a *free trade area* as well as a *customs union* were presented in the basic text of the new temporary MTS: in the GATT Article XXIV in 1947 (as well as in the GATT '94 Article XXIV).

<sup>24</sup> See: BALASSA, B. (1966): *Teorie ekonomické integrace*. Praha: Svoboda 1966, p. 25-26, 235-256. SAC 25-124-66.

*customs tariffs* and their functions and impacts on the trading process and the whole economies as a *classic discrimination* case (BALASSA 1966) limiting the growth and prosperity of the nations.

The international economic integration was considered not only as the „labelling“ for the very open and strongly cooperative national economies (within the integration units) and something typical for an era of an intensively growing international trading<sup>25</sup> but as the new form of an *intensive economic internationalization* such typical for the *globalization* era (ŠIBL – ČIDEROVÁ 2002b). The IEI process created a much stronger and deeper interdependence in international relations of the postwar period. Within the integration units (groupings) there was and is the most intensive and the deepest reached level of an *economic liberalization* process. The economic relations between the companies of two members of integration unit were developing in the framework of the same system of conditions as there had within one national economy system.

But the existing integration groupings did not represented the closed economic systems. They wanted to be stronger and stronger, larger and larger, relatively open and parallelly with the processes of integration *deepening* and integration *widening*, the *enlargement* process of these integration units as well as a *flexible exogeneous integration*, aiming for and supporting a creation of a stable and cooperative neighbourhood, were realized, too.

The dominant centers of economic power (*G2* of the second part of the 20th century – USA and European Communities) tried to build step by step, enlargement by enlargement – an influential and perspectively dominant continental economic complexes.<sup>26</sup> The Russian Federation tried

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<sup>25</sup> See. TINBERGEN, J. (1953): *International Economic Integration*. Amsterdam: Elsevier 1953.

<sup>26</sup> Note: EU realized during the four decades several enlargement waves: 1973 – Northern enlargement, 1981 – Hellenic enlargement, 1986 – Iberic enlargement, 1995 – EFTA enlargement, 2004 and 2007 – Central Eastern Europe and Mediterranean enlargement and 2013 – Croatian enlargement. Mainstream European integration unit initiated a creation of the higher order integration of two integration units (EU + EFTA) in European Economic Area 1992 – 1994. There are several examples of the EU flexible exogeneous integrations on a customs union level (Turkey, Andorra, San Marino, Monaco) as well as on a free trade area level (Korea – functioning, Singapore – negotiations

to reintegrate the disintegrated Soviet economy after 1991 and to create an important Euro-Asian economic complex: firstly in the framework of 12 ex-Soviet economies and states being named the *Commonwealth of Independent States* (CIS), later in the framework of a new project of a customs union creation. The first framework for this customs union was created by EurAsEC (*Eurasian Economic Community*). The trilateral customs union of EurAsEC (Russia-Belarus-Kazakhstan) was established in July 2010. At the end of May 2014, Astana trilateral summit of the EurAsEC approved a transformation of this integration unit into a new: *Eurasian Economic Union* (EEU),<sup>27</sup> being promised by then prime minister Vladimir PUTIN during his presidential campaign 2011-2012. The Astana Treaty establishing the EEU came into effect on 1 January 2015.

The African patriots decided to transform the Organization of African Unity (OAU) into a continental African integration unit. The *African Union*, imitating the European Union experience as well as an internal organizational structure, was born in 2001.

IEI is a very dynamic process and namely during the 1990s and 2000s it reached a lot of successes, dynamic developments and inspirations.

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terminated, other ASEAN members, India, GCC, MERCOSUR – being negotiated) and there is an ongoing negotiation process on a creation of the biggest free trade area within the world economy – EU-USA in the framework of the *Transatlantic Trade and Investment Partnership* (TTIP). USA signed firstly CUSFTA with Canada (1988), later NAFTA (included Mexico, too in 1992). It led to the project elaboration of FTAA (*Free Trade Area of the Americas* – a free trade project for 34 Western hemisphere countries) negotiated (1994 - 2005) and interrupted later. Now, during the second decade of the 21<sup>st</sup> century U.S. have intention to contribute to a creation of two globally important big free trade areas: one under the umbrella of TTIP and the second in the framework of negotiated TPP (*Transpacific Partnership*) with 11 U.S. Asia-Pacific partners: Australia, Brunei, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore and Vietnam.

<sup>27</sup> Note: The Astana Treaty establishing the EEU was signed on 29 May 2014. On the second day of its existence (January 2, 2015) Armenia joined EEU and Kyrgyzstan membership was planned to be realized in May 2015. On May 21, 2015 with a signature, Kyrgyz President Almazbek ATAMBAYEV committed his country at last to the Russian-led Eurasian Economic Union.

## **2.3 European integration – the most experienced and the most recognized process of international economic integration within the world economy and community**

The oldest concept of European integration was elaborated in Great Britain at the end of the 1930s. The London based Federal Union NGO elaborated the first draft of the European constitution and was aiming for a post war large Pan-European free trade area creation including the Soviet Union membership.

But the first successful integration project was elaborated in France by Jean MONNET, being supported by the 7<sup>th</sup> post war prime minister (1947-48) and later minister of foreign affairs of the country Robert SCHUMAN. These two men became the „fathers“ of integrated Europe.

The first project (1951-52) of a new French-German post war peaceful economic and political cooperation – *European Coal and Steel Community (ECSC)*– contributed a lot to the next several successful integration steps and led not only to a setting up the other integration community concentrated only to one but perspective and important part of an energy sector: *European Atomic Energy Community (Euratom)* but definitely to a creation of the first European integration block being a *complex integration* model.

Both ECSC and Euratom were the examples of *sectoral integration*. Namely a successful functioning of ECSC contributed a lot to a large and general acceptance of a new IEI process vision in European continent.

From todays assessment, it was quite long<sup>28</sup> historical process. At its beginning, it was an integration of small neighbouring countries –

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<sup>28</sup> Note: If we decide to consider for the starting point of European integration this famous day of March 25, 1957 – linking with a signing of the Treaty establishing European Economic Community – European mainstream integration´ age is 58 years now (the closest position to the main official historical approach of the Brussels EU institution), if we recognize this historical moment in 1951 – an establishment of the first European modern integration unit (of sectoral integration only...) by a signing of the first Treaty

monarchies of the North part of our continent, having some specific historical linkages in case of BELUX as well as of BENELUX.

The perfect functioning of this successful experiment during the first years of the customs union existence (BENELUX: 1948 - 1957) influenced Jean MONNET and Robert SCHUMAN to try to realize the same experiment with a participation of much stronger economies (France, West Germany<sup>29</sup> and Italy), the national economic complexes with much higher potential for an economic development potentially being accelerated in the framework of an integration process.

This process was firstly based on the experiment and the experience of an integration of only two but then very important sectors of economy (coal and steel ones), important for both civil as well as defense sectors of the countries, selected by Jean MONNET and his team (at the Paris based General Commissariat of Planning established by Charles de GAULLE government immediately after the WWII termination in 1945 in order to recover the French national economy).

This *sectoral integration* of ECSC allowed to think seriously after several years about a *complex integration* project with a participation of all 6 cooperating European countries yet. And EEC accompanied by Euratom, other sectoral integration being set up in March 1957, too, was a base for a long term development of an established complex integration unit, aiming to integrate all and complete 6 economic complexes, not only several sectors of the economies of these countries.

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establishing European Coal and Steel Community, EU' s age is 64 years in 2015, but identifying the beginning of European integration with BELUX' setting up (1921), this process of European integration continuity from a bilateral unit of Belgium and Luxembourg, developing from a monetary union to a customs union and an economic union, later to trilateral dimension with the Netherlands (BENELUX 1944) and finally to a sixlateral dimension of the EEC (1957), the European mainstream integration process' historical line is long nearly one century (94 years, in 2015).

<sup>29</sup> Note: Since 1949, in the territory of occupied Germany, two states were set up: the Federal Republic of Germany – in Western part of the German territory, and the German Democratic Republic in Eastern reduced side of the territory of former Great German Empire, being created from the post war Soviet occupation zone.

For EEC strategists the final target of this process was a reaching the „*four basic economic integration freedoms regime*“ in the practice of their 6 economies being integrated together, creating parallelly the basic pillars of the future *international economic complex* (TAUCHMAN, 1971; FILIP, 1976; FILIP, 2005). So, a strategic EEC goal was a creation of the *common market*.

A project of a *customs union* creation on a basis of perfectly functioning BENELUX customs union since 1948 served as a tactical one, creating a free trade policy regime being identified with the first basic integration freedom – *free movement of goods*, representing a key element for the integration continuity oriented to a reaching the strategic EEC goal. It was one of the most successful of all integration projects in nowadays EU history being terminated 1.5 year earlier as was planned.

The next period of European integration was not so successful as the customs union building. The common market project was much more comprehensive and complicated than was predicted at the beginning (in Rome). The approved deadline was the year of 1980.

But at the beginning of the 1980s, the European integration process was in a very special state of „*Eurosclerosis*“. Officially, there were the optimistic statements and assessments but in reality, the national governments approved and implemented a lot of economic policy instruments of evidently disintegration character.

The EU legislation (*acquis communautaire* system) including the sanctions was needed. Fortunately, the new President of European Commission, former French minister of finance, Jacques DELORS, invited the experts to prepare the analyses on the cost of Non-Europe as well as on a completion of European *single market*.<sup>30</sup>

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<sup>30</sup> Note: *Non-Europe* – a term for a regulated disintegration process, *single market* – it was a new name for this not very successful project of the *common market* creation being identified with „*Eurosclerosis*“ period. The basic analytical paper supporting its building, it was „*White Paper on a completion of internal market*“. The second one: the CECCHINI Report: „*The Cost of Non-Europe in the Single Market*“. The report headed by Paolo CECCHINI of European Commission estimated that completing the Single Market would contribute significantly to economic growth and consumer welfare within the then-European Communities. New 2014 PATAKI report estimates that completing

The SEA contained the sanctions aspects of integration agreements among the member states, too, and contributed enormously to the completion of this originally strategic aim of EEC and the 1957 Rome summit. It identified all details of the process of a completion of the regime of 4 basic economic integration freedoms as well as the obligations and responsibilities of the member countries.

The *single market* level of European integration was reached basically at the end of 1992. It was a goal of the DELORS Commission. The decade of the 1990s was characterized by a very optimistic and enthusiastic climat in Europe (after a peaceful collapse of the bipolar world) as well as in then international relations, being favourable for a new integrations setting up.

The European integration process knew several successes, too:

- A single market setting up created the very good conditions for the higher integration level preparatory process. A creation of an EU *economic and monetary union* had the clear plans as well as criteria (*Copenhagen criteria*) taking into account basically only positive circumstances and developments.
- The EU primary acquis system was modified by the new *Treaty on European Union*, known as the *Maastricht Treaty*, too. On November 1, 1993, EU became the new symbol, „logo“ and the name of the mainstream European integration, with parallel using of the „old“ names as *European Community* (new expression for this old EEC), *European Communities* (integrating all three: EC, Euratom as well as ECSC until its end in July 2002).<sup>31</sup>

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the Single Market would entail economic gains ranging from 651 billion to 1.1 trillion euro per year, equivalent to a range of 5% to 8,63% of EU GDP. The first major revision of the Rome Treaty – „*Single European Act*“ (SEA) was a key legislation supporting this single market creation in practice, it became an integral part of the “primary acquis communautaire“ (an EU primary legislation), being initiated and later approved by DELORS Commission in February 1986 and coming into effect on 1 July 1987. See also: PATAKI, Z. (2014): *The Cost of Non-Europe in the Single Market. „Cecchini revisited“*. Brussels: EU/EPRS 2014, p. 3.

<sup>31</sup> Note: The Paris *Treaty establishing ECSC* was signed in 1951 and came into effect in July 1952 for 50 years. That is why ECSC terminated its activities in July 2002. The ECSC responsibilities and activities linked with both sectors of coal and steel were absorbed by the concrete organs – the parts of the European Commission.

Figure 1. A Comparison of BALASSA's International Economic Integration Theory with the British Approach and the EU Integration Practice

<b>Complete Economic Integration</b>	Complete Economic Integration	Complete Economic Integration
<b>Economic Union</b>	<b>Economic Union *</b>	<b>Economic and Monetary Union</b> (1990s - 1 January 2002 - continuing)
<b>Common Market</b>	<b>Single Market</b>	<b>Single Market (Internal Market)</b> (1968 - 31 December 1992)
<b>Customs Union</b>	<b>Customs Union</b>	<b>Customs Union * *</b> (1958 - 1 July 1968)
<b>Free Trade Area</b>	<b>Free Trade Area</b>	-
<b>Theory of Béla BALASSA</b>	<b>Preferential Trading Club</b>	<b>European Union's integration practice</b>
		

Note: The BALASSA's *complete economic integration* stage is not more mentioned by economic theory as well as practice. It is possible to consider it as the highest level of *economic and monetary union* building in the integration practice. Great Britain had a very useful experience from organizing a *preferential trading club* – the *Commonwealth Preference System* (being a result of Ottawa agreements 1932), characterized by a conventional decreasing of average tariffs level within club members trading and functioning in the framework of its *British Commonwealth of Nations*, being established in 1926.

Legend: \* Thanks to opt-out negotiated by the government of M. THATCHER Great Britain is not obliged to join a monetary part (eurozone) of the EU Economic and Monetary Union. European Monetary Union (eurozone) as well as a single European currency – euro – were politically rejected by the most of British political parties in the 1990s. The City, London based, one of the most important and globally influential financial centers of the world economy (parallely with New York, Zurich and

Tokyo), based historically on the British pound, would like to play this role henceforth. In theory, the British theorists differentiate two stages of this high level of international economic integration: an *economic union* as Béla BALASSA and separately a *monetary union*, too. But BALASSA understood the *monetary union* as an integral part of the *economic union*. \*\* European Communities (at the beginning: European Economic Community in 1958) started their integration process by enlarging the perfectly functioning *customs union of BENELUX* (1948 - 1957). The sixlateral customs union, it was a very successful process, being completed 1.5 year earlier than it was planned and predicted (1970). Nowadays EU customs union is assessed and considered as one of the most successful European integration projects. Based on the *common commercial policy* of all EU members and on its basic instrument – *TARIC*<sup>32</sup> (*EU common external tariff*), this customs union is functioning perfectly for more than 47 years yet (2015). After the international economic integration completion there is a higher form of integration but political one, not economic. The theorists named it a *political union*.<sup>33</sup>

- The Luxembourg and following Oslo processes of ECs-EFTA cooperation (started in Luxembourg in 1984) was finally successfully terminated by the Oporto *Agreement on European Economic Area* being signed by 12 ECs (since 1993 EU) countries and 7 EFTA members on May 2, 1992, creating *the higher order integration* in Europe (integration of two integration units). EFTA countries became integrated to the EU on the levels of a free trade area and a common (single) market. The Swiss referendum on EEA membership held in December 1992 was not successful, but later negotiations led to the *special Swiss model of integration* being realized on a basis of 17 *bilateral sectoral agreements* - BSAs

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<sup>32</sup> Note: TARIC (from French „le **tarif** intégré communautaire“ – is the name of the EU *common external tariff*, the key element of customs union integration stage functioning.

<sup>33</sup> Note: Nowadays European Union is not only an economic integration model in practice but has several elements of political integration, too: European parliament and direct elections of its deputies, election of the president of European Council, common foreign and security policy, developing of a new EU diplomacy, etc. That is why all theorists now concentrate naturally on both economic as well as political integration elements and aspects of the European integration development.

(including FTA of 1972, 7 BSAs of 2002 and 9 BSAs negotiated and agreed in 2004 as well as approved by one partial referendum needed in 2005).

- The process of a deepening of *Transatlantic Partnership* was started in 1990 by the Transatlantic summit and its *Transatlantic Declaration*. It was accompanied by the ideas as *Transatlantic Free Trade Area* (TAFTA) or *Transatlantic Market* (TAM), in 2013 being prepared for realization in negotiations on an agreement on *Transatlantic Trade and Investment Partnership* (TTIP) between EU and USA, creating potentially the largest free trade area within the world economy.
- After the collapse of the bipolar world, EU was preparing for the *new enlargements* having several new candidates from EFTA – the parallel European integration unit, as well as from former COMECON (CMEA)<sup>34</sup> – the third European integration unit. After *EFTA enlargement* (1995 – Austria, Finland and Sweden) the EU was transformed into EU 15, after two phases of the next *Central Eastern European and Mediterranean enlargement*, realized in 2004 and 2007, EU 15 was enlarged to the EU 25 and later EU 27 dimension.<sup>35</sup> The last 2013 enlargement (*Croatian*) gave to EU a dimension of 28 member countries (states). Croatia became the second ex-Yugoslavian nation joining EU after Slovenia (2004).
- The process of a deep EU cooperation and trade integration with Mediterranean countries (*Barcelona process*) started at the end of 1995 too, parallelly with an increasing of the level of integration with *Turkey* (from free trade area since 1970 to the customs union level since 1995/96). But Turkey-EU integration is a *flexible exogeneous integration* (without an EU membership). Since 1999, Turkey is an EU candidate country (officially) and since 2005, EU-Turkey negotiation process on future membership has continued.

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<sup>34</sup> Note: COMECON was a name for CMEA (*Council of Mutual Economic Assistance*) – an opposition wave of European integration (1971 - 1991), being used in Western countries. This *socialiste economic integration* was based on the *Comprehensive programme* approved by Moscow CMEA summit in 1971. CMEA as international economic cooperation organisation (balancing OEEC and later OECD establishing) was established in 1949 in Moscow.

<sup>35</sup> Note: In 2004, the following Central Eastern European countries joined EU: Slovenia, Poland, Czechia, Slovakia, Hungary, Estonia, Latvia, Lithuania, and two Mediterranean island countries: Malta and Cyprus. In 2007, Bulgaria and Romania, both the Eastern Balkans countries.

- EU negotiated and signed the first *Partnership and Cooperation Agreement* (PCA) with Russia (1994, coming into force in 1997), later with Ukraine, Moldova and other ex-Soviet republics, too. Since 2004, there is a framework of the *Common Economic Space* between EU and Russia (including an energy sector). In 2014, EU signed three *association agreements* (including *deep and comprehensive free trade agreements* - DCFTA) with EU Eastern Partnership countries (Ukraine, Georgia and Moldova).
- During this Jacques DELORS golden decade (1985 - 1995), EU prepared criteria, conditions as well as institutional framework for the next integration higher level – the highest stage of IEI – *economic and monetary union*. In 2002, the first 12 EU member countries started to use euro banknotes and euro coins, including the Hellenic Republic.

European Union knew not only the successes but the serious problems as „Eurosclerosis“ period (1970s and the early 1980s) linked with a common market building as well as a serious eurozone crisis as an impact of both internal and external factors (internal heterogeneity after several enlargements and global economic crisis impacts after September 2008), too.

But *European mainstream integration* in general and *European Union* concretely are representing the most experienced and recognized integration unit within the world economy, being the perfect example and core of the forming much larger *European Continental Economic Complex*, creating actively a system of integration linkages and networks, parallelly with a motivating interdependence with its partners economies of EFTA, Eastern European as well as Southern and South-Eastern partners economies, too.

It served and still serves (in the key areas and stages of IEI) as an example for other integration projects as well as existing integration units of other continents (ASEAN in South-East Asia, MERCOSUR as well as UNASUR in South America, African Union – AU in African continent, EEU in ex-Soviet Euro-Asia, etc.) within the phenomenon being called

(named) the *global economic integration*.<sup>36</sup> It is a network of an *institutional integration* as well as of a *functional integration* existing, functioning and developing in global dimension as a very important phenomenon of a globalization process in the 21<sup>st</sup> century.

Together, it is represented by a global system of more or less 400 elements. The most of elements of this global integration network are the elements of functional integration – the bilateral free trade areas (90%) and customs unions (7%). They are functioning on a basis of the bilateral *free trade agreements* (FTAs) and the *customs union agreements* (CUAs). This small part of the agreements is represented by the *agreements on services*.<sup>37</sup>

*EU Customs Union* is functioning perfectly for more than 47 years (in 2015). Its *Common Commercial Policy* is an example for other European common policies. And its basic instrument – TARIC - is a recognized and useful instrument of the transparent and very well functioning European system of principles and rules of the external trade of European Union, being a strong pillar of EU internal market, too.

The large *EU Internal Market* representing this BALASSA's common market IEI stage<sup>38</sup> or DELORS's single market form of European IEI vision and practice of 1980s and 1990s<sup>39</sup> and operational since the end of 1992/beginning of 1993, is functioning in the European integration practice, too, and is permanently rebuilding (in the linkages with the new EU enlargements as well as with the developments at the international markets and their impacts on EU economy in the framework of a new knowledge based economy and society).

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<sup>36</sup> See: EUROPEAN COMMISSION (2006): *Global Europe: Competing in the World. A Contribution to the EU's Growth and Jobs Strategy*. [COM(2006) 567 final.] Brussels: 4 October 2006, p. 3.

<sup>37</sup> See: *Regional Trade Agreements*. [Cit. 10.3.2015.] Available at <[https://www.wto.org/english/tratop\\_e/region\\_e/region\\_e.htm](https://www.wto.org/english/tratop_e/region_e/region_e.htm)>.

<sup>38</sup> See: BALASSA, B. (1966): *Teorie ekonomické integrace*. Praha: Svoboda 1966, pp. 25-26, 235-256. SAC 25-124-66.

<sup>39</sup> See: EUROPEAN COMMISSION (1985): *Completing the Internal Market*. [White Paper from the Commission to the European Council. Milan, 28-29 June 1985.COM (85) 310 final.] Brussels: EC 14 June 1985. See also: *Single European Act*. Brussels: EC 1986, 1987.

*EU Economic and Monetary Union* is not functioning perfectly (without any problems and complications) since it was impacted strongly by global economic crisis after 2008 developments in the world economy, but it is still the sole existing example of *economic union* (or *economic and monetary union*), this final stage of IEI in the practice of international relations in the 21st century.

Now, it is still facing the impacts of this never ended Hellenic crisis. The EMU system is still under evolution, development and adaptation to the new trends of the international financial relations and the international monetary system existing within the world economy. The *euro (EUR)*, a single European currency, is internationally as well as globally recognized and largely used parallelly with the global reserve currency – US dollar.

## **2.4 Forming a large European Economic Continental Complex and the similar tendencies in other continents**

During more than four decades (since 1973), nowadays EU was enlarged several times: the first enlargement (*Northern*): Great Britain, Danmark, Ireland (1.1.1973); the second (*Hellenic*): Greece (1.1.1981); the third (*Iberic*): Spain, Portugal (1.1.1986); the fourth (*EFTA*): Austria, Sweden, Finland (1.1.1995); the fifth (*Central Eastern European and Mediterranean*): 1. phase: Slovenia, Poland, Czechia, Slovakia, Hungary, Estonia, Latvia, Lithuania, Malta, Cyprus (1.5.2004); 2. phase: Bulgaria, Romania (1.1.2007); the sixth (*Croatian*): Croatia (1.7.2013).

Now, there are 6 official EU candidate countries (EU CCs): Turkey (since 1999), Macedonia (2005), Monte Negro, Iceland (both 2010), Serbia (2012) and Albania (2014). For the next 2.5 year, an additional enlargement is not predicted by Jean-Claude JUNCKER, a new elected President of European Commission since 1 November 2014.

EU *enlargement process* is a very important factor, probably the key one, for a meaningful initiating of the process of creation of the *international economic complex* as a result of IEI process in our

continent not only in dimension of EU member countries (now EU 28 dimension), but in wider dimension.

The other factors supporting this tendency are existing and developing in the framework of several different forms of a *flexible EU exogeneous integration*. This one is an integration of EU non-member country (countries) with European Union on one or two levels (stages) of IEI – basically now, on a free trade area level but there are an exemptions, too:

- The European Economic Area functioning as *the higher order integration* of two existing European integration units (EU + EFTA) with a small modification (adopting the *special Swiss model of integration* after the negative result of the Swiss referendum on the Swiss EEA membership on 6 December 1992). EEA now = EU + EFTA – CH (Switzerland). EFTA 3 (Norway, Iceland and Liechtenstein) as well as Switzerland are integrated with EU on the level of a free trade area and a common market (See: Figure 2, EU and EFTA column).
- Integrating the Turkish economy with EU by implementing the *Customs Union Agreement* (CUA) since the end of 1995 / beginning of 1996. The similar form of the flexible exogeneous integration with EU are represented by the cases of San Marino, Monaco and Andorra integration.
- A similar form of the flexible exogeneous integration, but on free trade level is represented by EMFTA project (still not realized)<sup>40</sup> for supporting the *Euro-Mediterranean Partnership* (EMP) in the framework of *Barcelona process* since the end of 1995 and now, in the framework of the *Union for the Mediterranean* (UFM 42). The conventional basis of this project is represented by the *Euro-Mediterranean Association Agreement* (EMAA).
- The project *CEFTA II* being linked with the South-Eastern region of our continent (namely with Western Balkans) had the very

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<sup>40</sup>Note: EMFTA – *Euro-Mediterranean Free Trade Area* – was presented as an economic pillar of Barcelona process since the end of 1995 and was planned to be realized until 2010. This project was not successful. Now, there are several MENA region countries of really, very high level of unstability, namely Libya and Syria.

similar aspects and aims, too. The most successful of former CEFTA II members (as well as of CEFTA I,<sup>41</sup> located in Central Europe) is Croatia, the newest full EU member since 1 July 2013. As a result of the developments in former Yugoslavian territory (civic war's tragedies), the basic conventional instrument of this potential flexible exogeneous integration, elaborated by EU experts and aiming to assist a basic FTA integration with EU, is a *Stabilization and Association Agreement* (SAA).

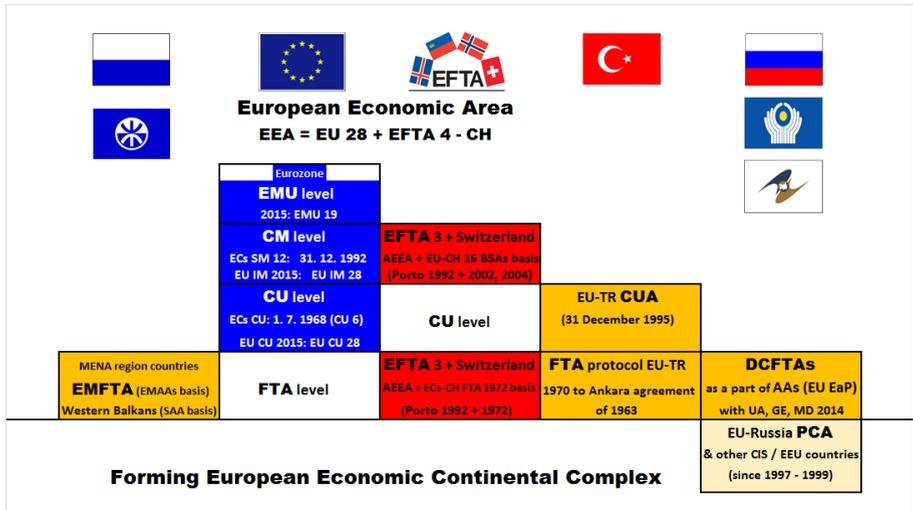
- The similar project was linked with a setting up of the *EU Eastern Partnership* initiative (May 2009) aiming at the strengthening of trade and economic relations with several ex-Soviet republics (Belarus, Ukraine, Moldova, Georgia, Armenia and Azerbaijan). The new *Association Agreements* (AAs) including *Deep and Comprehensive Free Trade Agreements* (DCFTA) were signed in Brussels on June 27, 2014 with Ukraine, Moldova and Georgia. There are still the *Partnership and Cooperation Agreements* (PCAs) of the end of 1990s valid for other ex-Soviet nations trade and economic relations development with EU, including EU-Russia relations. Russian national economic complex was identified as one of the most important, strategic globally for EU.<sup>42</sup>

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<sup>41</sup>Note: CEFTA I (*Central European Free Trade Agreement*) was a result of the Central European summit of four Visegrád group countries (V4) in Cracovia (Krakow) in Poland in 1992. After joining EU in May 2004 (V4 countries and Slovenia, all CEFTA parties), the other CEFTA parties as Bulgaria and Croatia continued under an umbrella of the new CEFTA II, being located in the Western Balkans region (including Kosovo) plus Moldova. The new CEFTA Secretariat was established. It is located in Brussels.

<sup>42</sup>See: EUROPEAN COMMISSION (2006): *Global Europe: Competing in the World. A Contribution to the EU's Growth and Jobs Strategy*. [COM(2006) 567 final.] Brussels: 4 October 2006, p. 9.

Figure 2. Forming European Economic Continental Complex



Legend: AAs – association agreements, AEEA – Agreement on European Economic Area, BSAs – bilateral sectoral agreements, CH – Confédération helvétique = Swiss Confederation, CIS – Commonwealth of Independent States, CM – common market, CU – customs union, CUA – customs union agreement, DCFTA – Deep and Comprehensive Free Trade Agreement (in practice: Area), EaP – Eastern Partnership, ECs – European Communities, EEA – European Economic Area, EEU – Eurasian Economic Union, EFTA – European Free Trade Association, EMAAs – Euro-Mediterranean association agreements, EMFTA – Euro-Mediterranean Free Trade Area, EMU – economic and monetary union / European Monetary Union (eurozone), FTA protocole – protocole to the Free Trade Agreement, FTA – free trade area, GE – Georgia, IM – internal market, MD – Moldova, SAA – stabilization and association agreements, SM – single market, TR – Turkey, UA – Ukraine.

All these EU activities, European Economic Area as well as all mentioned forms of the flexible exogeneous integration, are linked with:

- a deeper trade and economic *cooperation* of one non-member country with European Union,
- later with an *association*, a *mutual free trade regime* creation,
- later with a potential status of an EU *candidate country*,

- later *-negotiating country*
- and finally the future *European Union member*.

An original mainstream European integration grouping – European Economic Community – was a perfect example of a model of *homogeneous integration*. All member states were more or less on the same economic development level (the OECD members – an elite club of advanced or developed countries). There were able to reach all integration stages together – stage by stage - in the same moment. The situation in European mainstream IEI was changed namely after the Hellenic enlargement of European Communities was realized in 1981.

This enlarged integration unit (ECs 10) became a model of *heterogeneous integration*. More and more (thanks to the next *Iberic enlargement* being realized in 1986 as well as thanks to the *Central Eastern European and Mediterranean enlargement* in 2004 and 2007 and the *Croatian enlargement* in 2013).

A creation of the large *European Economic Continental Complex* became the priority No. 1 for European strategists, not a forming of an integration block – a homogeneous integration model in the practice.

Of course, this heterogeneity of member economies (it is still first of all an IEI... but with the strengthened political features adopted during several last decades) can have not permanently only positive or neutral impact on the integration process development. The Hellenic crisis, lasting for several years yet and still representing a very topical – really daily issue, is a very good example of it.

The forming a large economic continental complex is a very comprehensive process. It is possible to monitor and assess the similar trends to be realized in the practice of international economic relations in American continent (a development from CUSFTA 1988, NAFTA 1994 and the FTAA project), in South America (a development from CAN, MERCOSUR to the UNASUR project realization since May 2008), in Eastern Asia (a development from ASEAN, APT, a new EAS<sup>43</sup> since 2005

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<sup>43</sup> Note: APT = ASEAN + 3 (ASEAN Plus Three), an pro-integration forum since 1997. EAS = East Asia Summit, a continuity of former APT since 2005. Now, in a dimension of ASEAN + 8.

in dimension ASEAN+6 and since 2011 ASEAN+8, including Russia and USA) as well as in Africa (African Union, parallelly developed with several regional African integration groupings – from Southern African Customs Union – SACU, in the South of the continent – firstly since 1910, to the Union of Arab Maghreb – UAM, in African North-West - 1989).

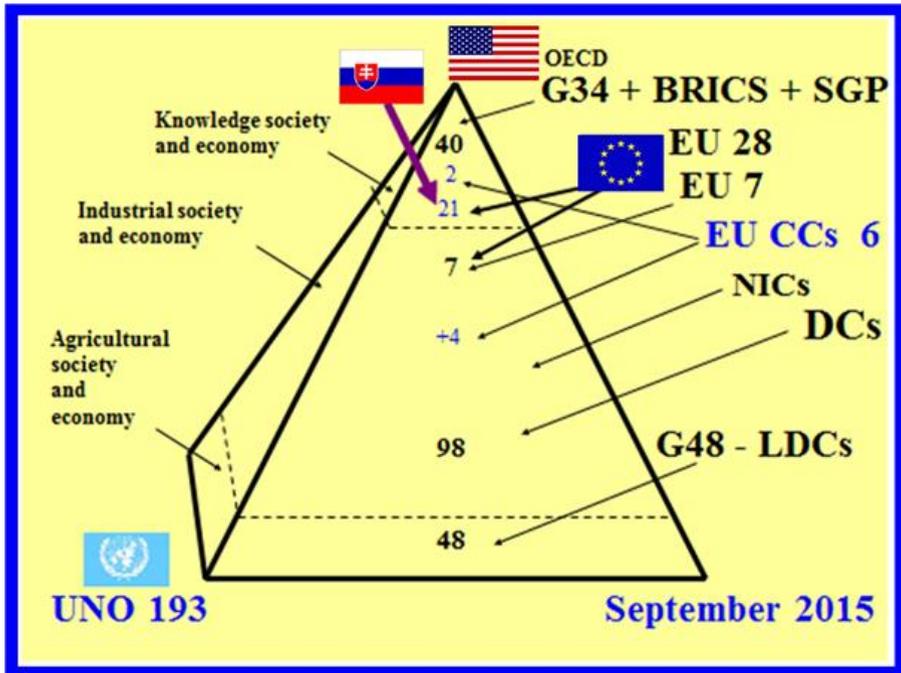
In America, it was namely Peterson Institute for International Economics in Washington, D.C. and its Director C. Fred BERGSTEN (1981 - 2012), sustainably developing new and new projects supporting the idea of the large American (Western hemisphere) integration creation.

From Canada-U.S. Free Trade Area (CUSFTA) based on the REAGAN-MULRONEY agreement (January 1988), to an enlarged trilateral integration NAFTA (being signed in December 1992 in dimension USA-Canada-Mexico, coming into effect on January 1, 1994), to be followed by a „bridge“ integration 2005 CAFTA 7 (Central America Free Trade Area) enlarging this integrated area from U.S. economy to 6 Central American states, too (Guatemala, Honduras, Costa Rica, Nicaragua, Salvador and Caribbean Dominican Republic) and approaching the area of the South America, to the final project of establishing the Pan-American integration FTAA 34 (Free Trade Area of the Americas)<sup>44</sup> under the umbrella of the Organization of American States (OAS).

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<sup>44</sup> Note: FTAA project was prepared by American strategists and trade policy experts for 34 countries of all „Americas“ (Northern, Central, Caribbean as well as Southern).

Figure 3 The Structure of the World Economy and Community



**Source:** KOSÍR, I.: Ukraine and European Integration Process. In ROUET, G. – TEREM, P. (eds.): Ukraine entre l'intégration et le voisinage. Voisinages Européens. Vol. 4. [Colloque international franco-slovaco-ukrainien „Ukraine entre l'intégration et le voisinage“, Université de Tchernihivsi, Ukraine 11-12 June 2008.] Bruxelles: Bruylant 2009, p. 87. ISBN 978-2-8027-2867-2.

**Legend:** Model was updated to the situation of May 2015: **G40** is represented *advanced (developed) countries*, 34 OECD members, 5 members of global coordination group BRICS as well as Singapore, one of the most competitive national economies (SCHWAB 2014, p. 13). **G48** is representing a group of *the least developed countries* (LDCs) within the world economy identified by UNO permanently. They are the poorest *developing countries* (DCs). In the framework of all DCs there are *newly industrialized countries* (NICs), too. NICs represent the most successful DCs in industrialization process. A special group of dynamically growing national economies is known as the new global coordination group **BRICS** – *Brazil, Russia, India, China and South Africa*. Namely China and India

are considered as very perspective globally. During 2001 – 2008 period it was only a virtual quadrilateral group BRICs identified by Jim O'NEILL of Goldman Sachs (O'NEILL 2001). EU represents now a developing model of heterogeneous international economic integration. **EU7** – they are the new EU members (Malta, Cyprus, Latvia, Lithuania, Bulgaria, Romania, Croatia) but not OECD members parallelly (not yet). From 28 EU members there are 21 OECD members parallelly (original EU15 before 2004 enlargement + Visegrád group + Slovenia + Estonia). There are now 6 EU candidate countries (**EU CCs**). Two of them are OECD members since the first year of its activities – 1961 (Turkey and Iceland). Additional four EU CCs are located in Western Balkans (Macedonia, Montenegro, Serbia and Albania). Among nations of top mini-pyramid there are all B4WT members (Big Four of the World Trade): China, European Union including its leader of foreign trade activities – Germany, USA and Japan (International trade statistics 2014, p. 29). G40 including the second most competitive economy - Singapore and EU7 countries are building *knowledge society and economy*, the countries of the middle of the pyramid - the most of the DCs – are building *industrial society and economy*, the poorest DCs – LDCs – they are still living with a heritage of *agricultural society and economy*.

The UNASUR establishment as an *enlarged higher order integration* unit (UNASUR = MERCOSUR + CAN (two integrations) + Chile + Guyana + Suriname) in May 2008 in Brasília is possible to assess as a reaction of Southern American states to the U.S.' FTAA project. UNASUR<sup>45</sup> is integrating all 12 countries of this part of Western hemisphere and Brazil is playing the role of a natural leader. Its SAFTA project means a creation of the South American Free Trade Area until 2019. Basically, it will be a free trade area between two customs unions (MERCOSUR and CAN). There is also a Latin American integration too, being logically larger than South American one. It was represented by

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<sup>45</sup> Note: CAN – *Andean Community of Nations* (span.: *Comunidad Andina de Naciones*), a quadrilateral customs union (Colombia, Ecuador, Peru and Bolivia). UNASUR – *Union of South American Nations* (span.: *Unión des Naciones Suramericanas*), an enlarged higher order integration of CAN 4 + MERCOSUR 5 (Brazil, Argentina, Uruguay, Paraguay and Venezuela) + Chile, Guyana and Suriname.

LAFTA (Latin American Free Trade Area) since the Treaty of Montevideo signing in 1960. In 1980, LAFTA was reorganized into the Latin American Integration Association (LAIA), with a membership of Mexico, Panama and Cuba, too.<sup>46</sup>

The biggest progress in *economic continental complex* creation was reached in Europe. There were several other projects supporting this long term aim. For example, then President of European Commission Romano PRODI declared on May 17, 2001 in occasion of the Moscow Russia-EU summit together with Vladimir PUTIN, President of the Russian Federation, that EU and Russia agreed on a setting up a *Common European Economic Space* (CEES) as well as a Joint High-Level Working group to develop together this concept.

At the beginning of the new millenium, establishment of this CEES was generally considered as undoubtedly important both from the perspective of promotion of Russia's integration into the world economy and that of determination of medium-term and long-term prospects of further cooperation between Russia and the European Union, with EU enlargement and Russia's forthcoming accession to the WTO taken into account.

For the European Union, Russia was considered in 2001 as a major foreign trade partner in absolute terms and presented opportunities for capitalisation of EU strengths through increased complementarities. EU and Russia, both globally important parties would like to gain increased stability, security and economic prosperity from a setting up this CEES. In 2004, following the European and Russian experts recommendations, a *Common Economic Space* between EU and Russia was created parallelly with other three common „spaces“.<sup>47</sup>

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<sup>46</sup> Note: LAIA, span.: *Asociación Latinoamericana de Integración*, ALADI. Former LAFTA, span.: *Asociación Latinoamericana de Libre Comercio*, ALALC.

<sup>47</sup> Note: Russia finally joined WTO on August 22, 2012 after a very long (since 1993), comprehensive and complicated negotiation process. In 2004, parallelly with CES, a Common Space of Freedom, Security and Justice (CSFSJ), a Common Space of External Security (CSES) as well as a Common Space of Research and Education (CSRE, including Culture) were created. The Ukrainian crisis in 2014 seriously impacted all.

A building stable and cooperative relations with all countries of the EU Northern, Eastern, South-Eastern as well as Southern neighborhood is a part of EU vision of a peaceful and competitive future. A creation of the large *European Economic Continental Complex* including its stable and cooperative neighbourhood allows and shall allow the integrated Europe to play a much more important role in the world economy and community.

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### 3 EU Accession Experience and Perspectives: The Case of Slovakia and Kosovo (UNSCR 1244/1999)<sup>1</sup>

**Denisa ČIDEROVÁ\* – Brikenë DIONIZI\*\***

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**Abstract:** *Power as one of central concepts in the area of international relations may be referred to in terms of geography; demography; impact or development of economic nature; governance; diplomacy; national identity or military terms among others. As Béla BALASSA said: “In examining the recent interest in economic integration, we have yet to comment on the role of political factors. There is no doubt that – especially in the case of Europe – political objectives are of great consequence”. Interdependence comprehensively characterised by the complex interdependence theory is also illustrated by the theory of an economic complex. European mainstream integration is representing a forming international economic complex, one of the world centers of economic power. Moreover, it is necessary to relate existing model of flexible endogeneous and flexible*

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<sup>1</sup> This chapter results from: scientific research conducted at the Bratislava University of Economics in the framework of the VEGA project No. 1/1057/12 (Department of International Trade, BUE Faculty of Commerce) titled *Solving the Debt Crisis in a Monetary (not Fiscal) Union and Factors of Future Deepening of the Crisis in Europe and in Slovakia*; Master theses supervised by Denisa ČIDEROVÁ: *Perspectives of the European External Action Service in the framework of the Lisbon Treaty* (Dominika SRNÁKOVÁ, 2011), and *Representing interests of V4 countries in terms of their Presidencies and the renewed consensus on enlargement – Western Balkans’ focus* (Beata FEJESOVÁ, 2013); forthcoming papers: ČIDEROVÁ, D. – KOVAČEVIĆ, D.: “*Slovakia and Croatia as ‘New’ Member States of the EU: Experiences*” and ČIDEROVÁ, D. – KOVAČEVIĆ, D.: “*Slovakia and Croatia as ‘New’ Member States of the EU: Perspectives*” as well as consultations with Dr. Brikenë DIONIZI at the Bratislava University of Economics in spring 2014.

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*exogeneous integration of the European Union to the formation of the European Economic Continental Complex (EECC) and the concept of the Common European Economic Space (CEES). An EU enlargement process plays a key role in a creation of this mentioned continental model of intensive cooperation. Certain degree of extra-EU euroisation relates to the so-called European microstates just like Montenegro, and Kosovo (UNSCR 1244/1999). These Western Balkans countries are at the heart of flexible endogeneous and flexible exogeneous integration of the European Union. CEFTA practice and experience as a regional model of trade integration as well as the Slovakian European integration experience since 1991 would be the motivating resources of inspiration for further effort in the way of really European perspectives.*

**Keywords:** *theory of international economic integration; international organisation; international relations; political unity; interdependence; theory of an economic complex; EU neighbourhood; complexity of cooperation; flexible endogeneous integration; flexible exogeneous integration; stabilization and association process; potential candidate status;*

*“In examining the recent interest in economic integration, we have yet to comment on the role of political factors. There is no doubt that – especially in the case of Europe – political objectives are of great consequence. The avoidance of future wars between France and Germany, the creation of a third force in world politics, and the re-establishment of Western Europe as a world power are frequently mentioned as political goals that would be served by economic integration.[<sup>2</sup>] Many regard these as primary objectives and relegate economic considerations to second place. No attempt will be made here to evaluate the relative importance of political economic considerations. This position is taken, partly because this relationship is not quantifiable, partly because a considerable degree of interdependence exists between these factors. Political motives may prompt the first step in economic integration, but economic integration also reacts on the political*

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<sup>2</sup> Cf. theory of „the third power“ in ŠÍBL et al. (2002), pp. 831-2.

*sphere; similarly, if the initial motives are economic, the need for political unity can arise at a later stage.”*

Bela BALASSA, reprinted from *The Theory of Economic Integration* (Greenwood Press, 1961, notes omitted<sup>3</sup>). In NELSEN, B. F. – STUBB, A. (eds.): *The European Union – Readings on the Theory and Practice of European Integration*. 3<sup>rd</sup> ed. – comprehensively revised and updated. Basingstoke : Palgrave Macmillan 2003, p. 183. ISBN 978-1-4039-0422-5.

### 3.1 Politics meets economics

In his coverage of fifty key thinkers in international relations of the twentieth century, M. GRIFFITHS addressed the following categories: *realism; liberalism; radical/critical theory; theory of international society; international organisation; postmodernism; gender and international relations; historical sociology/theories of the state; and theories of the nation*, though seeking “*to show how key thinkers, whilst they can be usefully slotted into long-standing traditions of thought, are rarely bound by them*” (GRIFFITHS, 1999, p. 43).

*Power* (P. DRULÁK in KRATOCHVÍL – DRULÁK et al., 2009, pp. 179-82) as one of central concepts in the area of international relations may be referred to in terms of geography; demography; impact or development of economic nature; governance; diplomacy; national identity or military terms among others. Thus, S. STRANGE – whose contribution to the establishment and development of the *international political economy* (examining the political background of economic processes just like the economic background of political processes) was vital – identified *structural power* on the grounds of the *knowledge* structure, the *financial* structure, the *security* structure, and the *production* structure (GRIFFITHS, 1999, p. 43).<sup>4</sup> Furthermore, J. RUPNIK (2007, p. 18) claims “[s]i la

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<sup>3</sup> For notes cf. e.g. BALASSA, B. (1964): *Teoria da integração económica. Estudos de economia moderna – Clássica editora*. Lisboa: Livraria Clássica Editora, 1964 (The Theory of Economic Integration, Richard D. Irwin, Inc., 1961).

<sup>4</sup> M. GRIFFITHS (1999, pp. 44-5) further states that S. STRANGE „endorses a version of balance-of-power diplomacy, arguing that Europeans in particular

définition classique du pouvoir est « pour A d'amener B à faire ce qu'il ne ferait pas autrement [reference to S. STRANGE, 1988, p. 24] », on peut dire que l'approche européenne correspond plutôt au soft power défini par Joseph NYE comme la capacité à « amener l'autre à vouloir ce que vous voulez » ou la « capacité à façonner les préférences des autres » [reference to J. NYE, 2004, pp. 2 and 5]”. In contrast with the concept of *hard power*<sup>5</sup>, the European Union (EU) has a potential of a *civil power*<sup>6</sup> model formulated by J. RUPNIK (2007, p. 21) as follows: “*la possibilité pour l'Union de promouvoir son propre modèle de « puissance civile » (dépassement des conflits par le dialogue institutionnalisé des États, l'interdépendance des économies et l'interpénétration des sociétés [reference to P. HASSNER, 1995, pp. 335-354]) dépend en partie de son soft power, c'est-à-dire de l'attrait que l'UE exerce sur sa périphérie*”.

*Interdependence* comprehensively characterised by the *complex interdependence theory* of R. O. KEOHAN and J. S. NYE (1977) is also illustrated by the *theory of an economic complex* (ŠÍBL et al., 2002, p. 825; KOSÍR, 2007a, pp. 19-21) elaborated in the 1960s by J. TAUCHMAN and later further developed by J. FILIP, Ľ. CIVÍN, and M. ŠIKULA. Moreover, I. KOSÍR (2007a, p. 22) related his model of *flexible endogeneous and flexible exogeneous integration of the European Union* to the formation of the European Economic Continental Complex (EECC) and the Common European Economic Space (CEES).

Hence, the issue of “*Europe-puissance*” vs “*Europe-espace*” arises, formulated by L.MACEK (2011, p. 59) as follows: “*Évidemment, ces [une puissance traditionnelle versus une « puissance civile »] clivages existent*

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*must develop a common currency and take much greater responsibility for their security needs than they have thus far*”.

<sup>5</sup> Cf. the statement “*La capacité de l'UE à recourir à la force pour maintenir ou même imposer la paix (hard power) reste limitée comme l'a démontré la guerre de dissolution de la Yougoslavie au cours de la décennie 1990.*” (RUPNIK, 2007, p. 21) with the current status quo in the neighbourhood of the European Union.

<sup>6</sup> Cf. MACEK (2011), p. 59.

*indépendamment de la question de l'élargissement proprement dite. Mais, une fois encore, les vagues successives d'adhésion à l'Union européenne ont contribué à les accentuer, en bouleversant les rapports de force internes entre partisans d'une « Europe-puissance » (sceptiques vis-à-vis de l'atlantisme et promoteurs d'une puissance autonome, sinon rivale des États-Unis) et partisans d'une « Europe-espace » (c'est-à-dire une Europe qui s'organise autour d'un marché intérieur et d'un espace commun de liberté, de sécurité et de justice, sans devenir pour autant un acteur majeur sur la scène internationale).”*

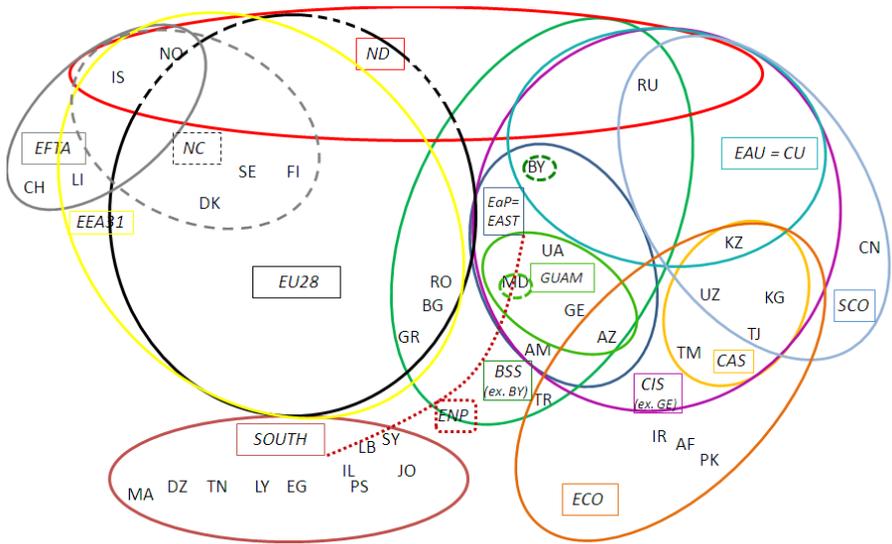
Visualisation of complexity of cooperation with focus on the EU (i.e. the EU28 characterised by the advanced degree of an *economic and monetary union*<sup>7</sup> in terms of the 1961 B.BALASSA's *theory of economic integration*<sup>8</sup>) and its neighbourhood (with status quo prior to the launch of the “Eurasian Union” project) is, firstly, depicted in Figure 4a, and, secondly, more in detail indicated in ensuing Figures 4b and 4c using a “zoom-in” perspective.

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<sup>7</sup> Cf. *economic (and monetary) union* in ŠÍBL et al. (2002), p. 326.

<sup>8</sup> Note: Theory of economic integration was represented (with gradually intensifying integration) by: a free trade area – a customs union – a common market – an economic union – a complete economic integration (BALASSA, 1961, reprinted from *The Theory of Economic Integration* in NELSEN – STUBB et al., 2003, pp. 180-1)

Figure 4a. Visualisation of complexity of cooperation: focus on the EU28 and its neighbourhood (*prior to the launch of the “Eurasian Union” project referred to as “EAU”*)<sup>9</sup>



Legend: AF – Afghanistan; AM – Armenia; AZ – Azerbaijan; BG – Bulgaria; BY – Belarus; CH – Switzerland; CN – China; DK – Denmark; DZ – Algeria; EG – Egypt; FI – Finland; GE – Georgia; GR/EL – Greece; IL – Israel; IR – Iran; IS – Iceland; JO – Jordan; KG – Kyrgyzstan; KZ – Kazakhstan; LB – Lebanon; LI – Liechtenstein; LY – Libya; MA – Morocco; MD – Moldova; NO – Norway; PK – Pakistan; PS – Palestinian Authority; RO – Romania; RU – Russia; SE – Sweden; SY – Syria; TJ – Tajikistan; TM – Turkmenistan; TN – Tunisia; TR – Turkey; UA – Ukraine; UZ – Uzbekistan;

BSS – Black Sea Synergy; CAS – (EU) Central Asia Strategy; CIS – Commonwealth of Independent States; CU – Customs Union (Russian

<sup>9</sup> Note: *Eurasian Economic Union* (EEU) was established on 29 May 2014 in Astana by Russia, Belarus and Kazakhstan. Since 2 January 2015 there was EEU 4 (with Armenia) and since May 2015 there is EEU 5 (including Kyrgyzstan).

Federation, Belarus, Kazakhstan); *EaP* – Eastern Partnership; *EAU* – Eurasian Union project; *ECO* – Economic Cooperation Organization; *EEA31* – European Economic Area; *EFTA* – European Free Trade Association; *ENP* (East and South) – European Neighbourhood Policy; *EU28* – European Union; *GU(U)AM* Group (incl. Uzbekistan); *NC* – Nordic Council; *ND* – Northern Dimension; *SCO* – Shanghai Cooperation Organization.

Source: ČIDEROVÁ – REPÁŠOVÁ – ŠEPTAKOVÁ (2013), p. 47.

The *European Economic Area* (EEA31) represents economic integration of *extra-EU* EFTA3 (Norway, Iceland, Liechtenstein) countries with 28 EU Member States, while the terms of Swiss cooperation with the EU28 based on bilateral legal framework are now subject to renegotiation. Among the *intra-EU Visegrad Group* (Czech Republic, Hungary, Poland, and **Slovakia**) countries, **Slovakia** – currently holding the Visegrad Group Presidency – is fully integrated not just in the Schengen area, but even in the Euro area indicated (as EA 19 incl. Lithuania) in Figure 4b. Subsequently, Figure 4c additionally specifies special status of **Kosovo (UNSCR 1244/1999)** vis-à-vis the Euro currency in a comparative perspective.

Figure 4b. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective: European Union, Euro area and Schengen area enlargements since 2004

EU enlargement		Euro area enlargement		Schengen enlargement	
2004	Cyprus	2007	Slovenia	2007	Czechia
	Czechia	2008	Cyprus		Estonia
	Estonia		Malta		Hungary
	Hungary	<b>2009</b>	<b>Slovakia</b>		Latvia
	Latvia	2011	Estonia		Lithuania
	Lithuania	2014	Latvia		Malta
	Malta	2015	Lithuania		Poland
	Poland		? Sweden		<b>Slovakia</b>
	<b>Slovakia</b>		? Czechia		Slovenia
	Slovenia		? Hungary		2008
2007	Bulgaria	? Poland	2011	Liechtenstein	
	Romania	? Bulgaria		? Bulgaria	
2013	Croatia	? Romania	? Romania		
?	negotiating candidate countries	? Croatia	? Croatia		
?	non-negotiating candidate countries	€	Montenegro	?	Cyprus/ Turkey
	<b>potential candidates</b>		<b>Kosovo</b> (UNSCR1244/1999)		
?		opt-out	Denmark United Kingdom	?	<b>Western Balkans</b> <sup>10</sup>

Legend: bold font points out at Slovakia and/or Kosovo (UNSCR 1244/1999) / potential candidates / WBs<sup>11</sup>.

<sup>10</sup> Cf. alternative related terminology such as: *CESEE economies/countries* – Central, Eastern and South-Eastern Europe (CESEE); *SEE countries* – South-Eastern European (SEE) countries; *WBC countries* – Western Balkan countries: Albania, Bosnia and Herzegovina, Croatia, the Former Yugoslav Republic of Macedonia, Montenegro, and Serbia; *EBC countries* – Eastern Balkan countries: Bulgaria and Romania; *OMS* – “old” Member States; *NMS* – “new” Member States. For details see Nowotny – Mooslechner – Ritzberger-Grünwald (eds.), 2011.

Sources: Based on EUROPEAN COMMISSION; EUROPEAN COMMISSION: *Latvia and the euro*, available at: <[http://ec.europa.eu/economy\\_finance/euro/countries/latvia\\_en.htm](http://ec.europa.eu/economy_finance/euro/countries/latvia_en.htm)>; EUROPEAN COMMISSION (2011); EUROPEAN COMMISSION : *Schengen Area*, available at: <http://ec.europa.eu/dgs/home-affairs/what-we-do/policies/borders-and-visas/schengen/>; <http://europa.eu>.

Additionally, the reality that all *extra-EU* EFTA4 (Norway, Iceland, Liechtenstein, Switzerland) countries are incorporated in the *Schengen area*, and certain degree of *extra-EU euroisation* (Figure 1c) relates to the so-called European microstates just like Montenegro, and **Kosovo (UNSCR 1244/1999)** is at the heart of *flexible endogeneous and flexible exogeneous integration of the European Union* referred to above.

Figure 4c. Kosovo (UNSCR 1244/1999) in a comparative perspective: Euro-related facts

EU member states (non-Euro area)	EU candidate countries and potential candidates	Others
<i>ERM II:</i> <b>DK</b>	<i>Unilateral euroisation (no separate legal tender):</i> <b>XX, ME</b>	<i>Euroisation:</i> European microstates (Republic of San Marino, Vatican City, Principality of Monaco and Andorra), some French overseas collectivities
<i>Euro-based currency boards:</i> <b>BG, CZ, HR</b>	<i>Euro-based currency boards:</i> <b>BA</b>	
<i>Managed floating regime with the euro as reference currency and an inflation target:</i> <b>RO</b>	<i>Stabilised arrangement with euro as a reference currency:</i> <b>MK</b>	
<i>Free-floating regime with an inflation target:</i> <b>HU, PL, SE, UK</b>	<i>Free-floating regime with an inflation target:</i> <b>AL, IS, RS, TR</b>	
		<i>Other arrangements using the euro as a reference currency:</i> Switzerland

<sup>11</sup> Cf. WBs (Western Balkans) vs WB (World Bank). See also: EUROPEAN COMMISSION (2009b).

Legend: EU – European Union; AL – Albania; BA – Bosnia and Herzegovina; BG – Bulgaria; CZ – Czech Republic; DK – Denmark; HR – Croatia; HU – Hungary; IS – Iceland; ME – Montenegro; MK – Former Yugoslav Republic of Macedonia (FYROM); PL – Poland; RO – Romania; RS – Serbia; SE – Sweden; TR – Turkey; UK – United Kingdom; XK – Kosovo (UNSCR 1244/1999).

Source: adapted excerpt from EUROPEAN CENTRAL BANK (2014), p. 67.

Theoretical framework is primarily aimed at: *explanatory, comparative, predictive, normative or constitutive* nature of individual approaches (KRATOCHVÍL, 2008, pp. 19-20); yet, V. BENEŠ claims that “[e]volution of the European integration theory ... resulted in theoretical pluralism. ... Theoretical pluralism is also attached to thematic pluralism. Individual approaches to the European integration theory aspire to respond to an extensive array of research questions covering a variety of European integration aspects: stretching from “grand” themes such as the origins, evolution and deepening of European integration to issues related to the decision-making process in the “multi-level” nature of the EU.” (KRATOCHVÍL – DRULÁK et al., 2009, p. 289).

Bearing in mind a sample of studies carried out in the pre-/post-accession period (Ústav slovenskej a svetovej ekonomiky SAV, 2002; European Commission, 2009a; Ministerstvo zahraničných vecí a európskych záležitostí Slovenskej republiky, 2014) and resting on our earlier analyses (Báraňová-Čiderová – Svitana – Vetrák, 2006; Kosír et al., 2007; Báraňová-Čiderová, 2007; Baláž – Báraňová-Čiderová – Kittová – Kosír – Liberčan – Mattoš – Silná – Vetrák, 2008; Čiderová – Kovačević, forthcoming) in the framework of the EU accession process, this chapter aims to address the issue of the Slovakian accession experience when reviewing status quo of the European integration process vis-à-vis Kosovo (UNSCR 1244/1999) in a “zoom-in”/“zoom-out” comparative perspective – with reference to recently released data – as well as challenges that lay ahead, taking into consideration the scope and limits of such analysis.<sup>12</sup>

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<sup>12</sup> Cf. methodological pluralism claimed by N. HYNEK (KRATOCHVÍL – DRULÁK et al., 2009, p. 173), and in EILSTRUP-SANGIOVANNI (ed.), 2006, p. 466f.

### 3.2 EU accession experience: Focus on Slovakia

*“[B]oth Slovakia and the Vatican can be seen as weaker than any of their neighbours and probably not stronger than any of the regional or global players with which they have any meaningful interactions. Does this mean that Slovakia and the Vatican should belong to the same category? And if yes, then what category would that be? Microstates? Small States? If not, then which one is stronger? Is it the Vatican with its undisputable global influence or Slovakia with its greater geographic and demographic resources and ability to influence such bodies as the EU to an arguably greater degree than the Vatican?”*

DUMIENSKI, Z.: *Microstates as Modern Protected States: Towards a New Definition of Micro-Statehood*. Centre for Small States Studies/Institute of International Affairs, University of Iceland Press, 2014. ISSN 1670-4290, p. 20.

Relativity of impact of Slovakia could also be illustrated in these terms: with its 1.06% share in EU28 population and 0.79% share in EU28 GDP, the Slovak Republic is represented in voting of the Council of the European Union by up to 1.99% (2013 Eurostat est. in MINISTERSTVO ZAHRANIČNÝCH VECÍ A EURÓPSKYCH ZÁLEŽITOSTÍ SLOVENSKEJ REPUBLIKY, 2014, p. 8). And, Central European location of Slovakia – indicated in Figure 5a introducing basic facts about Slovakia and Kosovo (UNSCR 1244/1999) – in terms of “wider Europe”<sup>13</sup> is also evidenced by the fact that as much as 94% of the Slovak borderline stand for the Union’s internal border (MINISTERSTVO ZAHRANIČNÝCH VECÍ A EURÓPSKYCH ZÁLEŽITOSTÍ SLOVENSKEJ REPUBLIKY, 2014, p. 28).

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<sup>13</sup> Cf. COMMISSION OF THE EUROPEAN COMMUNITIES (2003).

Figure 5a. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective: basic facts

	<b>Slovakia</b>	<b>Kosovo (UNSCR 1244/1999)</b>
Total area	49,035 km <sup>2</sup>	10,887 km <sup>2</sup>
Land area	48,105 km <sup>2</sup>	10,887 km <sup>2</sup>
Location	Central Europe <b>Slovakia</b>	SE Europe <b>Kosovo (UNSCR 1244/1999)</b>
Population	5,488,339	1,847,708
Ethnic groups	Slovak 86%; Hungarian 10%; Roma 2%; Ruthenian/Ukrainian 1%	Albanian 92%; other (incl. Serb, Bosniak, Gorani, Roma, Turk, Ashkali, Egyptian) 8%
Chief religions	Roman Catholic 69%; Protestant 11%; Greek Catholic 4%; none 13%	Muslim, Serbian Orthodox, Roman Catholic
Principal languages	Slovak (official), Hungarian, Roma, Ukrainian	Albanian, Serbian (both official), Bosnian; Turkish; Roma
Establishment	1 January 1993	Unilateral declaration of independence on 17 February 2008( <i>recognised by 110 UN members incl. 23 EU MSs by 8 October 2014</i> )
Member of major international organisations	UN, EU (2004; Schengen 2007; <i>Euro area 2009</i> ), NATO (2004), OECD, OSCE, WTO	UN (IBRD, IMF)

Sources: EUROPEAN COMMISSION (2014c), p. 3; *The World Almanac® and Book of Facts* (2014), pp. 796-7 and 833.

A decade after establishment of the Slovak Republic as one of two successors of the former Czecho-Slovakia in 1993 (Figure 5a), Slovakia was involved in signing of the EU Accession Treaty on 16 April 2003. Afterwards, in the course of a decade (2004 – 2014)<sup>14</sup> of membership in the EU, the GDP per capita (in PPS, EU28 = 100) of Slovakia fuelled by the catching-up process rocketed from 57% in 2004 to 76% in 2012 (EUROSTAT, 2014c).<sup>15</sup>

Alternatively, the “Slovak success story” is presented in the latest OECD Economic Survey of Slovakia as follows: “The Slovak success story has benefited mainly the western part of the country. GDP per capita in Bratislava is the 6<sup>th</sup> highest among 272 regions in the EU28 ..., although the country as a whole ranks only 20<sup>th</sup> out of 28 EU countries.” (OECD, 2014, p. 7).

Subject to data availability for comparative purposes – while bearing in mind the scope of our focus – this brings us to a glance at GDP in aggregate as well as per capita terms (Figure 5b) complemented with GDP developments in time (Figure 5c), extended to additional three CESEE (Central, Eastern and South-Eastern Europe) countries of population similar to the one of Kosovo (UNSCR 1244/1999) that are linked to the reality or the prospect of EU membership, too.

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<sup>14</sup> Note: For a timeline covering major events between 1990 – 2014 see Figure 6.

<sup>15</sup> Cf. MINISTERSTVO ZAHRANIČNÝCH VECÍ A EURÓPSKYCH ZÁLEŽITOSTÍ SLOVENSKEJ REPUBLIKY (2014), p. 10.

Figure 5b. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective with an EU Member State or Candidate Country status

	SK	XK	SI	MK	LV <sup>16</sup>
<i>Status</i>					
Recent experience of federal statehood	ex-Czechoslovakia		ex-Yugoslavia		ex-USSR
European Union perspective	member state	potential candidate	member state	candidate country	member state
<i>Indicators</i>					
Population ('000)	5,488,339	1,847,708	1,992,690	2,087,171	2,178,443
GDP (bil. USD)	134.1 bil.	13.6 bil.	58.9 bil.	22.2 bil.	37.9 bil.
GDP p. c. (USD)	24,600	n.a.	28,700	10,800	18,600
GDP growth (%)	+2	+2.1	-2.3	-0.3	+5.6
import (mil./bil. USD)	76 bil.	3.3 bil. (2011)	28 bil.	6.2 bil.	16.1 bil.
export (mil./bil. USD)	80.7 bil.	419 mil. (2011)	27.6 bil.	4.1 bil.	12.5 bil.

Legend: SK – Slovakia; XK – Kosovo (UNSCR 1244/1999); SI – Slovenia; MK – Former Yugoslav Republic of Macedonia (FYROM); LV – Latvia; n.a. – data not available.

Source: *The World Almanac® and Book of Facts* (2014), pp. 796, 798, 801, 833-834.

Figure 5b covers EU and non-EU – seemingly unrelated – countries, yet, with a number of common characteristics in the following chronological order. *Firstly*, Slovakia, Slovenia and Latvia each have experience of recent federal statehood. *Secondly*, having disintegrated from the federal statehood, Slovakia, Slovenia and Latvia participated in a free trade area arrangement,

<sup>16</sup> Cf. EUROPEAN COMMISSION (2010).

i.e. in CEFTA or BAFTA, respectively, prior to their accession to the EU. *Thirdly*, Slovakia, Slovenia and Latvia share their experience of the 2004 unprecedented EU enlargement (incl. their involvement in the Schengen area and the Euro area). Incompatibility of accession to the EU with CEFTA (or BAFTA, respectively) led to the transformation<sup>17</sup> of CEFTA to *CEFTA 2006* – thus not just “stretching”, but even “*shifting*” from the Central European to the *SEE region*<sup>18</sup> – now also with participation of Kosovo (UNSCR 1244/1999).

Currently, export performance dropped notably in the second quarter of 2014 in the case of Slovakia chiefly as a result of decelerated GDP growth registered by its key trading partners, and imports fuelled by recovery of private consumption are projected to outnumber exports in 2014 (with outlook towards renewed import/export convergence reflecting high import intensity of SK exports). In the case of Kosovo (UNSCR 1244/1999), lower degree of its dependence<sup>19</sup> on exports mitigated impact of the global crisis. According to available data<sup>20</sup>, net exports were lately driven predominantly by import substitution (even though both exports and imports are on the

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<sup>17</sup> Note: As if from “CEFTA 1.0” to “CEFTA 2.0” (or CEFTA II).

<sup>18</sup> Cf. “*Les arguments en faveur (ou contre) le fédéralisme sont politiques et non économiques. Il existe certes un lien entre le politique et l'économique : pour les investisseurs étrangers, la stabilité, l'ouverture des frontières et le développement des voies de communication régionales sont des arguments non négligeables dans des petits pays enclavés. Des accords bilatéraux de libre-échange ont été signés, mais l'évolution est lente vers la création d'une zone de libre-échange ou un « marché commun » de l'Europe du Sud-Est. Le rattachement progressif à partir de 2007 des Balkans à la CEFTA (Central European Free Trade Area) sera un pas important dans cette direction.*” (RUPNIK, 2007, p. 133).

<sup>19</sup> Note: Its openness to trade lessened owing to the shift of total trade from 70.4% of GDP (2012) to 66.4% of GDP (2013)

<sup>20</sup> Cf. reference to “*available indicators as well as anecdotal evidence*” quoted in EUROPEAN COMMISSION (2014e), p. 6. In its alternative 2014 report the European Commission introduced that “*GDP per capita reached € 2,800 in 2013, equal to 11% of the EU28 average*” with observation that “*a measure using purchasing power standards is not available for Kosovo*” (EUROPEAN COMMISSION, 2014h, p. 51). The Council of the European Union commented in the framework of the General Affairs Council meeting held on 16 December 2014 on this issue, too, stating that “*... the Council recalls the importance of accurate and reliable statistics as a key factor in economic governance*” (COUNCIL OF THE EU, 2014, p. 2).

rise, their overall contribution to the trade balance is negative) and subdued domestic demand. Substantial degree of dependence on remittances is directly linked to labour outflow from the Balkans to the economies of Western Europe and plays a role in sustaining consumption and alleviating elevated unemployment levels in the home country alike.<sup>21</sup>

Following the European Council statement (EUROPEAN COUNCIL, 2014, p. 10) in its 23-24 October 2014 conclusions: “The economic and employment situation remains our highest priority. Recent macroeconomic developments are disappointing with low GDP growth and very high persisting levels of unemployment in much of Europe as well as exceptionally low inflation.”, in Figures 5c-5e we streamline our attention to Slovakia<sup>22</sup> and Kosovo (UNSCR 1244/1999)<sup>23</sup> in a comparative perspective with the EU<sup>24</sup> and the EA<sup>25</sup>.

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<sup>21</sup> Note: “Remittances secure a substantial share of the income for many households, but they also lead to higher reservation wages, which may be another reason for the low employment rates,” claimed the 2010 report (EUROPEAN COMMISSION, 2010, p. 39). The European Commission now expects higher private consumption due to the March 2014 decision of the XK government on significant public wage and pension increases. (EUROPEAN COMMISSION, 2014e, pp. 6 and 38).

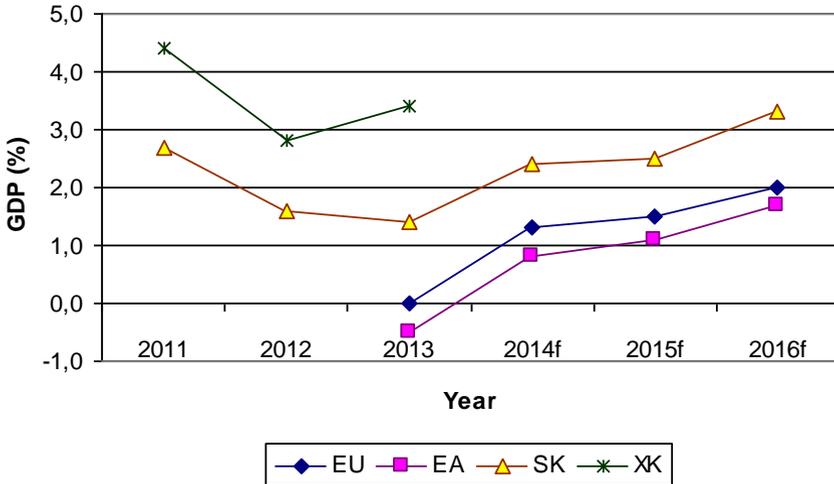
<sup>22</sup> Note: 2011-2013 performance and 2014-2016 forecast.

<sup>23</sup> Note: 2011-2013 performance.

<sup>24</sup> Note: 2013 performance and 2014-2016 forecast.

<sup>25</sup> Note: 2013 performance and 2014-2016 forecast for Euro Area (EA).

Figure 5c. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective: GDP (%)



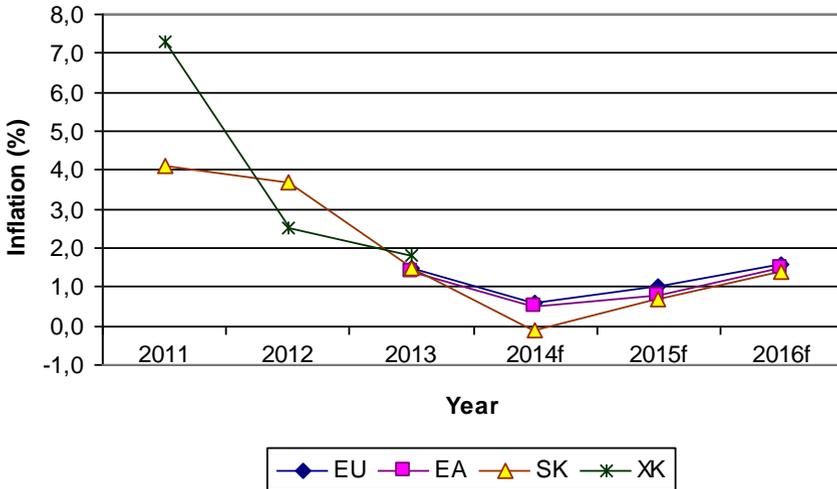
Legend: EU – European Union; EA – Euro area; SK – Slovakia; XK – Kosovo (UNSCR 1244/1999).

Sources: EUROPEAN COMMISSION (2014a), pp. 1 and 107; EUROPEAN COMMISSION (2014e), pp. 40-41; EUROPEAN COMMISSION (2014h), p. 52.

Both Kosovo (UNSCR 1244/1999) and Slovakia registered economic growth above the EU and EA average in 2013 as displayed in Figure 2c, with SK GDP predicted to pursue a trend synchronised with forecasts for the EU and the EA.

Although fragile economic recovery across the EU as a legacy of the global crisis was hampered by uncertainty stemming from geopolitical tensions coupled with less favourable global economic prospects, envisaged improvement in both foreign and domestic demand, additional advancement of the Banking Union in the EU – underlined by recent structural reforms – are behind the *Autumn 2014 EU economic forecast*.

Figure 5d. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective: Inflation rate (%)



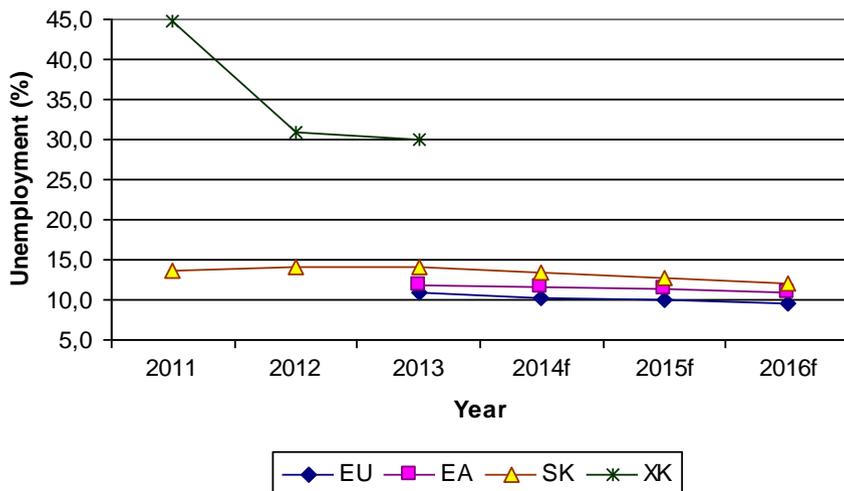
Sources: EUROPEAN COMMISSION (2014a), pp. 1 and 107; EUROPEAN COMMISSION (2014e), pp. 40-41; EUROPEAN COMMISSION (2014h), p. 52.

Inflation rates of Kosovo (UNSCR 1244/1999), Slovakia, the European Union and the Euro Area illustrated in Figure 5d correlated in 2013 (EA 17)<sup>26</sup>, with SK inflation trajectory foreseen to gradually converge with EU and EA average.

Falling tendency of inflation witnessed in 2014 has corresponded with economic situation just like lower commodity prices; however, reinforced economic activity inducing rising wages will drive inflation upwards.

<sup>26</sup> Note: The Euro Area was enlarged by two Baltic states, former *Baltic Free Trade Area* (BAFTA) members during the last two years: Latvia in 2014 and Lithuania in 2015. There are 19 EU member countries using the single European currency euro in 2015.

Figure 5e. Slovakia and Kosovo (UNSCR 1244/1999) in a comparative perspective:  
Unemployment rate (%)



Sources: EUROPEAN COMMISSION (2014a), pp. 1 and 107; EUROPEAN COMMISSION (2014e), pp. 40-41; EUROPEAN COMMISSION (2014h), p. 52.

Figure 5e demonstrates extensive discrepancy of the 2013 rate of joblessness in Kosovo (UNSCR 1244/1999) when compared to the situation as well as trends in Slovakia, and the EU alongside the Euro Area (on average); still, especially youth unemployment<sup>27</sup> remains a major challenge overall.

Private consumption backed not just by low commodity prices, but also by increasing disposable income, still faces the challenge of steady fading of the crisis accompanied by persisting high unemployment. Hence, economic growth gaining momentum is expected to show labour market improvements in a later phase of the forecast horizon.

<sup>27</sup> Note: Possibly aggravated in combination with the long-term, unskilled, or gender-related unemployment; needless to say, with the growing share of young population in some pre-accession economies mirroring their demographic trends, adequate supply-demand match on the labour market increasingly becomes of utmost importance.

### 3.3 EU accession perspective : Focus on Kosovo (UNSCR 1244/1999)

“The dynamics of the return [of CEECs to Europe] changed over the years, however, and brought with them setbacks and reverses that did not endure for long. The European Commission was charged, as usual, with the supervision of the preparations for membership. Nevertheless, it had never before (nor probably never will again) encounter such accessions differing in both quantitative and qualitative respects. The diversity of States (even excluding Cyprus and Malta) ... became apparent over time, as national identities and priorities vis-à-vis the EU developed. ... The accessions of 2004 and 2007 thus mark the reunification of Europe, though this process still remains to be fully realized in the western Balkans and Turkey.”

TATHAM, A. F.: *Enlargement of the European Union (Kluwer Law International – Kluwer European Law Collection, Volume 4)*. The Netherlands: Wolters Kluwer / Kluwer Law International, 2009, p. 116. ISBN 978-90-411-2463-0.

Claiming that delimitation of Europe as a so-called *pan-region* (or *macro-region*) represents a challenge particularly in the East, P. JUREK suggests addressing Eastern<sup>28</sup> Europe and South-Eastern Europe (depicted in Annexes 1a-b together with the respective territorial visions and diasporas of local origin over time) adhered to by three civilisations<sup>29</sup> as transitional regions intersecting the rim of the Eurasian as well as the Middle-Eastern pan-regions (P. JUREK in CABADA – ŠANC et al., 2011, pp. 309-12 and 395). Similarly to diverse application of the multi-faceted term *Balkan*<sup>30</sup>, historical and/or geographic interpretation associated with the SEE region varies, too.<sup>31</sup> Variability of internal dynamics as well as progress towards EU membership registered between 1990 – 2014 in individual successors of ex-Yugoslavia (and ex-Czecho-Slovakia in a comparative perspective) is, therefore, summarised in Figure 3, which follows.

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<sup>28</sup> Note: In the area along the eastern border of the EU incl. *Eastern Balkan countries*.

<sup>29</sup> Note: In the area of the *Western Balkan countries*.

<sup>30</sup> Cf. M. JEŽOVÁ in CABADA – ŠANC et al. (2011), p. 351f.

<sup>31</sup> e.g. cf. GIRGLE (2009); PELIKÁN – HAVLÍKOVÁ – CHROBÁK – RYCHLÍK – TEJCHMAN – VOJTĚCHOVSKÝ (2004); HRADEČNÝ – HLADKÝ et al. (2008).

Figure 6. Timeline: ex-Yugoslavia and ex-Czecho-Slovakia in a comparative perspective (1990 – 2014)

<i>Year</i>	<i>Ex-Yugoslavia</i>	<i>Ex-Czecho-Slovakia</i>
<b>1990</b>	<b>XK</b> as Republic of Kosovo	<b>CS</b> Agreement between the EEC and the EURATOM and the Czech and Slovak Federative Republic on Trade and Commercial and Economic Cooperation
<b>1991</b>	<b>HR, SI&amp;MK</b> declared independence	<b>CS</b> Visegrad Group (V3), Europe Agreement signed between the Community and the Czech and Slovak Federative Republic (16 December 1991)
<b>1992</b>	<b>BA</b> independence; <b>RS&amp;ME</b> as new Federal Republic of Yugoslavia (State Union of Serbia and Montenegro since 2003)	CEFTA
<b>1993</b>	Copenhagen European Council: Copenhagen criteria; <b>SI</b> Cooperation Agreement signed between the EEC and Slovenia	<b>CZ&amp;SK</b> independent countries; Visegrad Group (V4); Copenhagen European Council: Copenhagen criteria; <b>CZ&amp;SK</b> Europe Agreement
<b>1994</b>	Essen European Council	Essen European Council
<b>1995</b>	<b>BA</b> Dayton/Paris	<b>SK</b> applied for EU
<b>1996</b>	<b>SI</b> applied for EU	<b>CZ</b> applied for EU
<b>1997</b>	Luxembourg European Council: <b>SI</b> bilateral intergovernmental conference to be convened in 1998	Luxembourg European Council: <b>CZ</b> bilateral intergovernmental conference to be convened in 1998; <b>SK</b> preparation of negotiations to be speeded up in particular through analytical examination of EU <i>acquis</i>
<b>1998</b>	<b>SI</b> accession negotiations launched	<b>CZ</b> accession negotiations launched
<b>1999</b>	<b>SI</b> Europe (association) Agreement; <b>XK</b> UNSCR 1244/1999	Helsinki European Council
<b>2000</b>	Feira European Council: all SAP countries “potential candidates” for EU membership; Zagreb Summit: SAP launched	<b>SK</b> accession negotiations launched
<b>2001</b>	<b>HR&amp;MK</b> signed SAA	

<b>2002</b>	Copenhagen European Council: <b>SI</b> completion of accession negotiations for 2004 EU enlargement	Copenhagen European Council: <b>CZ&amp;SK</b> completion of accession negotiations for 2004 EU enlargement
<b>2003</b>	Thessaloniki European Council: EU perspective for the Western Balkans reiterated; <b>HR</b> applied for EU	
<b>2004</b>	<b>SI</b> joined the EU; <b>HR</b> candidate country status; <b>MK</b> applied for EU	<b>CZ&amp;SK</b> joined the EU
<b>2005</b>	<b>MK</b> candidate country status	
<b>2006</b>	CEFTA 2006; <b>ME</b> declared independence; <b>MK</b> European Partnership	
<b>2007</b>	<b>SI</b> joined the Euro & Schengen area; <b>ME</b> European Partnership, signed SAA	<b>CZ&amp;SK</b> joined the Schengen area
<b>2008</b>	<b>XK</b> unilaterally declared independence, EULEX; <b>RS&amp;BA</b> European Partnership; <b>RS&amp;BA</b> signed SAA; <b>MK</b> Accession Partnership; <b>ME</b> applied for EU	
<b>2009</b>	<b>RS</b> applied for EU	<b>SK</b> joined the Euro area
<b>2010</b>	<b>ME</b> candidate country status; <b>XK</b> ICJ Opinion on the Kosovo declaration of independence and UN General Assembly resolution	
<b>2011</b>	<b>HR</b> signed EU Accession Treaty; <b>RS – XK</b> EU-facilitated dialogue launched	
<b>2012</b>	<b>RS</b> candidate country status; <b>XK</b> declared end of supervised independence, SAA feasibility study; <b>BA</b> High Level Dialogue on the Accession Process	
<b>2013</b>	<b>HR</b> joined the EU; <b>RS – XK</b> First agreement of principles governing normalisation of relations	
<b>2014</b>	<b>XK</b> SAA initialled	

Legend: BA – Bosnia and Herzegovina; CS – federation of CZ&SK; CZ – Czech Republic; HR – Croatia; ME – Montenegro; MK – Former Yugoslav Republic of Macedonia (FYROM); RS – Serbia; SAA – Stabilisation and Association Agreement; SAP – Stabilisation and Association Process; SI – Slovenia; SK – Slovakia; XK – Kosovo (UNSCR 1244/1999).

Sources: BĀRÁŇOVÁ-ČIDEROVÁ (2007), p. 24; BALÁŽ – BĀRÁŇOVÁ-ČIDEROVÁ (ed.) – KITTOVÁ (ed.) – KOSÍR – LIBERČAN – MATTOŠ – SILNÁ – VETRÁK (2008), p. 295; EUROPEAN COMMISSION (2014g); ŠESTÁK – TEJCHMAN – HAVLÍKOVÁ – HLADKÝ – PELIKÁN (1998), pp. 675-676; ŠÍBL et al. (2002), p. 901; See: <<http://europa.eu>>, too.

Within a quarter of a century between 1990 – 2014 (Figure 6) the EU has not just expanded to eastern *Bundesländer* – now embracing all of 16 German *Bundesländer* – but it has continued to grow in a series of enlargement rounds from 12 to 28 members, too. Consequently, earlier members have had a stake in the enlargement-related decision-making in later stages, i.e. 2004 entrants vis-à-vis countries acceding in 2007 and 2013. Particularly the case of ex-Yugoslavia is one of gradual integration with the EU, spreading from *Member State* (Slovenia; Croatia) through *candidate*<sup>32</sup> *country* (Former Yugoslav Republic of Macedonia/FYROM; Montenegro; Serbia) to *potential candidate status* (Kosovo/UNSCR 1244/1999; Bosnia and Herzegovina); worth mentioning is that the number of negotiated *acquis communautaire* chapters transformed from 31 (e.g. in the case of the 2004 EU enlargement as specified in Figure 4) into 35 (e.g. in the case of the 2013 EU enlargement).

Having referred to the *complex interdependence theory* by R. O. KEOHAN and J. S. NYE (1977) in the introductory passage of this chapter, we also wish to point out the contribution of Ch. P. KINDLEBERGER<sup>33</sup> (1968) to the perception of *interdependence*, when relating to the statement:

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<sup>32</sup> Note: since 2014 candidate country status related also to Albania.

<sup>33</sup> See also reference in KOSÍR (2007b), p. 35.

“Interdependence – political and economic – with the Union’s neighbourhood is already a reality.” (COMMISSION OF THE EUROPEAN COMMUNITIES, 2003, p. 3). The aspect of *asymmetry* in the context of integration also addressed by A. MORAVCSIK and M. VACHUDOVA (2003)<sup>34</sup> – as long as being intrinsic in terms of compliance<sup>35</sup> – is in terms of the *acquis communautaire* elaborated in detail in Figure 7.

Figure 7. Slovakia and Kosovo (UNSCR 1244/1999) in the light of EU *acquis communautaire*

	<i>Acquis communautaire</i> & SK 2004 EU Accession	N	Y		<i>Acquis communautaire</i> & XK 2014-2015 Progress Report	Progress		
			D	I		+	+/-	-
1.	Free movement of goods	✓			<b><i>Political criteria</i></b>	+		
2.	Free movement of persons			✓	Democracy and the rule of law			
3.	Freedom to provide services		✓	✓	Human rights and the protection of minorities			
4.	Free movement of capital		✓		Regional issues and international obligations			
5.	Company law	✓			<b><i>Economic criteria</i></b>		+/-	
6.	Competition policy		✓		The existence of a functioning market economy			
7.	Agriculture		✓	✓	The capacity to cope with competitive pressure and market forces within the European Union			
8.	Fisheries	✓			<b><i>European standards</i></b>			
9.	Transport policy			✓	<b><i>Internal market</i></b>			

<sup>34</sup> Reference in RUPNIK (2007), p. 18.

<sup>35</sup> Cf. NOUTCHEVA (2012), pp. 4, 29, 32 and 200.

10.	Taxation	✓	Free movement of goods	+/-
11.	Economic and Monetary Union	✓	Movement of persons, services and right of establishment	+/-
12.	Statistics	✓	Free movement of capital	+/-
13.	Social policy and employment	✓	Customs and taxation	+/-
14.	Energy	✓ ✓	Competition	-
15.	Industrial policy	✓	Public procurement	-
16.	Small and medium-sized enterprises	✓	Intellectual property law	+
17.	Science and research	✓	Employment and social policies, public health policy	+/-
18.	Education and training	✓	Education and research	+/-
19.	Telecommunications and information technologies	✓	WTO issues	-
20.	Culture and audio-visual policy	✓	<i>Sectoral policies</i>	
21.	Regional policy and co-ordination of structural instruments	✓	Industry and SMEs	+/-
22.	Environment	✓	Agriculture and fisheries	+/-
23.	Consumers and health protection	✓	Environment and climate change	-
24.	Co-operation in the field of justice and home affairs	✓	Transport policy	-
25.	Customs union	✓	Energy	-
26.	External relations	✓	Information society and media	+/-
27.	Common foreign and security policy	✓	Financial control	+/-
28.	Financial control	✓	Statistics	+/-
29.	Financial and budgetary provisions	✓	<i>Justice, freedom and security</i>	

30.	Institutions	✓	Visa, border management, asylum and migration	+
31.	Other	✓	Money laundering	+/-
32.			Drugs	+/-
33.			Police	+
34.			Fighting organised crime and terrorism	+/-
35.			Protection of personal data	+/-

Legend: SK – Slovakia; XK – Kosovo (UNSCR 1244/1999); N – non-existence of a transitional period; Y – existence of a transitional period; D – transitional period demanded by the respective country (i.e. Slovakia); I – transitional period imposed on behalf of the European Union (in terms of negotiations with the European Commission).

Sources: Based on BĀRÁŇOVÁ-ČIDEROVÁ – SVITANA – VETRÁK (2006), pp. 15-19; EUROPEAN COMMISSION: Report on the results of the negotiations on the accession of Cyprus, Malta, Hungary, Poland, the Slovak Republic, Latvia, Estonia, Lithuania, the Czech Republic and Slovenia to the European Union; EUROPEAN COMMISSION (2014c); EUROPEAN COMMISSION (2014g); FIGEL – ADAMIŠ (2004); Treaty concerning the accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic to the European Union (incl. the Act concerning the conditions of accession of the Czech Republic, the Republic of Estonia, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Republic of Hungary, the Republic of Malta, the Republic of Poland, the Republic of Slovenia and the Slovak Republic; Annexes; Protocols; and the Final Act), 2003.

When presenting the so-called 2014 EU Enlargement package, former European Commissioner for Enlargement and Neighbourhood Policy Štefan FÜLE (EUROPEAN COMMISSION, 2014f) stated: “Five years ago, we

*set out to strengthen the credibility and the transformative power of enlargement policy. We put a particular emphasis on three pillars: rule of law in 2012, economic governance in 2013 and this year, we're setting out new ideas to support public administration reform, and strengthening of democratic institutions. Today, this approach is bearing fruit. The process is credible and is bringing concrete results through reforms that gradually transform the countries concerned, improving stability in our immediate neighbourhood. It also makes the countries better prepared for the EU entry and for the responsibilities of the membership."*

Next, within the mandate of the new European Commission (since 1 November 2014) new High Representative for Foreign Affairs and Security Policy/Vice-President of the Commission Federica MOGHERINI, and new Commissioner for European Neighbourhood Policy and Enlargement negotiations Johannes HAHN jointly commented on the formation of the new government in Kosovo (UNSCR 1244/1999) as follows: *"We welcome the formation of a new government in Kosovo and look forward to working with the new authorities in Pristina. Today's [9 December 2014] constitutive session of the Assembly and election of the government ends the political deadlock that prevented progress in Kosovo following the general elections of 8 June 2014."* (EEAS / EUROPEAN COMMISSION, 2014), reiterated by the Council of the European Union in the framework of the General Affairs Council meeting held on 16 December 2014 (COUNCIL OF THE EU, 2014, p. 10).

Both Kosovo (UNSCR 1244/1999) and Bosnia and Herzegovina being potential candidates for EU membership, emphasis in a "twin" (alias follow-up) chapter will next be placed on the EU accession experience and perspectives as in the case of Slovakia and Bosnia and Herzegovina.

**Associate Professor Ing. Denisa ČIDEROVÁ, MA, PhD.**



Following her studies of European Integration and Internationalisation (1998); Economic Diplomacy (2000); Political Science (2002); and European Politics (2001, University of Leicester, Leicester, UK – UNIVERSITY OF THE YEAR 2008/2009) Assoc. Prof. Dr. Denisa ČIDEROVÁ defended her Ph.D. thesis (2005) titled “*Benefits and Risks of the European Union Enlargement to Central and East European Countries for the EU*” as well as post-doctoral thesis (2008) with defence titled “*Differentiation in the Context of the Fifth European Union Enlargement*”. In the course of her Ph.D. studies she was active as a Teaching Assistant in the international programme Certificate in European Law and Economics (CELE) at the University of Economics in Bratislava, Slovak Republic, between 2001 and 2004. Additionally, Assoc. Prof. ČIDEROVÁ qualified as a sworn translator registered by the Ministry of Justice of the Slovak Republic. Over the years she has been intensively working on an extensive range of international and national projects focused on various target groups, which reflected in her publications (with interdisciplinarity as a leitmotif) as well as supervision of Bachelor, Master and Ph.D. theses. Between February 2007 and January 2015 she held the position of the Vice-Dean of the Faculty of Commerce, University of Economics in Bratislava, for International Relations (gradually also entrusted with the agenda of a Vice-Dean-Plenipotentiary for Implementation of the Quality Management Policy) and has referred to her multidisciplinary studies (domestically and internationally) in her career. In February 2015 Assoc. Prof. ČIDEROVÁ started her tenure in office as the Vice-Rector for Research and Doctoral Studies at the University of Economics in Bratislava..

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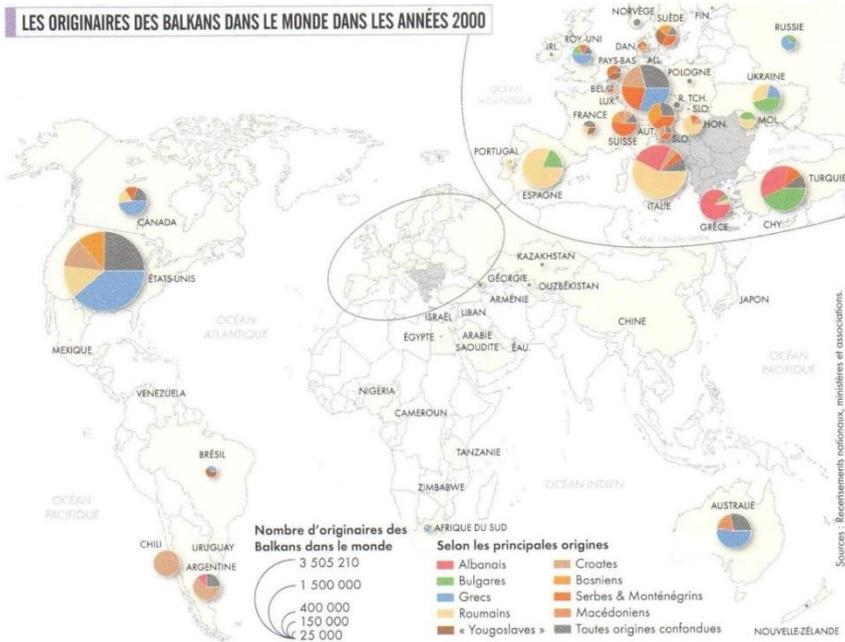
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### 3.4 Annexes

#### *Annex 1a. Diasporas of natives from the region in the world in Millennium years*



Source: CATTARUZZA – SINTÈS (2012), p. 75.

*Annex 1b. Overlapping regional perceptions indicating territorial claims*



Source: CATTARUZZA – SINTÈS(2012), p. 52.

## 4 The Protection of ethnic and linguistic minorities in Europe

*Zenun HALILI\**

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**Abstract:** *Most countries today are culturally diverse. In very few countries can the citizens be said to share the same language, or belong to the same ethnonational group. This diversity gives rise to a series of important and potentially divisive questions. Minorities and majorities increasingly clash over such issues as language rights, regional autonomy, political representation, education curriculum, land claims, immigration and naturalization policy, even national symbols, such as the choice of national anthem or public holidays. Finding morally defensible and politically viable answers to these issues is the greatest challenge facing democracies today. In Eastern Europe and the Third World, attempts to create liberal democratic institutions are being undermined by violent nationalist conflicts. In the West, volatile disputes over the rights of immigrants, indigenous peoples, and other cultural minorities are throwing into question many of the assumptions which have governed political life for decades. Since the end of the Cold War, ethno-cultural conflicts have become the most common source of political violence in the world, and they show no sign of abating.*

**Key Words:** *Human Rights, Minorities, Languages, Minority Rights, Minority Languages, Minority Protection, Linguistic Diversity*

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## 4.1 Minority Rights in Historical Perspective

International relations that have to do with the position of European minorities possess an identifiable history not only in the twentieth century but from the 1640s onwards. The Congress of Westphalia is conventionally taken as the dividing line between the medieval and modern periods in the conduct of international affairs. By 1644 when this congress was assembled, the feudal society of medieval Christendom had clearly been replaced by a modern, vertical society of sovereign, territorial states. In other words, the fundamental spatial organization of modern international relations had been established.<sup>1</sup>

In the 1640s there were obviously no minority rights as they were understood in the early 1990s--i.e. as attaching to certain individual human beings by virtue of their membership in a particular national community. Nevertheless, international agreements from the seventeenth and eighteenth centuries reveal an early political formulation of minority rights as religious freedoms bestowed upon certain nonconformist Christian communities by the sovereign. Religion--rather than some other defining characteristic such as language or culture, for example--was the focus of minority rights during this period because religious affiliation was the most important dividing line between different communities in Europe at this time.

Men and women in the seventeenth and eighteenth centuries defined their social relationships in terms of religious similarity or difference; Catholic or Protestant, Lutheran or Calvinist rather than Irish or English, German or French were the labels variously used to separate insiders from outsiders.<sup>2</sup> Minority questions usually arose at precisely those moments when the spatial framework of the states system was being modified and new anomalies between the pattern of human communities and international boundaries--insiders and outsiders--were being created. For example, the

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<sup>1</sup> See: JACKSON PREECE, J. (1998): *National Minorities and the European Nation-States System*. Oxford: Clarendon Press, 1998, p. 56.

<sup>2</sup> Note: For a discussion of inside/outside distinctions in international relations see WALKER, R. (1993):

*Inside/Outside: International Relations as Political Theory*. Cambridge: CUP, 1993.

Peace of Westphalia ( 1648) itself not only detailed a general territorial redistribution amongst the various sovereigns who had become entangled in the Thirty Years War, but also granted certain concessions to those of the 'Confession of Augsburg' (i.e. Protestants).<sup>3</sup>

Protestants were returned the churches and ecclesiastical estates that they had possessed in the year 1624, and were guaranteed the free exercise of their religion both in private and in public. Likewise, both the Treaty of Nijmegen ( 1678) and the Treaty of Ryswick ( 1697), which settled disputes arising from the French/Spanish struggle to control the Netherlands, guaranteed the continued enjoyment of all 'honours, dignities and benefices' both 'secular and ecclesiastical' that adherents of all Christian faiths in the transferred territories had enjoyed prior to the outbreak of war.<sup>4</sup>

These guarantees were reaffirmed in the Treaty of Utrecht ( 1713). Similar minority stipulations can also be found in the Treaty of Oliva (1650), the Treaty of Dresden (1745), the Treaty of Hubertus burg (1763), and the Treaty of Paris (1763). At about the time of the 1815 Congress of Vienna a new legitimizing principle began to appear in the relations between states--nationalism and its corollary the nation-state. The rise of nationalism is linked to the experience of both the American and the French Revolutions and to the Napoleonic Era which followed.<sup>5</sup> The American Revolution did much to popularize the Lockean ideas of toleration, natural rights, and political representation and to link these to the concept of legitimate power.

The French Revolution went on to make the rights of nations a corollary to the rights of man. In the final years of the eighteenth century and the beginning of the nineteenth, Napoleon offered a certain degree of national independence at the price of association with the expanding Napoleonic Empire to those subject peoples that continued to live in dynastic rather than national states. For example, he issued a proclamation to the Hungarians of the Habsburg Empire in 1809. The various treaties signed at Vienna are noteworthy in the evolution of minority rights because they mark the first

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<sup>3</sup> See: PARRY, C. (ed.)(1969): *The Consolidated Treaty Series*. New York: Oceana Publications Inc., 1969, p. 327.

<sup>4</sup> See: Ibid.

<sup>5</sup> See: BREUILLY, J. (1993): *Nationalism and the State*. Manchester: MUP, 1993.

occasion on which minorities were defined as national groups rather than religious communities. The *Vienna Final Act* provides some of the earliest evidence of civil and political rights in addition to religious freedoms being guaranteed to peoples transferred from one sovereign authority to another.

Alongside this impetus for political incorporation came the corresponding tendency towards assimilation of minority communities within the dominant national, cultural, and linguistic group. It is therefore important to remember that minority guarantees defined solely in terms of equal civil and political rights are compatible with assimilations objectives. The tendency to use minority rights to equal treatment as a justification of assimilations campaigns designed to transform outsiders into insiders has been a recurring feature of international minority guarantees from Vienna onwards. As the nineteenth century progressed, this new national formulation of minority rights gained in credence until by the 1878 Congress of Berlin the question of national minorities had become a corollary to the rise of new nation-states outside Western Europe.

As international society expanded eastwards, particularly into the Balkan Peninsula, national minority rights to civil and political liberties as well as religious freedoms came to be the price exacted by the great powers for their acquiescence in border changes affecting new nation-states such as Greece, Serbia, Montenegro, Romania, and Bulgaria. There was in these treaties, unlike those of earlier periods, a substantial element of unequal sovereignty imposed on new states by existing powers. As a condition of their international recognition such states had to demonstrate a willingness to comply with a 'standard of civilization' (defined by, for example, adherence to the rule of law, respect for civil liberties, and minority guarantees) which went beyond the traditional, minimalist criteria for establishing sovereign independence that historically concerned only the effective control of territory and people.<sup>6</sup> National minority undertakings included in international treaties from the late nineteenth century were no longer voluntarily assumed by states as gestures of international goodwill - as they had been in earlier periods - but were externally dictated preconditions for the new nation-states' membership in international society.

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<sup>6</sup> See: GONG, G. (1984): *The Standard of Civilization in International Society*. Oxford: Clarendon, 1984.

## 4.2 International System of Minority Guarantees

The protection of ethnic, religious and linguistic groups is one of the oldest concerns of international law. For pragmatic as well as humanitarian reasons, international law has been a protective instrument, because the minorities question has never contained itself entirely within national legislation. General or common international law grants a State the right to intervene on behalf of its own subjects whenever another State, in dealing with them, disregards the proper standards of civilized behavior or does not fulfill some obligation it has accepted by treaty touching upon their legal status abroad.<sup>7</sup> It is nonetheless clear that international relations require that a state has no free hand in dealing with foreigners, even when the latter are settled in its territory.<sup>8</sup> The question is what about those persons who are not claimed as citizens by other states? Here the traditional law of nations seems to have little or nothing to say.

Governments can and may be as harsh as they please towards their own citizens and towards stateless persons: international law does not restrain governments on this account.<sup>9</sup> At the most, so called “humanitarian interventions” might take place, when the behavior of a government and the populace against certain groups of their countryman becomes so oppressive and cruel that other states feel entitled and morally bound to step in and stop such brutality. A new or fairly new development was started by the peace treaties that formally ended the First World War, and a few collateral conventions and declarations, which saddled some new or enlarged states with a set of obligations favoring national minorities, and entrusted to the League of Nations the task of seeing that such obligations were carried out.

The direct purposes of the minority regime were two-fold. First, to ensure that persons belonging to State’s population but distinguished from its majority on account of their group peculiarities such as ethnic traits,

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<sup>7</sup> See: NOVA, R. (1965): *The International Protection of National Minorities and Human Rights*. Harward Law Journal, Vol.II. 1965, p.275.

<sup>8</sup> See: OPPENHEIM, L. (1958): *International Law: A Treatise*. Vol.7 (1958) , p. 279.

<sup>9</sup> See: *Ibid*, p.280.

religious creed, language, and culture, would not be made to suffer, because they were different, at the hands of the majority. A second purpose of the institution was that of preventing that state affected by such “splinter groups” would proceed, in the pursuit of “national unity”, to absorb, and assimilate them by preventing them, either forcefully or deviously, to keep their cherished natural and historical characters. While the rules on fundamental rights, equality of treatment and non-discrimination aimed mainly at putting all citizens on the same footing, by their part of the national majority or of a minority, the other provisions, namely those on the use of the minority language and the grant of facilities for the furtherance by minority people of their religious and cultural heritage, aimed mainly at allowing and even helping minorities to maintain their own historical individualizing traits.

The post-Second World War system of human rights actually raises the question of what place minority rights occupy in this system and how they relate to human rights. Historically speaking, one may observe a parallel development of human and minority rights, with legal instruments continually shifting emphasis from one to other. Both groups of rights existed together in interaction but in relative independence, but since the Second World War the situation has become more complex. On the one hand, the relationship between the two fields is unclear even in theory and, on the other, literature open by raises queries about minority questions forming part of human rights.<sup>10</sup> Even if the answer is more or less affirmative, the legal arrangements make it evident that minority rights are generally viewed in the context of human rights today. It is not the case that the two fields could or should be separated. The idea is that the instruments and legal institutions used in the international sphere of human rights should have regard for the specifics of those rights, which constitute an indispensable element of effective protection of minority rights.<sup>11</sup>

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<sup>10</sup> See: WHITAKER, B.(1984): *Minorities: A Question of Human Rights*. 1984.

<sup>11</sup> See: BAKA, A.B. (1993): The Convention and the Protection of Minorities Under International Law. In *The European System of Protection of Human Rights*. 1993, pp. 877-878.

The United Nations Charter makes no specific mention of minorities, Instead the emphasis is on individual human rights.<sup>12</sup> At the San Francisco Conference, the high level of interest in human rights did not provoke proposals for the protection of minorities, though the Covenant of the League did not mention them either. As a result on the fact that no amendments favoring the protection of minorities were submitted at the San Francisco Conference is obviously that Charter refers rather to equal enjoyment of human rights connected with non-discrimination principle, what means that States promoting the change from limited minorities regime to a regime of human rights perceives qualitative differences, between the concepts of ‘prevention of discrimination “ and ‘ protection of minorities” by implication if not expressly. Although with some reluctance, the United Nations have adopted provisions on minorities protection of universal relevance: Article 27 of the International Covenant and Civil and Political Rights<sup>13</sup> and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities.<sup>14</sup>

### **4.3 Protection of Ethnic and linguistic minorities in Europe**

Traditional national minorities make up 8 % of the EU population while regional or minority languages are spoken by nearly 50 million people; 10 % of the EU population. At present, there are no comprehensive standards for minority rights in the EU, even though respect for minority rights is one of the EU s founding values enshrined in the Lisbon Treaty and the Charter of Fundamental Rights of the EU. Moreover, guaranteeing minority rights is an essential requirement for candidate countries as laid down in the Copenhagen criteria. Protecting traditional ethnic and linguistic minorities and their languages is crucially important for the EU in terms of its stability, security, prosperity, internal and external legitimacy, cultural and linguistic diversity, and credibility.

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<sup>12</sup> See: RUSSELL, R. B. - MUTHER, J.S. (1958): *A History of the United Nations Charter. The Rule of the United States 1940-45*. 1958.

<sup>13</sup> See: UNITED NATIONS: Treaty Series (UNTS), VOL. 999, p. 171.

<sup>14</sup> See: UNITED NATIONS (1992): General Assembly Resolution 47/135 of 18 December 1992.

Ethnic mobilization and claims for the protection of minority rights are two of the most important social forces influencing international and national political and constitutional developments. Numerous countries of the world and Eastern Europe that have embarked upon democratization since the late 1980s have experienced the destructive force of ethnic mobilization and discontent... Following World War Two the protection of minority groups was initially played down or ignored altogether in the belief or hope that adequate protection of individual rights would also address the fears of minority groups.<sup>15</sup> The ethno-nationalism that has swept the world in recent years has brought back to prominence the issue of minority protection, self-determination, and the rights of indigenous people. In international law and politics there is a move away from the assimilation of minorities towards the recognition of cultural pluralism as a desirable goal.<sup>16</sup>

Several factors can be named as contributory to this shift in perception. First of all is the fact that only 20 of the 193 member-states of the United Nations can be regarded as homogeneous communities.<sup>17</sup> The rest are heterogeneous communities which have to manage the relation between minorities and the society at large. It appears that the majority of people on this earth are identified with a group whose cultural and religious practices violate certain international norms of human rights.<sup>18</sup> More and more the apparent discrepancy between individual human rights and the rights of minorities is observed. Secondly, ideologies which promoted cultural globalism<sup>19</sup> and political holism as also the various instances of religious intolerance and ethnic cleansing, contributed to the new appreciation of the rights of minorities. These negative movements resulted in revolts, racism, civil wars and the seeking of nation-state status by minorities.

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<sup>15</sup> See: DEVENISH, G.E (1999): *Minority Rights and Cultural Pluralism*. Tydskrif vir Hedendaagse Romeins-Hollandse Reg, Vol. 62, 1999, p. 203.

<sup>16</sup> See: Ibid, p. 224.

<sup>17</sup> See: BORNMAN, E (1998): *Groepsregte in 'n nuwe demokratiese bestel in Suid-Afrika*. In Focus forum, Vol. 5, 1998, p. 17.

<sup>18</sup> See: SMOLIN, D.M. (1996): *Will International Human Rights Be Used as a Tool of Cultural Genocide? The Interaction of Human Rights Norms. Religion, Culture and Gender*. In Journal of Law and Religion, Vol. 12, 1996, p. 143.

<sup>19</sup> See: GAAL, B. (1997): *Religious Minorities in Central Europe and Their Relationships to the State*. Reformed World, Vol. 47, 1997, p. 72.

The new interest in the rights of minorities is especially evident in the actions of the United Nations since the 1960s. The well-known International Covenant on Civil and Political Rights (16 December 1966) states the following (art. 27) regarding the rights of minorities:

In those states in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of the group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.<sup>20</sup> This resolution was complemented by the Declaration of the Rights of Persons belonging to National or Ethnic, Religious and Linguistic Minorities, adopted by the United Nations general assembly on 18 December 1992.<sup>(17)</sup> The most recent document elaborates on the 1967 resolution (art. 2) as follows:

Persons belonging to national or ethnic, religious and linguistic minorities (hereinafter referred to as persons belonging to minorities) have the right to enjoy their own culture, to profess and practise their own religion, and to use their own language, in private and in public, freely and without interference or any form of discrimination.

The Framework Convention for the Protection of National Minorities is the most extensive document from the Council of Europe regarding the protection of minority rights. As of 17 March 2009 the FCNM had been signed by forty-three states and ratified by thirty-nine Member States. The Convention is usually considered to be the first legally binding multilateral treaty on national minority rights. The FCNM makes clear that the protection of minority rights is an integral part of the protection of human rights and as such 'falls within the scope of international co-operation'.<sup>21</sup> The title of the Convention immediately draws attention to its 'framework'

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<sup>20</sup> See: UNITED NATIONS (1995): *The United Nations and Human Rights 1945-1995*. New York: UN, 1995, p. 239.

<sup>21</sup> Note: Art. 1. declares: The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation'.

character suggesting, that FCNM does not provide strict normative standards, instead it offers a set of goals to be followed by states.

Many observers see the title of the Convention as softening of legal obligations on states party, however from a strictly legal point of view the FCNM is a treaty under international law and it creates obligations in international law for states.<sup>22</sup>The FCNM covers a wide range of issues, where persons belonging to minorities may have specific rights, and it also underlines the importance of the right to use minority language in education, and the freedom of expression in minority languages both in private and in public spheres. Despite the apparent weakness of the legal commitments on language rights enshrined in the Language Charter and the FCNM, both treaties are important to designing a European-wide legal framework for the protection of minority languages. They also offer a conceptual interpretation of the reasons why the recognition and support of minority languages are a specific commitment of all European states.

## **4.4 The situation of minority languages in Europe**

Today in European Union Member States, around 40 million people - almost 10 percent of the total population - speak languages different from the majority language in their own country. Within the EU, besides the 23 official languages of the 28 Member States more than 60 regional or minority languages are spoken which enjoy very different legal positions in their countries. Some regional or minority languages enjoy official status, others are just recognized by the state with a limited sphere of use, while there are some countries where there is no legal recognition of minority languages. This shows a great variety of state language policies and their approach towards the recognition of a plurilingual society.

From a historical perspective the social role of language in integrating the different groups of society was so strong, that in the 19th century it led

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<sup>22</sup> See: THORNBERRY, P. – ESTÉBANEZ, M. A. M. (2004): *Minority Rights in Europe: A Review of the Work and Standards of the Council of Europe*. Strasbourg: Council of Europe Publishing, 2004, pp. 91-92.

to the glorification of language as the symbolic tool of national unity. As a consequence the nationalist movements of that period, which largely contributed to creating modern nation-states inclined to degrade or subjugate other dialects and non-dominant languages within the developing constitutional framework. National and cultural identity cannot always be defined by linguistic differences between groups, but in a European context language often provides the most significant building block of national, cultural community identity. Preserving the language is also often a way of maintaining group identity, a way of maintaining inter-generational links with one's ancestors. In one way or another, language often becomes a key symbol of national identity and protecting it becomes an outstanding duty of the community in preserving its identity. Preserving the language is never just preserving a tool for communication: it is also about preserving cultural traditions, political claims, historical consciousness and national identity.<sup>23</sup>

The European Charter for Regional and Minority Languages, the Minority Languages Charter, entered into force on 1 March 1998. Unlike most documents related to the protection of minority rights, the Language Charter is not aimed at the protection of minority communities, its primary goal is the 'protection of historical regional and minority languages of Europe'<sup>24</sup> and it stresses that the 'protection and promotion of regional or minority languages' is an 'important contribution to the building of a Europe based on (. . .) cultural diversity.'<sup>25</sup> The Charter does not acknowledge individual or collective minority rights; its fundamental goal is to provide an appropriate framework for the protection of regional or minority languages.

The explanatory report states that the Language Charter does not conceive of regional, minority languages and official languages 'in terms of competition or antagonism', but it stresses the importance of a multicultural approach 'in which each category of language has its proper place'.<sup>26</sup> Thus, the terms 'regional' and 'minority' in regard to languages were used in the

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<sup>23</sup> See: KYMLICKA, W. – GRIN, F. (2003): Assessing the politics of diversity in transition countries. In DAFTARI, F. - GRIN, F (eds.): *Nation building, Ethnicity and Language Politics in Transition Countries*. Budapest / Flensburg: LGPSRI 2003, pp. 1-28

<sup>24</sup> See: *European Charter for Regional and Minority Languages*. Preamble, part. 2.

<sup>25</sup> See: *Ibid*, part. 6.

<sup>26</sup> See: *Ibid*, 14.

Language Charter with reference to less widespread languages. The fundamental concept of the Language Charter is that regional or minority languages should be protected in their cultural functions, in the spirit of a multilingual, multicultural European reality.

## 4.5 Constitutional Protection of Minorities

It is estimated that one out of every eight citizens of the European Union speaks a minority language.<sup>27</sup> Minority language groups, in particular, have been the subject of efforts by Member States to protect and preserve linguistic diversity within their borders. When a minority language achieves official status, it obtains a unique legal status within the state. The most obvious case of formal constitutional recognition is Ireland. Ireland's Constitution declares that the Irish language (Gaeilge, in Irish) is the "first official language" of Ireland, though it technically a minority language and less frequently used than English--the "second" official language.<sup>28</sup> Finland is another example, where the Swedish-speaking minority is protected by the official status of Swedish in Finland.<sup>29</sup>

Through a unique constitutional apparatus, the Belgian Constitution impliedly recognizes three official languages. Belgium can be divided into three ethno-linguistic groupings, with a Flemish-speaking majority (about

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<sup>27</sup> See: PALERMO, F. (2001): *The Use of Minority Languages: Recent Developments in EC Law and Judgments of the ECJ*. 8 MAASTRICHT J. EURO. & COMP. L., pp. 299, 2001.

<sup>28</sup> See: *Irish Constitution*. Art 8. Available at <[http://www.taoiseach.gov.ie/attached\\_files/Pdf%20files/Constitution%20of%20IrelandNov2004.pdf](http://www.taoiseach.gov.ie/attached_files/Pdf%20files/Constitution%20of%20IrelandNov2004.pdf)>. Note: Interestingly, Ireland was the only signatory to the treaties that did not require that its national and official language should be a working language of the European Community. See: Nia mh Nic SHUIBHNE (1996): *The Impact of European Law on Linguistic Diversity*. 5 IRISH J. EURO. L., pp. 63, 69, 1996; but see infra note 91. But parallelly with joining of Bulgaria and Romania to the European Union in 2007, and the recognition of Bulgarian and Romanian languages as the EU official languages, the Irish language became one of the official EU languages, too.

<sup>29</sup> Note: The Finnish Constitution establishes both Finnish and Swedish as national languages.

fifty-five percent), a sizable francophone minority (about forty percent) and a small but significant regionally concentrated German-speaking population (about five percent).<sup>30</sup> Article 2 of the Belgian Constitution divides Belgium into three "Communities": a German-speaking Community, a Flemish-speaking Community, and a French-speaking Community.<sup>31</sup> In addition, Article 3 provides that Belgium is comprised of three regions: the Walloon region, the Flemish region, and the Brussels region.<sup>32</sup> Roughly speaking, the francophone Community resides in Walloon, along with the German-speaking minority.<sup>33</sup> Brussels is split between Flemish and French speakers.<sup>34</sup> The Walloon region and the Flemish region are located, respectively, in southern and northern Belgium.

Each Community elects a Community Council to act on its behalf.<sup>35</sup> The constitution lays out a complicated scheme of government that grants to the linguistic communities varying degrees of autonomy over core cultural competences including education, cultural policy, and inter-Community cooperation. A sort of minority veto exists as well. The Communities are grouped in the federal parliament such that if three-quarters of a linguistic group believe a proposed law threatens to "gravely damage" inter-Community relations, the dissenting group may halt the legislative process and initiate a set of special review procedures. The regional governments are elected by the Community Councils and their powers are derived from devolutions from the federal government.

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<sup>30</sup> See: CUTLER, L. - SCHWARTZ, H. (1991): *Constitutional Reform in Czechoslovakia: E Duobus Unum?* 58 U. CHI. L. REV. pp. 511, 551-552 (1991).

<sup>31</sup> See: *The Belgian Constitution. Brussels: Belgian House of Representatives, October 2007.* Art. 2.

<sup>32</sup> See: *The Belgian Constitution. Brussels: Belgian House of Representatives, October 2007.* Art. 4.

<sup>33</sup> See: *The New Encyclopedia Britannica. Vol. 4. 15th ed., London: Encyclopedia Britannica 1998,* p. 828.

<sup>34</sup> See: *The New Encyclopedia Britannica. Vol. 4. 15th ed., London: Encyclopedia Britannica 1998,* p. 584.

<sup>35</sup> See: *The Belgian Constitution. Brussels: Belgian House of Representatives, October 2007.* Arts. 115-121.

Notably, and unlike the Finnish and Irish examples, Belgium's federal constitution does not recognize any official languages,<sup>36</sup> but instead attempts to map its constitutional system onto an already-existing linguistic situation. The regions and Communities themselves must determine, by way of procedures outlined in the federal constitution, the trajectory of their own linguistic policy.<sup>37</sup> To use the popular legal binary, Belgium is concerned primarily with granting procedural rights to linguistic groups, and eschews substantive rights at the federal level. Though German is an "implied" official language, rights to use German are limited in scope geographically; it is officially recognized in only the nine municipalities that make up the German-speaking Community.<sup>38</sup>

In addition, the federal government has granted German speakers limited rights to use German in administrative capacities in a small group of municipalities in the French-speaking Walloon region. Thus, though the constitution recognizes the German-speaking minority and incorporates it into the constitutional order, on the ground German speakers can rely on limited regional rights. The constitution thus divides Belgium's geographic space according to the languages spoken in those regions. The Belgian Constitution presupposes an interaction between minority language groups and the majority Flemish Community on the federal and regional levels.

Italy is the Member State wherein the largest number of minority populations reside. Article 6 charges the Italian Republic with "protecting its linguistic minorities with appropriate norms."<sup>39</sup> Nevertheless, and in part due to the protections already in place from the regions system, the

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<sup>36</sup> See: COUNCIL OF EUROPE VENICE COMMISSION (2002): *On Possible Groups of Persons to which the Framework Convention for the Protection of National Minorities Could Be Applied in Belgium*. CDL-AD 1, para. 22 (2002) (March 12, 2002), Venice, Italy, Mar. 8-9, 2002. Available at <[http://www.venice.coe.int/docs/2002/CDL\(2002\)021-e.asp](http://www.venice.coe.int/docs/2002/CDL(2002)021-e.asp)>.

<sup>37</sup> See: *The Belgian Constitution. Brussels: Belgian House of Representatives, October 2007*. Arts. 129-130.

<sup>38</sup> See: PAS, W (2004): *A Dynamic Federalism Built on Static Principles: The Case of Belgium*. In *Federalism, Subnational Constitutions, and Minority Rights*. pp. 157, 158-159. In TARR, G. A. et al. (eds.) (2004).

<sup>39</sup> See: *Constitution of Italy*. Art.6. See also: PEGORARO, L. (2003): *The Italian Constitution: Text and Notes*. Bologna: Libreria Bonomo, 2003. ISBN 9788888095332.

Italian Parliament passed general protective legislation pursuant to its Article 6 powers in 1999 - fifty-one years after the Constitution entered into force. The 1999 law protects the language and culture of the Albanian, Catalan, German, Greek, Slovene, and Croat populations, as well as those speaking French Provençal, Friulan, Ladin, Occitan, and Sardinian.

Spain's 1978 Constitution adopts a similar decentralized constitutional system with respect to its autochthonous languages.<sup>40</sup> Despite establishing Castilian as the official language of Spain, the preamble to the Constitution "proclaims its intention protect all Spaniards and peoples of Spain in the exercise of human rights, of their cultures and traditions, and of their languages and institutions."<sup>41</sup> The inclusion of "languages" in a preamble's laundry list falls short of the unambiguous protective mandate contained in Article 6 of the Italian Constitution, but nevertheless indicates the central role Spain plays in protecting Spanish language and culture. Article 2, in turn, guarantees a "right to autonomy" for the "nationalities and regions of which Spain is composed."<sup>42</sup>

As far as decentralized linguistic policy is concerned, the more interesting passage is Article 3 of the Spanish Constitution, which explains how the "right to autonomy" is exercised in the linguistic realm. Article 3, after establishing Castilian as the official language of Spain, declares that the "remaining Spanish languages also have official status in the autonomous communities, in accordance with their respective Statutes."<sup>43</sup> Among the seventeen autonomous communities, provided for in the Constitution itself, are various groups that have historically had languages

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<sup>40</sup> See also: generally, C.E. arts. 143-158 (Spain). For a more complete discussion of the Spanish Constitution and linguistic rights, see: Giovanni POGGESCHI's appropriately titled article *The Linguistic Struggle in the Almost Federal Spanish System*. In ZAGAR, M. - JESIH, B. - BESTER, R. (eds.) (1999): *The Constitutional and Political Regulation of Ethnic Relations and Conflicts*. pp. 313, 315.

<sup>41</sup> See: C.E. pmbl. available at <[http://www.boe.es/datos\\_iberlex/normativa/TL/ConstitucionINGLES.pdf](http://www.boe.es/datos_iberlex/normativa/TL/ConstitucionINGLES.pdf)>.

<sup>42</sup> See: *The Spanish Constitution*. Art.2. See also: *Spain's Constitution of 1978 with Amendments through 2011*. Madrid: constituteproject.org, 11 March 2015.

<sup>43</sup> See: *Ibid*, art.3

of their own (as well as nationalist aspirations), such as Catalonia, the Basque Country, and Galicia.<sup>44</sup>

Lacking the decentralized regional, or community, structure of Spain and Italy, other Member States administer similar policies from the central government authorities. In the Netherlands, for instance, the Frisian language is spoken in Friesland, a province with a population of 610,000.<sup>45</sup> Almost fifty-five percent of the provincial population considers Frisian to be their mother tongue, and about seventy-five percent know how to speak it.<sup>46</sup>

The Dutch government has stated formally that, along with Dutch, Frisian is an indigenous language of the Netherlands.<sup>47</sup> Parliament has gone beyond mere recognition, by enacting measures aimed at accommodating Frisian speakers in Friesland, including inter alia: detailed rules on the use of Frisian in an administrative or judicial capacity; rules establishing the legal basis for changing toponymical names from Dutch into Frisian; and provisions to encourage the use of Frisian in schools.

Though the Frisian language is not threatened, and seems to be enjoying a wide range of accommodating measures from the central Dutch government, it must be remembered that the Dutch Constitution is silent with respect to minority languages,<sup>48</sup> and that the Friesland province has no decentralized grant of authority, from the constitution or otherwise, to take affirmative protective measures. In the Netherlands, the central government guarantees minority language rights primarily pursuant to treaty obligations.

Similar concessions are made for the Mirandes community in northern Portugal.

Another fascinating permutation of this strategy resulted in the "Good Friday Agreement" entered into between Ireland and the United Kingdom in

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<sup>44</sup> See: GUIBERNAU, M. (2000): Spain: Catalonia and the Basque Country. In O'NEILL, M. – AUSTIN, D. (eds.) (2000): *Democracy and Cultural Diversity*. p. 55.

<sup>45</sup> See: LAANEN, F. Van: The Frisian Language in the Netherlands. In *Minority Rights in Europe*.

<sup>46</sup> See: Ibid.

<sup>47</sup> See: Ibid.

<sup>48</sup> Note: The Netherlands is one of two members of the EU having a written constitution that has no mention of official languages. The other is Denmark.

1998. That treaty, among other more urgent objectives, granted limited formal recognition to Irish and various dialects of Scots in Northern Ireland.<sup>49</sup>

In recent years, the United Kingdom has made similar allowances for the 659,000 Welsh speakers in Wales<sup>50</sup> and the sixty thousand Scottish Gaelic speakers in Scotland.<sup>51</sup> Prior to 1993, the United Kingdom merely provided a limited discretion for local judges and administrative officials to permit the use of Welsh. With the passage of the Welsh Language Act of 1993, Parliament placed the Welsh language on official status with English in dealings with the public sector.<sup>52</sup>

The Welsh Language Act breaks with a predominant policy of Anglicization and represents a significant change in the United Kingdom's posture regarding the Welsh minority living in the United Kingdom.<sup>53</sup> Parliament made a similar, though less expansive, overture to the Scottish Gaelic speakers by promulgating the Gaelic Language (Scotland) Act 2005.<sup>54</sup> That act granted a limited official status to Scottish Gaelic in Scotland.

France, more than any other Member State, has adopted the "ostrich approach" to its minority languages--sticking its head in the sand rather than acknowledging its linguistic minorities in any meaningful way.<sup>55</sup> Article 2 of the French Constitution is notably the only article of that document addressing language: "French is the language of the Republic."<sup>56</sup>

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<sup>49</sup> See: *Agreement Reached in the Multi-Party Negotiations*. U.K.-Ireland, April 10, 1998, Vol. 37, I.L.M., pp. 751, 769-770.

<sup>50</sup> See: *Omniglot Writing Systems & Languages of the World: Welsh (Cymraeg)*.

<sup>51</sup> See: *Omniglot Writing Systems & Languages of the World: Scottish Gaelic (Gaidhlig)*. Available at <<http://www.omniglot.com/writing/gaelic>>.

<sup>52</sup> See: *Welsh Language ACT*. London: 1993, c. 38.

<sup>53</sup> Cf. SADAT WEXLER, L. (1996): *Official English, Nationalism, and Linguistic Terror*. A French Lesson, 71 WASH. L. REV. pp. 285, 337 nn. 215-216 (1996) (discussing examples of the United Kingdom's monolingual tendencies).

<sup>54</sup> See: TOLL, A. P. (2011): *Gaelic Language (Scotland) ACT 2005*. London: Ceed Publishing, 2011, c. 7. ISBN 9786136782324.

<sup>55</sup> See: ADDIS, A. (2001): *Cultural Integrity and Political Unity: The Politics of Language in Multilingual States*. 33 ARIZ. ST. L.J., pp. 719, 730-31, 2001.

<sup>56</sup> See: *La Constitution*. Art. 2. See also: CHANTEBOUT, B. (1992): *La Constitution française. Propos pour un débat*. Paris: Dalloz 1992.

Postcolonial France has been the prototype of an assimilation-oriented society,<sup>57</sup> and has yet to extend formal recognition to its autochthonous minority languages, despite the fact that an estimated 9 million French citizens speak a minority language.<sup>58</sup>

Indeed, the French accession to the European Charter of Regional and Minority Languages was stonewalled by the high French Constitutional Council because certain provisions in the Charter purported to create group rights (in violation of the unity of the French Republic) and to grant quasi-official status to minority languages (in violation of Article 2 of the Constitution).<sup>59</sup>

The French government has passed a handful of administrative decrees and laws regarding the school instruction of minority languages, as well as their presence in the mass media. Such measures are predictably toothless, and are nearly always phrased so as to give ultimate discretion to the teachers, school administration, or those exerting control over the public media.

### *Conclusions*

As illustrated in many countries in and outside Europe since the end of the Second World War, irredentism, border disputes or external intervention may exacerbate communal tensions. Minorities are often concentrated around international frontiers, so minority problems have usually come to the fore when international borders have been redrawn. If borders are to be preserved without the use of force it is quite natural that governments should be advised to treat their minorities equitably, for it is assimilationist and discriminatory policies that are likely to stir discontent and provoke secessionist claims.

The UN *Declaration on Minorities*, *Recommendation 1201* of the Council of Europe and the Council of Europe *Framework Convention for*

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<sup>57</sup> See: CITRON, S. (1992): *L'Histoire de France: Autrement*. p. 174, 1992.

<sup>58</sup> See: *Les 75 langues minoritaires de France*. In L'Humanité, Paris, June 25, 1999. Available at <<http://www.humanite.fr/journal/1999-06-25/1999-06-25-29195>>.

<sup>59</sup> See: OELLERS-FRAHM, K. (1999): *International Decision: Charte Europeenne des Langues Regionales ou Minoritaires*. 93 AM. J. INT'L L., pp. 913, 938-941, 1999.

*National Minorities* advise that minorities should have the right to have links with their kin in neighboring countries, but this can only be possible if there is no fear of irredentism. The old concern about irredentism existed precisely because it could destabilize countries.

In post-cold war Europe cross-border links are possible and are regarded as a right, as harbingers of peace, but they entail the renunciation by countries of territorial claims. This is the context in which international instruments such as the Council of Europe *Framework Convention for National Minorities* and the *European Charter for Regional or Minority Languages* recommend cooperation between regional or local authorities in territories where the same language is used.

Today in Europe, the privilege for legal regulation of languages is not limited exclusively to the states. The development of international human rights law has led to the recognition of minority language rights on an international level. Besides the universal principle of non-discrimination, in a European context, the Language Charter and the FCNM can be considered as offering guidelines for all European states in regulating language rights. Within the European Union the regulation of language use is rather functional and technical, although the recognition of all 23 state languages as official languages in the EU leads us to the primarily political acknowledgement of the equality of languages. The main question is how should this principle of equality be extended to minority or regional languages as well?

In this respect five main issues need to be taken into consideration: The original economic and political rationale behind promoting multilingualism within the EU should be reformulated: enhancing a more effective economic and political integration also through the promotion of linguistic diversity and shall not be restricted to 'state languages'. In the process of deepening integration, states are not the exclusive boundaries of cultural or linguistic diversity. For instance the use of languages in border regions, in a 'borderless Europe' shall not necessarily be limited by state sovereignty but could be facilitated by Community programs as well.

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## 5 Ethnicity as a security approach - a key factor for peace and stability<sup>1</sup>

**Rastislav KAZANSKÝ\***

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**Abstract:** *In our contribution we are trying to present some security aspects for security which is contemporary but sometimes only in the hidden form. This social and security factor is ethnicity. The issue of conflicts on ethnic basis, and to the foreign world politics is clearly dominated since the Cold War. Particular attention is paid to the ethnic conflict, not least because they often result in severe war crimes such as genocide. Many ethnic conflicts are leading to the considerable loss of life, serious denial of basic human rights and material destruction, and some even escalate into inter-ethnic or internal war. Ethnic conflicts can be defined as conflicts between ethnic groups in a multiethnic state, which often take place as a result of ethnic nationalism and the parties may appear to be not resolved. The problem is trying to settle conflicts, not only theory but also modern safety science. In our contribution we will try to illustrate selected aspects of the relationship of national and international security and ethnic coexistence that have an immediate impact on current international relations.*

**Keywords:** *ethnic conflict, ethnicity, international relations, security*

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### ***Introduction***

At present, most operating State comprises more than one ethnic group, and this divergence is the internal challenges of democratic governance and the predominant world the concept of the nation state itself. One of the

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problems that embodies this fact, the difference between the numerous states that the law does not recognize its territory, ethnic pluralism and those still looking for ways to deal with the ethnic divergence more constructive. Ruling components of some states entirely deny the existence of ethnic groups as a whole, while others provide for them strict legal criteria, which placed them at a specific object of interest policies.

However, as ethnicity, nationalism and the accompanying conflict factor becomes the object of investigation and theory conflicts not only in political science? The answer may be finding that the human community as ethnic groups that speak different languages and have different cultural traditions, differences in everyday life there are undoubtedly thousands of small conflicts, collapses. If people leave much room everyday conflicts do not extend further. If these questions up to date state-political level, when dealing with ethnic specific laws, if a solution based ethnic issues specific ministries and special government agencies, and becomes the subject of crisis management relationship and the security of individuals and those approved, then the problems multiply.<sup>2</sup> Not only in the broad eastern areas, had the question arisenethnocracy (political means secured application interests of the majority nation, ethnic group) as a sort of principle and practice of the power structure. Author notes that precisely because of the increasing ethnic conflicts and to resolve them, begins at the state-political level with her ethnic policy apply.<sup>3</sup>

Currently, talks about the crisis, respectively the end of multiculturalism as a recipe for a peaceful solution to ethnic conflicts in society.<sup>4</sup> This argument has already penetrated into the dictionary of the current political elite view of current security threats and even open conflicts that escalate in the postmodern society of latent - hidden forms of structural and cultural violence, which is an integral part of ethnicity.<sup>5</sup> Therefore it is necessary to

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<sup>2</sup> See: GOMBÁR, C. (2000). *O národe, etniku a štáte*. Bratislava: Kalligram, 2000, 228 s. ISBN 80-7149-2477.

<sup>3</sup> See: Ibid.

<sup>4</sup> See: FENDEK, P. (2000). *Súmrak európskej civilizácie nová verzia*. [online] [Cit. 9.9.2011.]. Available: <[http://www.pfendek.sk/files/Zanik\\_europskej\\_kultury\\_a\\_civilizacie.pdf](http://www.pfendek.sk/files/Zanik_europskej_kultury_a_civilizacie.pdf)>.

<sup>5</sup> See: GALTUNG, J. (1996). *Peace by peaceful means: peace and conflict, development and civilization*. Oslo: PRIO, 1996, 272 s. ISBN: 0-8039-75112.

understand ethnicity and its relationship to ethnic policy as one aspect of conditioning the security situation in the society, country and region.

## 5.1 The relationship Ethnicity and Policy

The issue of conflicts is based on ethnicity into the fore in the world and politics clearly dominated by the Cold War. Particular attention is paid to the ethnic conflict, not least because they often result in severe war crimes such as genocide. Many ethnic conflicts lead to substantial loss of life, serious denial of basic human rights and destruction of material, some even escalate into inter-ethnic or internal war.

Ethnic conflicts can be understood as conflicts between ethnic groups in a multiethnic state, which often take place as a result of ethnic nationalism and interested parties may appear to be not solved. The problem is trying to settle conflicts, not only theory but also modern safety science. In our contribution we try to illustrate selected aspects of the relationship of national and international security and ethnic coexistence that have an immediate impact on current international relations.

Despite this, we can abstract some remarks, in which the majority opinion agrees.

Ethnicity is a cultural characteristic that connects individuals with the same group of people or groups of people together. Finally we could say that sometimes the term is used as a synonym for minority group, or a kind of euphemism for "conflict escalation race."<sup>6</sup>

Terms such as "ethnic group", "ethnic community", "minority" or "ethnicity" are used differently by individual authors. In most cases, however, agree on the following (very loosely shaped) definition: Ethnic groups are historically the teams or the psychological community, whose members share a persistent feeling of common interest and identity based on a combination of shared historical experience and cultural value characteristics. Exit in such groups over time, even as the course of history

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<sup>6</sup> See more: TESAŘ, F. (2007). *Etnické konflikty*. Praha: Portál, 2007. 251 s. ISBN 978-80-7367-097-9

occur, they may also change and extinction. However, before a group of attributes can be called "ethnic" should be in the aforementioned case definition met the following criteria:

1<sup>st</sup>: The group must have its name, the name. Names are important not only for the initial identification of the group, but also play a role expressive emblems collective personality.

2<sup>nd</sup>: Language - is also a strong indicator of ethnicity and ethnic identity. Results on language policy and language rights are often the main reason for ethnic conflicts. Many of the linguistic minorities in the world are officially forbidden to use their language in public, whether in the media.

3<sup>rd</sup>: Religion, which is a historically important milestone ethnic identity. Especially in societies where religion affects different spheres of social life, can become a dominant factor and thus determinant for the establishment of a specific ethnicity. becomes to be the ethnic character. The more religious factors are associated with the other elements of social life, the greater the level of religion in defining ethnicity is involved.

4<sup>th</sup>: A fourth feature of the definition of ethnicity is a territory. It is the physical basis of economic and political structures, which are the main forces in the life of ethnic groups and nations. The territorial state is considered for determining the existence of an element of the nation in modern times. Many ethnic groups themselves as nations, is trying to set up your own territorial state (Kurds, Palestinians, Tamil). Most ethnic groups in the world is identified with a particular territory, which is not only their living space, but also real, or mythical country of origin, even sometimes enriched by sacred significance.

5<sup>th</sup>: Common culture, which consists of a complex of different ethnic groups of elements. The definition of ethnic groups, culture is a system of values, symbols and meanings, norms and customs shared members. Culture defines the way of life that distinguishes one from another ethnic group.<sup>7</sup>

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<sup>7</sup> See: TURTON D., GONZÁLES, J. (1999): EU Cultural Identities and ethnic minorities in Europe. In *EU Cultural Identities and ethnic minorities in Europe*. [online]. Bilbao : Universidad de Deusto 1999 [Cit. 14.2.2011.]. Available at <[http://www.humanitariannet.deusto.es/publica/PUBLICACIONES\\_PDF/01%20Ethnic%20 Minorities.pdf](http://www.humanitariannet.deusto.es/publica/PUBLICACIONES_PDF/01%20Ethnic%20Minorities.pdf)>.

The concept of ethnic relations includes the widely differentiated forms of social relations which link with the cultural differences is paramount. Milton Esman identified the following categories of ethnic relations:

- It consists from domination forced operation ethnically divided system where there are intentional unequal rights, position and opportunity.
- Merging or assimilation of dominance, including the elimination of ethnic cultures, languages and cultural benefits of alleviating symptoms (stakeholders).

As mentioned above, one of the basic needs of every individual is self-categorizations, integration into the community. This is the case of national conflicts - escalating violence on the basis of hidden -. Counterpart to these needs, relations are between ethnic communities themselves. We are talking mainly ethnic hostility, discrimination and exclusion, which throughout history have recorded in many forms. In general, we can identify three broad categories of these negative phenomena:

- The forms of ethnic hostility, which include the cruelest acts of aggression, including the mass society
- Denial of access to social benefits in areas such as employment, school, and home, health care and so on. Lack of social rights also leads to reduced opportunities for political participation,
- Using abusive or offensive language, whether such forms of presentation that is perceived as offensive.<sup>8</sup>

As will be discussed below, may be a minority group within the existing institutional arrangements require more political, economic, cultural and administrative autonomy, and may even insist on separation from the existing state unit and establishing their own independent political entity under the new (i.e. federal) structure . On the other hand, it is possible that this group is not satisfied with the democratic reforms within the existing state system, aiming at implementing democracy, ethnic power-sharing or

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<sup>8</sup> See: WOLFF, S. (2011): Ethnic minorities in Europe: The Basic Facts. In *Ethnic minorities in Europe: The Basic Facts*. [online]. Nottingham : Centre for international crisis management and conflict resolution, 2011 [Cit. 21.2.2011.]. Available at: <<http://www.stefanwolff.com/files/min-eu.pdf>>.

simply more equal representation. There is a need to see the current high separatist attempts ending with national and regional conflicts in the present.

In many cases, those ethnic groups seeking greater autonomy, defeated and winning central authority to have in setting its own conditions of free realm law. In other cases again the separatist ethnic groups successfully manage to establish their own state. To summarize the previous arguments, we can say that there are three types of results of ethnic conflicts:

- Peaceful reconciliation
- Peaceful subdivision
- War.<sup>9</sup>

Even here we can see that the current relations of ethnicity and security in the plane so the debate on the issues of building not only a negative peace (absence of open ethnic violence) as well as slightly positive (way to remove the latent forms of violence - structural and cultural. (GALTUNG, 1996). But it also shows the ethnicity of its aspects as a permanent security threat escalation of violence in contemporary international relations.

The existence of minorities in the country does not necessarily lead to conflict. A lot depends on the facts, to what extent is given by members of minority ethnic identity politically heterogeneous ("projecting"), which promotes political agendas and how the majority group responds to its demands. Politically mobilized ethnic groups have a wide range of sources from which to draw, and the decision to use them depends on the central points of their requirements, which are due to the results in the final group of development to different political agendas in order to achieve conditions that deem to maintain, express and develop this identity. From different political agendas of ethnic minorities is increasing different types of requirements. These requirements may be associated either with the concept of ethnicity or territory.

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<sup>9</sup> See: ISMAYLOV, G.,G. (2011): Ethnic conflicts and their causes. In *Ethnic conflicts and their causes*. [online]. Tokyo: Jyochi university, 2011 [Cit. 21.9.2011.]. Available at: <dspace.khazar.org/jspui/.../136/1/Gursel%20G.%20Ismayilov.doc>.

Ethnic demands increased in relation to one or more related areas: self-determination, language, religious and cultural rights, access to resources / equality of opportunity and / or material and political assistance to support these requirements. Ethnic minorities such requirements rise in the face of the host state or host nation and / or, where possible, to the state, or nation ethnically close. In the absence of ethnically close people or other external actors (international organizations, individual states) can search for minorities and lobby for filling the position of patron. Territorial requirements are similar to those of ethnic, it is a phenomenon of domestic relations - as well as interethnic and international relations and we can distinguish between nature and the level of territorial requirements.

## 5.2 Ethnic conflict and ethnicity

Ethnic conflicts can be defined as conflicts between ethnic groups in a multiethnic state, which often take place as a result of ethnic nationalism and interested parties may appear to be not solved. According Michael E. BROWN is an ethnic conflict "a dispute about important political, economic, cultural or territorial issues between two or more ethnic communities. Many ethnic conflicts lead to substantial loss of life, serious denial of basic human rights and material destruction, some even escalate into inter-ethnic or internal war."<sup>10</sup>

The issue of conflicts based on ethnicity into the fore in the world and politics clearly dominated by the Cold War. Particular attention is paid to the ethnic conflict, not least because they often result in severe war crimes as genocide, but also various forms of organized crime.

Academic explanations of ethnic conflict generally falls into one of three research schools: Primordial's, instrumentalism, and constructivism.<sup>11</sup> The scientific debate in this case, often centered on the question of how to effectively manage conflict through instruments such as konsocialism

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<sup>10</sup> See: BROWN, M., E. (1993): *Ethnic conflict and international security*. Princeton: Princeton university press, 1993, 288 s. ISBN13: 978-0-691-00068-8.

<sup>11</sup> See: ŠMÍD, T. - VAĎURA, V. (2007): *Etnické konflikty v postkomunistickém prostoru*. Brno: Centrum pro studium demokracie a kultury, 2007. 278 s. ISBN 978-80-7325-26-0.

whether federalization and some question whether the phenomenon of ethnic conflict really has grown in importance until the end of the Cold War."<sup>12</sup>

Representatives of primordial approaches to ethnic conflict ethnicity construed as an innate trait. They argue that "ethnic groups and nationalities exist precisely because there is a tradition of faith and incentives toward primary objects such as biological features and especially territorial allocation."<sup>13</sup> Philosophical background of this concept is linked with names like Johann Gottlieb FICHTE, and Johann Gottfried HERDER. Primordialism very term first used at the end of the 40s of the 20th century Clifford GEERTZ in the context of prevailing and nameless individuals with ties to social groups.<sup>14</sup>

According to supporters of instrumental direction of ethnic identity is the result of social construction. Anthony SMITH notes that instrumental access "came into the consciousness of the 60th and 70 years in the U.S. debate on the (white) ethnic persistence of what should be an efficient boiler "(for philosophizing about ethnicity and its political implications)."<sup>15</sup> In view of the ethnic identification of the instrumentalists' and ethnicity are race seen as instrumental identities organized as a means to achieve certain conclusions."<sup>16</sup> Instrumental access is not important whether ethnicity is associated with the fixed perception. Even supporters of this school generally not opposed to the notion that ethnic diversity is part of many conflicts, or that many aggressive human beings believe they are fighting against such differences. Instrumentalists simply argue that ethnic diversity is insufficient to explain the conflict.

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<sup>12</sup> See: TURTON D. - GONZÁLES, J. (1999): EU Cultural Identities and ethnic minorities in Europe. In *EU Cultural Identities and ethnic minorities in Europe*. [online]. Bilbao: Universidad de Deusto, 1999 [Cit. 14.2.2011.]. Available at <[http://www.humanitariannet.deusto.es/publica/PUBLICACIONES\\_PDF/01%20Ethnic%20Minorities.pdf](http://www.humanitariannet.deusto.es/publica/PUBLICACIONES_PDF/01%20Ethnic%20Minorities.pdf)>.

<sup>13</sup> See: ŠMÍD, T. - VAŽURA, V. (2007): *Etnické konflikty v postkomunistickém prostoru*. Brno: Centrum pro studium demokracie a kultury, 2007. 278 s. ISBN 978-80-7325-26-0, p. 12.

<sup>14</sup> See: Ibid.

<sup>15</sup> See: Ibid.

<sup>16</sup> See: SMITH, Anthony (2001): *Nationalism: Theory, Ideology, History*. Cambridge: Polity Press, 2001. ISBN 978-07-456-2396-2

Constructivist approaches can partly be seen as a continuation instrumental doctrine and partly as an attempt to incorporate this learning also benefit other schools. Exaggeration, we can note that it is a synthesis of several learning. Formalization of the theory of constructivism is generally associated with Jean PIAGET, who expressed a mechanism by which knowledge is internalized knowledges. He thought that, through processes of assimilation and adaptation are individuals from their experience new insights. To set up a process of assimilation of individuals, incorporating new experiences into the existing network without changing their knowledge framework. This can occur when an individual experiences are in accordance with their own presentation of the world, but can also occur as a failure to change or incorrect understanding.<sup>17</sup>

You could say that the dispute between supporters of the said school ended most decided, because "ethnicity is on the one hand recognized as a special category, which superiority over other types of group identification is manifested to me in moments of perceived threat. On the other hand was demonstrated the possibility of changing ethnicity - despite primordialistickému believe that this innate characteristic change is not possible. To conclude this discussion it should be noted that contemporary political scientists rarely consider a particular philosophical school. On the contrary, we see numerous attempts to connect the two theories are not necessarily in contradiction. Their use in empirical practice is questionable. „18

Some supporters of the study of ethnic conflict and civil wars<sup>19</sup>, however, introduced theories that portray inner views on the issues of ethnic

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<sup>17</sup> See: TURTON D. - GONZÁLES, J. (1999): EU Cultural Identities and ethnic minorities in Europe. In *EU Cultural Identities and ethnic minorities in Europe*. [online]. Bilbao: Universidad de Deusto, 1999 [Cit. 14.2.2011.]. Available at <[http://www.humanitariannet.deusto.es/publica/PUBLICACIONES\\_PDF/01%20Ethnic%20Minorities.pdf](http://www.humanitariannet.deusto.es/publica/PUBLICACIONES_PDF/01%20Ethnic%20Minorities.pdf)>.

<sup>18</sup> See: ŠMÍD, T. - VAŽURA, V. (2007): *Etnické konflikty v postkomunistickém prostoru*. Brno: CDK, 2007. 278 pp. ISBN 978-80-7325-26-0.

<sup>19</sup> See more: ADAŠKOVÁ, D. (2010): Transnacionálny organizovaný zločin a jeho dopad na bezpečnosť Európskej únie. In *Bezpečné Slovensko a Európska únia..* [Zborník príspevkov zo 4. medzinárodnej vedeckej konferencie, Košice 11. - 12. november 2010.]. Košice: Vysoká škola bezpečnostného manažérstva v Košiciach, 2010, pp. 11-16. ISBN 978-80-89282-44-9.

conflict from the perspective of all three schools and traditional ideas. Monica DUFFY TOFT example shows how the settlement patterns of ethnic groups and socially constructed identity and charismatic leaders demonstrate the indivisibility of these elements and show their inherent mutual coherence. This empirical research has addressed the concerns that we can, using the initial, instrumental or constructive approaches very difficult to explain, and hence why some ethnic divisions escalate to violence, while others - despite the fact that they originate in the same geographic region - have no opportunity.<sup>20</sup>

Although the study of ethnic conflict has a long history, a real interest in ethnic conflict outside the comparative political science dates from the collapse of the postcommunist countries. In the above two examples, was followed by the disintegration of ethnic conflict, which escalated to the use of violence and the ensuing civil war.

### ***Conclusion***

There are many theories dealing with the rise of ethnic conflicts, but as in most theoretical concepts are contradictory, there is no single comprehensive theory that would be universally accepted and so are created using the factors that increase the chance of an outbreak of ethnic conflict. John weasels defined the following factors:

First - every ethnic conflict is the sum of several factors - social, economic, political, and there are not pure ethnic conflicts dimensions.

Second - the crucial point that determines the turning point between stability and ethnic movements pointing to the escalation of the conflict is always a need for self-determination (self-awareness) in the dominant majority.

Third - Ethnic conflict linked to the non-dominant group, if it feels the oppression of any kind.

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<sup>20</sup> See: DUFFY TOFT, M. (2003): *The Geography of Ethnic Violence: Identity, Interests and Indivisibility of Territory*. Princeton: Princeton university press, 2003, 256 pp. ISBN 0691113548.

4th - Ethnic conflict linked to the dominant group, if the oppression felt by the wider links, or border, mostly historical ties.

5th - Ethnic conflict is always associated with refugee waves, and therefore represents a double threat - in the home country in the State, which hit the refugee wave.

6th - An integral part of ethnic conflicts is xenophobia, racism, genocide often, all phenomena, which in terms of international law and criminal adicted. Because, however, have extensive time and territorial action, enforcement of law in these areas is very low.

7th - Ethnic conflicts always escalate in countries that are characterized by the precariousness and lack of application of democratic values, because outbreaks of ethnic conflicts occur in the most so. Third World countries, or so.weak states (Southeast Asia, Africa, the territory north of the Andes in Latin America, Southeast Europe, Balkan region, some countries of the former Soviet Union)

8th - Ethnic conflicts are caused by a concentrated accumulation of cultural, racial, local, self-identification of language problems that cause social not-loyal other groups.

9th - Ethnic conflicts are caused by the formation and stabilization of new institutional forms. The new state not respecting ethnic boundaries, the emergence of military dictatorships and other authoritarian regimes, but also representative democracy, which were reduced territory, where the absence of historical experience consociation.

10th - Ethnic conflicts are due to linguistic reasons.

11th - Ethnic conflicts are caused by efforts to achieve national unity

It should be noted that scientists are divided as in the theories as well as the factors they consider relevant. Ethnic conflicts arise from the loss of balance between different ethnic groups interact. Despite the variety of definitions that we have outlined here, except there is a negative understanding of ethnic conflict and included, the general consensus in the fact that conflict is necessary for the development of society. Conflicts in human society consist of pulses to change the tense situation arising from differences. These differences can be observed in all sorts of spheres of human life. It is important to note that despite the latent potential of any

further escalation of the conflict is not always necessary that the escalation actually occurred. May be terminated by consensus of tension, even cooperate, but the fact remains that armed conflict cannot be excluded. "Constructive conflict handling can lead to lasting peace and cooperation. ... Can help to create boundaries in the group that individuals are aware of common interests<sup>21</sup> position in which the conflicts of interest has a significant impact on its solution.

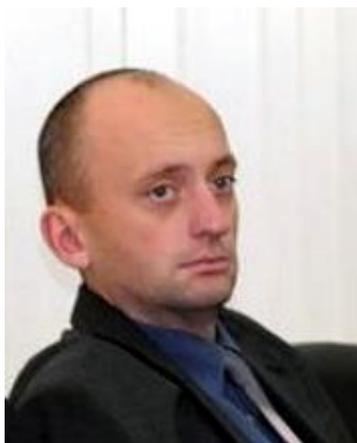
What are the implications for Slovakia? New challenges on the threshold of the third millennium, Slovakia and other countries before entering into a new paradigm. Is a party to the ongoing discussions on the changing geopolitics, political theory<sup>22</sup>, the onset of phase transition to a knowledge-based society. Co-operation and seeking answers to the questions of who we are and we walk, it is not possible without an intensive exchange of knowledge and experience in today's globalizing world. Survive and apply to one who will aggressively implement unilateral interests but rather in a spirit of cooperation and assist the development of spiritual and political development of the mosaic of the peoples of Europe. Visegrád cooperation is developing a bridge of cooperation towards greater geopolitical entity - the European Union, made up of Europeans, but also the peoples of Europe.

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<sup>21</sup> See: MISCHNICK, R. (2006): *Nenásilná transformácia konfliktov: Manuál pre tréning trénerov*. [online]. Don Bosco, 2006 [Cit. 10.9.2011.]. Available at: <[http://www.trainingoftrainers.org/img/manual sk.pdf](http://www.trainingoftrainers.org/img/manual_sk.pdf)>.

<sup>22</sup> See: KUCHARČÍK, R. (2011): Pôsobenie Európskej únie na africkom kontinente. In *Medzinárodné vzťahy 2010: Aktuálne otázky svetovej ekonomiky a politiky*. Bratislava: Ekonóm, 2011, pp. 402-408. ISBN 978-80-225-3172-6.

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## 6 European Integration and the International Criminal Tribunal for the Former Yugoslavia (ICTY): The politics of conditioning

**Anton VUKPALAJ**<sup>1</sup>

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**Abstract:** *EU lacked, until recently, a transitional justice policy. Nevertheless, EU support for different transitional justice institutions has been constant. One of these institutions has been the International Criminal Tribunal for Former Yugoslavia (ICTY). The strategy of the EU to push the former Yugoslavian countries to cooperate with ICTY was that of “carrot and stick approach”. The conditioning of the process of integration with the prospect of joining the EU has been extremely effective to support transitional justice in these countries, but it could not transform fundamentally the issue of conflict in these countries.*

**Key words:** *International Criminal Tribunal for Former Yugoslavia (ICTY), European Union, NATO, former Yugoslavian countries, Dayton Peace Agreement*

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European Union lacked, until recently, a transitional justice policy. Catherine ASHTON launched in 2012 the Strategic Framework for Human Rights and Democracy. This action plan states that a transitional justice policy will be developed in 2014.<sup>2</sup> Nevertheless, EU support for different transitional justice institutions has been constant. One of these institutions

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<sup>2</sup> DAVIS, L. (2014): *The European Union and Transitional Justice*. Available at <<http://www.eplo.org/civil-societydialogue-network.html>>.

has been the International Criminal Tribunal for Former Yugoslavia (ICTY). This tribunal was created with resolutions 803 and 827, in March 1993, to investigate crimes committed during the conflicts in the former Yugoslavia. EU supported this tribunal financially, but the main support has been to push the former Yugoslavian countries to arrest and transfer to The Hague their citizens, indicted for war crimes. This has been vital for the ICTY who lacked a proper police to arrest and transfer the indicted persons to The Hague. This was all the more important for the Tribunal who faced a strong opposition in former Yugoslavian countries. This opposition was particularly high in Serbia where the ICTY was considered to be an instrument of the international community created to put pressure on Serbia. This was the dominant opinion among Serbs in Bosnia, in Croatia and in Serbia. Serbia considered ICTY as a political tool. Therefore, ICTY will have a limited transformative capacity in this country. EU conditioning of Serbia to cooperate with the Tribunal was, therefore, contributed to this perception.<sup>3</sup>

The strategy of the EU to push the former Yugoslavian countries to cooperate with ICTY was that of “carrot and stick approach”.<sup>4</sup> EU fixed the cooperation with the Tribunal as a precondition for these countries to advance in their process of EU integration. European Union made its membership offer to Western Balkans countries conditional on specific democratic principles, most notably, full cooperation with the ICTY and respect for the Dayton Peace Agreement.<sup>5</sup> The aim of this policy of conditioning was not only to push these countries to make appropriate changes for a postwar transition but also, to promote reconciliation between the former enemies. The role of the EU became decisive after the regime changes in Serbia and Croatia in 2000. Cooperation with ICTY became a

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<sup>3</sup> BRANIFF, M. (2011): *Integration of the Balkans, conflict resolution and the impact of EU expansion*. London: I.B. Tauris and Co Ltd. 2011, p. 137.

<sup>4</sup> BECHEV, D. (2006): Carrots, Sticks and Norm: the EU and Regional Cooperation in Southeast Europe. *Journal of Southern Europe and the Balkans*, Vol. 8, No 1, April 2006, pp. 27-43. See also: CATTARUZZA, A. (2008): L’affirmation de l’Union européenne dans les Balkans. Vers une politique d’intégration régionale... mais de quelle région? *Strates revue*, 2008, No 15, pp. 171-187. [Cit. 19.2.2013.] Available at <<http://strates.revue.org/6688>>, p. 35.

<sup>5</sup> MENZ, C. (2013): *Explaining Croatia’s (non) compliance with EU conditionality on ICTY cooperation: Do external incentives make the difference?* Hamburg: Anchor Academic Publishing 2013, p. 6.

standard to measure “the willingness of candidates to participate effectively in the European concert”.<sup>6</sup> EU integration process supposed acceptance of transitional justice mechanisms that, in a long term, had to produce a conciliatory nature in the Balkans. The difficulties that emerged from a regional transitional justice project were supposed to transform the understanding of the State functioning and responsibility. This pressure to cooperate with the ICTY was an opportunity to promote Human Rights, minority protection, the right of refugees and returnees etc.<sup>7</sup> This was supposed to allow Western Balkans societies as a whole “to examine the causes and consequences of the past”.<sup>8</sup> Therefore, postwar transitional policy of the EU towards the former Yugoslavian countries was to transform the conditionality of cooperate with the ICTY in conditionality for these countries to deal with the past, through the organization of war crimes trials in their own countries. EU created special initiatives in order to promote transitional justice in the local level. Thus, for example, in 2009, it established, in collaboration with the Office of the Prosecutor of the ICTY, the EU/ICTY Project that had to strengthen the capacity of national prosecutors to deal with war crimes in their own countries.<sup>9</sup> EU supported ICTY diplomatically too. It posed travel bans on persons who were thought to assist ICTY indictees, to evade justice and freeze assets of the indictees themselves etc.<sup>10</sup> For example, Slobodan MILOŠEVIĆ’s associates were banned from entering the EU. Thirteen individuals were banned. In 2004, this was done for Radovan KARADŽIĆ; in 2005 for the Croatian general,

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<sup>6</sup> HUBRECHT, J. (2005): Les mutations et les imbroglios de la justice post-conflit. In ALIGISAKIS, M. (ed.):

*Europe et sortie de conflit*. Genève: Institut Européen de l'Université de Genève 2005.

<sup>7</sup> BLOCKMANS, S. (2008): Consolidating the enlargement agenda for South Eastern Europe. In BLOCKMANS, S. – PRECHAL, S. (eds.): *Reconciling the Deepening and Widening of European Union*. The Hague: TMC Asser Press 2008, pp. 81-82.

<sup>8</sup> Ibid.

<sup>9</sup> BRAMETZ, S. (2001): The Legacy of the ICTY: Fair Trials and Cooperation with Local Courts. In STEINBERG, R. H.: *Assessing the Legacy of the ICTY*. Leiden: Martinus Nijhoff Publishers 2001, p. 31.

<sup>10</sup> GUIMELLI, F. (2011): *Coercing, Constraining and Signaling: Explaining UN and EU Sanctions After the cold War*. Exeter: ECPR Press, University of Exeter 2011, p. 61.

Ante GOTOVINA. In 2001, EU adopted a blacklist in the European Council concerning Ratko MLADIĆ's support.<sup>11</sup>

This study will focus on the role of the EU in the cooperation of former Yugoslav countries with the ICTY. Serbia and Croatia are the two countries that were conditioned by the EU. EU put pressure also on Bosnia and Herzegovina but, an important number of questions linked with Bosnia's cooperation with the ICTY, passed through the EU conditioning of Serbia and Croatia. The reason is that a great number of indicted Bosnian Croats and Bosnian Serbs had fled to Serbia and to Croatia, after they have been indicted by ICTY. And most of them were arrested and delivered by these countries. The last part of this study will focus on the impact of the Kosovo independence on this process of cooperation of Serbia with ICTY and the role played by EU to moderate the situation.

## **6.1 European Union and ICTY**

Even if EU has been a strong supporter of the creation of the ICTY, it didn't play an important role in the creation of this tribunal. Its role in the creation of the permanent International Criminal Court (ICC) in 2000 was much more important. The reason can be explained by the contexts in which the ICTY was created. ICTY's creation by the Security Council of the United Nations was as result of EU's incapacity to find a solution to the war. Some of the main causes of this incapacity were the differences that prevailed between the different EU member states. The ICTY was thought initially by the West as a political tool rather than a transitional justice institution. In the incapacity to stop the crimes and to find a viable solution to the war, the West created this tribunal to prosecute persons responsible for crimes committed against civilians. This is why this tribunal has been often considered as the result of the bad conscience of the West, unable to stop the crimes committed in Bosnia. EU will become, progressively, the principal political supporter of the ICTY. EU will play a key role in pushing Serbia and Croatia (and Bosnia and Herzegovina) to cooperate with the ICTY. Its role will become more important after regime changes in Serbia

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<sup>11</sup> Ibid.

and Croatia in 2000 and especially, after September 11 terrorist attacks in New York when Americans started their progressive withdrawal from Balkans, leaving primacy to the EU. The strategy of the EU, as the most important financial supporter of the former Yugoslav countries, will put condition to its economic support, with a full cooperation with the ICTY. Nevertheless, the EU pressure on Serbia and Croatia to cooperate with ICTY had started much earlier. In 1995, after the signature of the Dayton Peace Agreement that put an end to the Bosnian conflict, the Tribunal put pressure on Serbia and Croatia to deliver to The Hague, a great number of Bosnian Serbs and Bosnian Croats who were hiding in these two countries. At that time, there were no Serbian or Croatian citizens indicted for war crimes. As the principal guarantors of the Dayton Peace Agreement, Serbian and Croatian regimes thought themselves untouchable by the ICTY indictments. Serbia and Croatia have represented Bosnian Serbs and Bosnian Croats in Dayton and had taken responsibilities for its respect and application. This was considered by the MILOŠEVIĆ and TUĐMAN regimes as a sufficient argument to be spared from ICTY indictment. Nevertheless, after NATO troops present in Bosnia started, in 1996, to arrest and transfer to The Hague, persons wanted by the Tribunal, the ICTY became more interested to understand what has been the role of these two regimes in crimes committed in Bosnia. In the indictments against Bosnian Serbs and Bosnian Croats, there were already many implicit references to the leaderships in Belgrade and Zagreb, as being directly or indirectly involved with war crimes committed in Bosnia. This question of implication of Serbia and Croatia in ethnic cleansing in Bosnia was discussed by the judges of the ICTY during the first trial in the ICTY. The judges considered that it was nevertheless imperative to specify what degree of authority or control must be wielded by foreign State over armed forces, fighting on its behalf in order to render international an armed conflict which is *prima facie* internal<sup>12</sup>. It was a question of the legal consequences of the characterization of the conflict. This, because Serbia and Croatia constantly refused to recognize their implication in Bosnia, pretending that it was an internal conflict.

In 1997, EU started to put pressure on Serbia and Croatia to adopt the necessary legislation for cooperation with the ICTY. These countries had to

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<sup>12</sup> Tadic (IT-(94-1) "Prijedor". [Cit. 24.1.2015.] Available at <[www.icty.org](http://www.icty.org)>.

adopt legislation in order to make it possible to transfer their citizens to The Hague. This became an important subject in Serbia, after the indictment of Slobodan MILOŠEVIĆ in 1999, and particularly after his regime fall in October 2000. MILOŠEVIĆ was the first Serb from Serbia to be indicted by the ICTY, in May 1999, during the air strikes of NATO against Serbia. He was indicted with six other high Serb army and police generals for crimes committed in Kosovo. After the regime change in Serbia, another group of Serbians will be accused by the ICTY for crimes committed in Kosovo and in Bosnia. Among them, Vojislav ŠEŠELJ, the head of the Serbian Radical Party (SRS); Jovica STANIŠIĆ and Franko SIMATOVIĆ; the former Serbian intelligence heads during the previous regime.

After 2000, European Union fixed the cooperation with the ICTY as a measuring vector of the democratization of the Balkan societies. Conditioning Balkan states to cooperate with the ICTY was fixed through the Stabilization and Association Agreement (SAA). This integration process, initiated in 1999, with five Western Balkan countries, was proposed on 29-30 April 1997 by the European Council. Some specific criteria were laid which had to enable the integration of these countries in the EU in a long term. These specific criteria were precised by the conclusions of the European Council in June 1999; by the Summit of Zagreb in November 2000 and by the Thessaloniki Agenda in June 2003. Among these precisions, EU required completing of the Criteria of Copenhagen; a full cooperation with the ICTY; the respect of Human Rights and minorities and a full regional cooperation. Furthermore, these new criteria enter fully the logic of pacification of the Balkan region. Thus, cooperation with the ICTY had to be considered as an EU support for reconciliation, pacification and Human rights. And the Council precised that the lack to fulfill these criteria, authorize the European Union to suspend any negotiation with these states.

## **6.2 EU conditioning of Croatia**

The first country to accomplish its duties towards the ICTY was Croatia. In December 2005, the last indicted Croat by the ICTY, Ante GOTOVINA, was arrested and transferred to The Hague. Croatia had started its

cooperation with ICTY in 1997, when the first group of Bosnian Croats was delivered to The Hague. A great number of Bosnian Croats had fled Bosnia, after they have been indicted by ICTY, and were put under protection of Croatian intelligence. The most important group known as the “Group of Vitez” was delivered in August 1997. But TUĐMAN had delivered them after a strong American pressure. The role of the EU was weak. The role of the EU on the cooperation of Croatia with the ICTY became more important after the death of Franjo TUĐMAN, in December 1999. In 2001, TUĐMAN’s party, the Croatian Democratic Community (Hrvatska Demokratska Zajednica-HDZ), lost the elections. This was the first time this party was not in power after Croatia’s independence. A new government was created by a coalition of left and center left parties, led by the Social Democrats of Ivica RAČAN. RAČAN was a strong pro-European and he had fixed the objective to lead Croatia to EU. But his agenda will be undermined by the ICTY who launched the first indictments against two Croatian army generals: Ante GOTOVINA, the former chief of staff of Croatian army and Rrahim ADEMI, another general of Croatian Army from Kosovo. These indictments provoked a huge anti-ICTY sentiment in Croatia because these Generals were considered as war heroes. They were accused for war crimes committed against the Croatian Serb civilians, during the operation *Storm* which allowed Croatia to recover the Serb controlled Krajina region, in 1995. In August 2001, ICTY launched another indictment against Janko BOBETKO, a retired Croatian army General who was accused for crimes committed in the Gospić region during the war. Ivica RAČAN had to manage the public opinion which was predominantly against the delivery of the Generals and also his coalition partners who openly refused the delivery of generals. Ante GOTOVINA refused to deliver himself to The Hague and entered clandestinity. He became even more popular after he entered clandestinity. After these indictments against the Croatian generals, the question of cooperation with the ICTY became extremely politicized in Croatia. The nationalist opposition led by HDZ took the opportunity to criticize the government and organized huge protests in most of Croatian cities. The main argument was to refuse the delivery of the generals to The Hague.

The extreme politicization of this issue contributed to the return of HDZ to power in 2003.<sup>13</sup> European Union's pressure on Croatia was constant, not only to deliver the generals to The Hague but also to make the necessary economic, political and administrative reforms as well as the return of Croatian Serbs, expelled from Croatia in 1995. Croatian generals were indicted for crimes committed during the operation Storm and their charges were considered as an attack against the legitimacy of what they named "the Homeland war". This question was even more important if we consider that Croatian democratic state was built on the basis of an official narrative focused on the "Homeland War" and its heroes. The Croatian government created a group of experts to analyze the concept of "joint criminal enterprise" which appeared in the indictments against the generals.<sup>14</sup> The opposition leader, Ivo SANADER, "played a double game through political rhetoric meant to appeal both the EU and the International Community as well as to the party's right-wing, furious over the indictment".<sup>15</sup> But the influence of the "European factor" was indeed evident in the party's makeover and sizable shift in policy<sup>16</sup>. However, the issue of cooperation with the ICTY was extremely important for RAČAN Government because, Ivica RAČAN wanted to open the negotiations to enter EU. Another important question was Croatia's integration in NATO. Of the three generals indicted for war crimes, only Rahim Ademi surrendered voluntarily to The Hague. Ante Gotovina had entered clandestinity soon after he was indicted and Janko BOBETKO was not delivered by Ivica RAČAN who managed to convince the Europeans (and the Americans) that the general was ill and unable to face trial. He died in 2003 in his house. The relative flexibility of the EU on RAČAN's proposals and refusal to deliver Janko BOBETKO was that, it didn't want to put too much pressure on the new Croatian government because it had a lot of reforms to do and had not sufficient support in the public opinion. In 2003, HDZ will come back to power and in April 2004, EU will open the accession negotiations with Croatia. But EU will continue to put pressure on the new government to

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<sup>13</sup> VUKPALAJ, A. (2010): *Ex-Yugoslavie, De la guerre a la justice...* op.cit. p. 168.

<sup>14</sup> TESSER, L. (2013): *Ethnic Cleansing and the European Union: An Interdisciplinary Approach to Security, Memory and Ethnography*. London: Palgrave Macmillan 2013, p. 153.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid., p. 154.

deliver GOTOVINA who was still at large. Ivo SANADER will deliver to The Hague another group of Bosnian Croats, the former leaders of the self-proclaimed Republic of Herceg-Bosna. EU had conditioned the negotiations with a positive opinion of the Chief Prosecutor of the ICTY, Carla Del PONTE who after the delivery of the Bosnian Croats and two other Croatian generals, Mladen MARKAČ and Ivan ČERMAK, gave a positive opinion on Croatia cooperation with the Tribunal. Del PONTE avoided mentioning Gotovina on her cooperation report, and Croatia became an official candidate to enter the EU.

The GOTOVINA case will reappear in March 2005, before Croatia had to sign its Stabilization and Association Agreement with the EU. After Del PONTE gave a negative opinion on Croatia's cooperation, the European Union suspended the signature of this agreement. Del PONTE accused the Croatian Government lack sufficient will to arrest the army general and accused the nationalists of the HDZ to obstruct his arrest. EU fixed autumn as the next deadline to sign the SAA with Croatia and asked for concrete measures to be taken by the Croatian administration. As a result, the Croatian government conceived a new plan that was supposed to lead to the arrest of GOTOVINA. This plan provided a close cooperation between the Croatian general attorney, Mladen BOJANIĆ and the Hague Tribunal. This had to prove the good will of Croatia to cooperate fully with the Tribunal. The EU Commissioner in charge of EU enlargement, Oli REHN, declared at this occasion that the non-arrest of Ante GOTOVINA obliged the EU to postpone the signature of the agreement. He said that, Croatian state institutions should have, at least, located Ante GOTOVINA. This postponement provoked a huge reaction in Croatia. The Croatian Prime Minister, Ivo SANADER, said he was "disappointed" and expressed his discontent with this decision since, he said that the government had fully cooperated with the Tribunal and denied that they have been in contact with GOTOVINA.<sup>17</sup> This postponement with contribute to raise euroscepticism in Croatia.

Thus, in Mai 2005, only one month after this decision, 44% of Croatian people were against the EU integration. The number of pro-Europeans was 42%. Croats were critical for what they considered as a « constant

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<sup>17</sup> *Le Monde*, 18 mars 2005.

suspicion » of Europe towards Croatia.<sup>18</sup> In October 2005, the EU signed the SAA with Croatia even if GOTOVINA was not arrested yet. But Carla Del PONTE had given a positive opinion on Croatia cooperation with the ICTY based on the cooperation plan and collaboration with the Tribunal. Less than two weeks after the arrest of GOTOVINA in December 2005, the American Senate recommended Croatia's admission in NATO as soon as possible<sup>19</sup>. Even if Croatian national leaders were aware of the common national anti-ICTY stance, they maintained a moderate attitude and shared a pro-European rhetoric, throughout the pre-accession period<sup>20</sup>.

### **6.3 European integration and Serbia's conditioning**

European Union's conditioning to Serbia started very early too. This pressure was intensified after the signature of Dayton Peace Agreement. Serbia will not only be conditioned by the EU but also by the Americans. Before the fall of the MILOŠEVIĆ regime, this pressure upon Serbia concerned the delivery of Bosnian Serbs who were hiding in Serbia. Serbia as a country with the greatest responsibility in the Balkan wars during the 1990 will have the greatest number of indicted persons by the ICTY. These indicted persons were considered as "national heroes" in Serbia and ICTY was considered as a biased tribunal whose primary aim is to judge Serbs and be used as a political tool against Serbs. Therefore, cooperation with the ICTY began only after the European Union and the United States officials made it clear that closer relations with Serbia were dependent on the latter's full cooperation with the ICTY.<sup>21</sup>

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<sup>18</sup> THOMAS, D. (2005): Bloquée aux portes de l'Union Européenne. *Le Courier des pays de l'Est*, 2005/4-n°1050, p. 59.

<sup>19</sup> RAMET, S. P. (2008): *Serbia, Croatia and Slovenia at Peace and at War*. Berlin-Hamburg-Münster: LIT Verlag 2008, p. 219.

<sup>20</sup> DALLARA, C. (2014): *Democracy and Judicial Reforms in South-Eastern Europe, between the EU and the Legacies of the past*. New York: Springer 2014, p. 43.

<sup>21</sup> Human Rights Watch, World Report 2006: Events of 2005. [Cit. 13.1.2015.] Available at <[www.hrw.org](http://www.hrw.org)>.

The most important moment of Serbia's cooperation with the ICTY was the arrest and transfer of Slobodan MILOŠEVIĆ to The Hague. MILOŠEVIĆ was delivered at the end of June 2001<sup>22</sup>. MILOŠEVIĆ was indicted in May 1999, during the NATO campaign against Serbia with six other high Serbian officials. He was the first Head of state to be indicted by an international criminal tribunal. After his transfer in The Hague, he became the first Head of State to be judged by an international criminal justice institution. MILOŠEVIĆ's arrest and transfer to The Hague marked also the implication of the EU in Serbia's post MILOŠEVIĆ era. EU promoted the cooperation with the ICTY as a transitional justice institution which was supposed to promote constitutionalism in Serbia in the broader sense. The aim was to show some willingness to move forward with respect to issues or state's responsibility, breaking with the previous regime and also addressing the role of nonstate actors as to accountability. This would reinforce local justice processes and point in a new direction as to the commitment to protect minorities<sup>23</sup>. Therefore, soon after Slobodan MILOŠEVIĆ's transfer to The Hague, the President of the EU Commission, Jose Manuel BARROSO, declared that this transfer proves the determination of the new Serbian government to achieve full cooperation with the ICTY. Nicholas BURNS, the US Under Secretary for Political Affairs, mentioned that: "we have been explicit with Belgrade; constructive engagement in the Kosovo status process, full cooperation with ICTY (...), and a constructive regional role, notably in Bosnia, would help clear the path to EU and NATO membership".<sup>24</sup> Nevertheless, the EU pressure on Serbia after the fall of MILOŠEVIĆ was moderate. The pressure put upon Vojislav KOŠTUNICA, a nationalist leader who criticized the Tribunal had to do with the risk that Serbia be isolated and turn towards Russia. And another cause of this moderation was the question of Kosovo that was in its

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<sup>22</sup> VUKPALAJ, A. (2010): *Ex-Yuogoslavie, de la guerre a la justice...*op.cit. p. 273.

<sup>23</sup> TEITEL, R. G. (2014): *Globalizing Transitional Justice: Contemporary Essays*. Oxford: Oxford University Press 2014, p. 198.

<sup>24</sup> DEYRUP, I. (2007): La position des Etats-Unis : l'impatience de parvenir a un règlement. In LIZIN, A.-M.: *Kosovo, l'inévitable indépendance*. Bruxelles: Éditions Luc Pire 2007, p. 37.

road to declare independence.<sup>25</sup> There are the reasons why, during the months that followed the immediate fall of MILOŠEVIĆ, in October 2000, EU avoided to mention the Hague tribunal. The EU commissioner Chris PATTEN declared in October 2000 that the EU financial support for Serbia will not be conditioned by the transfer of Slobodan MILOŠEVIĆ in The Hague. Europeans (and Americans) were much more interested to support the democratic transition than to ask Serbia to deliver the indicted persons to the ICTY. This doesn't mean that this question would be avoided, but it had to be careful to the sensitive political situation and the conflict between coalition partners of the Democratic Opposition of Serbia (DOS). Vojislav KOŠTUNICA, a constitutionalist, was a convinced anti-ICTY. He declared, soon after he was elected that he was not going to cooperate with the ICTY. He will have difficulties to communicate with the Tribunal's Chief prosecutors. He declared constantly that cooperation with The Hague Tribunal was not a priority for Serbia. On the contrary, the other strong man of the Serbian transition, Zoran DJINDJIĆ was more pragmatic and saw an opportunity to get rid of MILOŠEVIĆ by delivering him to The Hague. But this question was complicated since, in Serbia, the Hague Tribunal was extremely unpopular. DJINDJIĆ saw also the opportunity to gain the support of the EU and USA by delivering MILOŠEVIĆ to The Hague.

But the arrest of MILOŠEVIĆ was not the end of Serbia's cooperation with ICTY. Important fugitives of ICTY were hiding in Serbia. Among them, the most popular were Radovan KARADŽIĆ and Ratko MLADIĆ, the former political and military leaders of Bosnian Serb accused for massive crimes in Bosnia. After MILOŠEVIĆ' delivery to The Hague, the role of the EU will be crucial for the delivery of the other persons indicted in Serbia. Thus, in December 2005, the EU "recompenses" Serbia with the signature of Stabilization and Association Agreement after Serbian government played a constructive role in cooperation with the ICTY. 14 persons were delivered to The Hague during the period 2001-2005. But, in May 2006, the EU interrupted its negotiations with Serbia because of the negative report of Carla Del PONTE on Serbia's cooperation with the

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<sup>25</sup> SEBASTIAN, S. (2010): The Balkans, European Inducements. In YOUNGS, R.: *The European Union and Democracy Promotion: A Critical Global Assessment*, Baltimore, John Hopkins University Press 2010, p. 45.

ICTY. In her report, she declared that "the inability of Serbia to arrest the other fugitives is worrying" and mentioned also the other difficulties the tribunal faced with Serbia such as the obstruction of Serbian authorities to obtain the required documents for trials etc. Nevertheless, even if EU interrupted the negotiations, it didn't interrupt the financial and technical aid necessary to continue the reforms. These aides were only reduced. However, the negotiations interruption with Serbia will cause concern for Europeans who were looking to find a solution to arrest Ratko MLADIĆ who has been the main cause of negotiations interruption. This became more problematic after Kosovo was moving towards independence. The isolation and Kosovo independence could reinforce radical forces in Serbia and push Serbia to approach further with Russia. Vojislav KOŠTUNICA's government lacked a majority in the Serbian parliament and was ruling with the support of ŠEŠELJ's Radicals and that of the Socialist Party of Serbia (SPS).

At the time the negotiations with Serbia were interrupted, six ICTY fugitives were still at large. Five of them were in Serbia: Goran HADIĆ, Radovan KARADŽIĆ, Ratko MLADIĆ, Zdravko TOLIMIR, and Stojan ZUPLJANIN. Vlastimir DJORDJEVIĆ, the former police general accused for crimes committed in Kosovo was supposed to be in Russia. But Radovan KARADŽIĆ and Ratko MLADIĆ were the most wanted fugitives especially after the death of Slobodan MILOŠEVIĆ in The Hague, in July 2006. In December 2006, The Chief Prosecutor of the ICTY, Carla Del PONTE declared that «if the Serbian government really wished it, it could very well arrest Ratko MLADIĆ, who had never ceased to benefit the Army's protection and that the arrest of these fugitives is a question of political will. She accused Serb authorities for lack of cooperation. This pressure put upon Serbia will result with the arrest of Radovan KARADŽIĆ in May 2007. A few months earlier, another Bosnian-Serb army general, Zdravko TOLIMIR was arrested. Serbian authorities had arrested him in Novi Sad but they had delivered him to Bosnian Serb authorities to deliver him to The Hague. TOLIMIR was considered as a key person for the organization of Serbian army crimes dissimulation. He organized the dissimulation of thousands of dead bodies of people killed in Bosnia and in Kosovo. In Srebrenica, he was accused to have reopened the mass graves and buried the victims' bodies in secondary graves, along Drina River.

The arrest of Radovan KARADŽIĆ was considered as a sufficient argument that proved Serbia's good will to cooperate with the ICTY. Several EU countries considered that EU should continue integration negotiations even if Ratko MLADIĆ was still at large. They considered that this would be a support for the government of Serbia, but behind this support, there was the Kosovo Question that pressured EU in this direction. The European Commission President, Jose Manuel BARROSO, speaking of the arrest of Radovan KARADŽIĆ, the war architect of ethnic cleansing declared that: "this is a very positive development that will contribute to bringing justice and lasting reconciliation in the Western Balkans".<sup>26</sup> But, notwithstanding Serbia's capture of war crimes suspect Radovan KARADŽIĆ in July 2008, the issue of cooperation with the ICTY will continue to interfere with Serbia's European aspirations. European countries will be divided too, over the proceeding with Serbia. This ambivalence will cause that even if EU decided to sign an SAA with Serbia in April 2008, EU member states required the arrest and transfer to The Hague of Ratko MLADIĆ for the ratification of this agreement. The Netherland, in particular, blocked the implementation of the interim trade agreement attached to the SAA until December 2009, when the ICTY Chief prosecutor, Serge BRAMMERTZ, confirmed that Serbia's cooperation with the Tribunal was progressing. The implementation of this agreement was a prerequisite for moving ahead with Serbia's integration process.<sup>27</sup> Despite Serbia's cooperation with ICTY, observers agree that the EU strategy of conditioning the progress of ex-Yugoslav countries rewards joining the union on their cooperation with the ICTY "has been a key tool in ensuring that perpetrators of war crimes committed during the Balkans wars face trial and victims see justice".<sup>28</sup>

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<sup>26</sup> TEITEL, R. G. (2014): *Globalizing Transitional Justice: Contemporary Essays*, op. cit. p. 197.

<sup>27</sup> YOUNGS, R. (2010): *The European Union and Democracy Promotion: A Critical Global Assessment*. Baltimore: John Hopkins University Press 2010, p. 43.

<sup>28</sup> TEITEL, R. G. (2014): *Globalizing Transitional Justice: Contemporary Essays*. op.cit. page 197.

## 6.4 Serbia and ICTY after Kosovo's independence

Kosovo declared its independence on February the 17<sup>th</sup> 2008. At that moment, four war crimes suspects were still at large and were hidden in Serbia. Among them, the most popular was Ratko MLADIĆ. But, the declaration of independence of Kosovo will have a direct impact on Serbia's cooperation with ICTY. Serbia will progressively pass this question to a second plan. It will have also a direct impact on war crimes trials in Serbia. The majority of trials for war crimes in committed in Bosnia and Kosovo and which were ongoing in Serbian courts will be transformed on cosmetic trials. This will be "a revenge" of Serbia over the International Community's support for the independence of Kosovo. EU had prepared to this situation almost a year before. Thus in June 2007, four months after Kosovo declared its independence and was recognized by the most Western states, the EU officials made e declaration that "full cooperation with the ICTY was no longer a prerequisite to continue accession negotiations".<sup>29</sup> In May 2008, European Commission will offer a Roadmap on Visa-free Travel to Serbia, the first state from the Western Balkans to be given a concrete plan for visa liberalization.<sup>30</sup> This agreement will lose its earlier conditionality on full co-operation with the ICTY as a pre-condition for further integration. This will be done before legislative elections will take place in June 2008. EU hoped to boost the chances of the pro-EU political formations to win the elections. Nevertheless, EU has been criticized for its policy of not putting pressure on Serbia.

Human Rights organizations will continue to require Serbia's conditioning with cooperation with ICTY. Their arguments will be that this will encourage extreme nationalists who adamantly and openly defend the Serbian "war heroes". But EU wanted to reassure Serbia on the accession road to EU, and allow bringing Kosovo to independence without physical or psychological resistance on the Serbian side. During the election campaign

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<sup>29</sup> RAJKOVIC, N. M. (2012): *The politics of international Law and Compliance, Serbia, Croatia and the Hague Tribunal*. New York: Routledge 2012, p. 90.

<sup>30</sup> NOUTCHEVA, G. (2012): *European Foreign Policy and the Challenges of Balkan Accession, Conditionality, legitimacy and compliance*. London: Rutledge 2012, p. 78.

of 2008, EU officials abstained from any statement that would condition Serbia with delivery of War crime suspects. EU was aware that such a conditioning or even debate would serve radicals to win the elections. The question of Kosovo was already a hot question and was already a risk. Any mention of ICTY would complicate the situation. Shortly after a new government was created, EU called for a restart of Stabilization and Association agreement. The strategy of EU was to avoid conflicts and promote peace and stability in the region. This policy of simultaneity will continue until EU will be able to propose to Kosovo and Serbia access to EU. Bringing Serbia and Kosovo together in the EU was considered as the only way to address a number of unresolved differences. After decades of silence, it is only in the context of EU accession aspirations that these countries have indicated willingness to engage regarding their past. The cooperation with the ICTY has become one of these questions where countries dealing with their state's past grievances reflect on their democratic potential for the future-although dealing with war crimes may well be easier than showing such capacities exist to deal with conflicts in the here and now. But more fundamentally, it is predicated on the view that justice is the path to transformation in the treatment of transnational peoples in the region.

### ***Conclusion***

After the regime changes in Serbia and Croatia, the issue of cooperation with the ICTY has shaped the pace and nature of integration with the EU. Successive governments in Serbia and Croatia, since 2000 have very often used nationalism to justify their indecisiveness. On major questions concerning transitional justice, there has been no clear break within the political elite of these countries.<sup>31</sup> Thus, even if the prospect of closer integration with the EU has encouraged these countries to cooperate with the ICTY. Nonetheless, the unpopularity of this Tribunal in Serbia (and Croatia) after the regime changes was very high. In Croatia, because of the indictment of the highest army generals and the contest of the narration of

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<sup>31</sup> See: BRANIFF, M. (2011): *Integrating the Balkans... op. cit.*, p. 137.

the “homeland war”, in Serbia because of the transfer of Slobodan MILOŠEVIĆ and the huge number of indicted Serbs, years, public and elite support for the ICTY has remained low. This indicated that although these countries have been transformed, it continues to be not sufficient. Therefore, even if the conditioning of the process of integration with the prospect of joining the EU has been extremely effective to support transitional justice in these countries, it could not transform fundamentally the issue of conflict in these countries. As far as public opinion is concerned, this process of EU-forced cooperation with the ICTY has been rather controversial and unpopular issue, although, less in Croatia than in Serbia.

### **Assistant Professor Anton VUKPALAJ**



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*difference?* Hamburg: Anchor Academic Publishing 2013. ISBN 978-3-95489-183-2.

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## 7 Multi-ethnicity in the Western Balkans. Kosovo as a successful story.

**Arton MUSLIU\***

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**Abstract:** *The wars in western Balkans have been due to territorial and ethnic motives. The dissolution of the former Socialist Federative Republic of Yugoslavia was accompanied by bloody wars that were ethnically motivated by politics led by hegemonic Serbia. The real reason of these wars was the hegemonic politics of Serbia's president MILOŠEVIĆ. He dreamed the Greater Serbia project and that's why he fought in almost all over former Yugoslavian territories. While the desire of the other Yugoslavian countries was achievement of the independence through the peaceful dissolution of the Yugoslavian federation. Ethnic groups in former federation claimed the creation of their national states. There were typically two political options, whether to allow them create their own state, which could reflect the very idea of Yugoslavian confederation or save the country's unity and keep domination of Serbia over other nations.*

**Key words:** *multi-ethnicity, hegemonic aspirations, self-determination*

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<sup>1</sup> Political project of Greater Serbia begun with "Nacertanje" of Ilija GARAŠANIN, in 1844. This project was continued by Vuk Stefanović KARADŽIĆ, Nikola STOJANOVIĆ, Vaso ČUBRILOVIĆ who presented a memorandum on the removing of the Kosovo Albanians, in 1937. While the memorandum of the Academy of Sciences and Arts of Serbia, whose president was Dobrica ĆOSIĆ, in 1986, was the basis document for the Greater Serbia and its hegemony against other nations of the former Yugoslavia. For more see: BLITZ, Brad K.: *War and Change in the Balkans - Nationalism, Conflict and Cooperation*. Cambridge: Cambridge University Press 2006. See also: Victor MEIER: *Fundi i Jugosllavisë- Goditja në Kosovë*. Lubjanë: Liria 2006.

## *Introduction*

Slovenes, Croats, Bosnians, Macedonians and Albanians in Kosovo were seeking for respect of principle of the inviolability of borders. So, they had no territorial claims on other neighboring territories. From the very beginning, those entities were promoting the idea of equality and what was later known and promoted by ex communist leader Josip BROZ TITO, “*Brotherhood and Unity*”. Apart from this idea, it was only Serbia who followed another political discourse, the one with ethnic purposes. Serbia claimed territories in Croatia and didn’t take them. It wanted in Bosnia and Herzegovina and took them through the creation of the separate unit of the Republic of Srpska. Also, hegemonic and genocidal Serbia through the military means occupied Kosovo but because of the internal as well as external reaction, didn’t succeed. Definitely, it was the international community which prevented Serbian hegemonic aspirations; otherwise the map of the western Balkans without international community’s intervention would look like differently. Therefore, Serbia did not stop indeed; they tried to find some other ways to achieve her ambitions through other options, namely legal option. In this way, Serbia filed a question to the Badinter Commission whether the Serb populations in Croatia and Bosnia and Herzegovina, as one of the constituent peoples of Yugoslavia, have the right to self-determination? Of course, the answer was negative because the European Community was determined for the territorial nature of constitutional self-determination. This kind of self-determination ignores the ethnic claims and enables the multiethnic or multinational states. It is known that in the multiethnic states there is majority and national minorities or minority peoples. I would finally say that in Bosnia there are a minority people of Serbs, as well as the minority people of Albanians in Macedonia. Also, I would say that there is a national minority of Serbs, Turkish, Roma, Egyptians in Kosovo, as well as, national minority of Albanians in Serbia, the national minority of Croats in Bosnia and the national minority of Serbs in Croatia.

## 7.1 The creation of multi-ethnic states

The process of decolonization, designed by the international community, in most cases produced heterogeneous states. The right of self-determination, accompanied by the principle of *Uti Possidetis*, prevented the creation of the pure ethnic states. In Africa for example, only four out of the approximately fifty states that have emerged from the process of decolonization have homogeneous population. These are: Swaziland, Lesotho, Botswana and Somalia<sup>2</sup>. This principle was applied in the same way also in the process of dissolution of the former communist federations, including the former federation of Yugoslavia.

It was considered a successful history in Africa; by the way this precedent was applied further in 1990 - in the case of dissolution of the former Soviet Union, Yugoslavia and Czecho-Slovakia<sup>3</sup>. But while in the process of the decolonization there were no conditions for achievement of independence, in the case of the dissolution of these federal states there were some conditions that should be fulfilled in the way to achieve the independence. According to the 'Guidelines for the Recognition of New States in Eastern Europe and the Soviet Union', date 16 December 1991, Member States of the European Community recognition of new states of Yugoslavia conditioned by the installation of the rule of law, democracy and human rights and by guarantee of the rights of ethnic and national groups and minorities in accordance with the commitments made in the framework of the Organization for Security and Cooperation in Europe<sup>4</sup>.

Thus, European Community through the Peace Conference on Yugoslavia established the Badinter Commission, whose role was to verify whether Croatia and Slovenia, but also other Yugoslavian republics have fulfilled the conditions for recognition. This commission was led by Robert BADINTER, a French lawyer. In general terms the Badinter Commission

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<sup>2</sup> EMERSON, Rupert (1960): Nationalism and Political Development. *The Journal of Politics*, Vol. 22, No. 1, February 1960, p. 3-28.

<sup>3</sup> HASANI, Enver (2010): *Self-Determination, Territorial Integrity, and International Stability: The Case of Yugoslavia*. Prishtina: Buzuku 2010, p. 51.

<sup>4</sup> RAIČ, David (2002): *Statehood and the Law of Self-Determination*. The Hague: Kluwer Law International 2002, p. 355.

used the international principle of *Uti Possidetis* which reflected the conversion of the administrative boundaries to the state borders. According to the commission, the right for statehood belongs only to the federal republics which were: Serbia, Croatia, Slovenia, Bosnia and Herzegovina and Macedonia<sup>5</sup>. Kosovo of that time was ignored because, according to Robert BADINTER, it was not a federal unit/entity of the federation.

In the second opinion the commission expresses the attitude that the creation of new states should not reflect the modification of existing borders at the time of independence. The Commission was asked from Serbia in this way:

*“Does the Serb population in Croatia and Bosnia and Herzegovina, as one of the constituent peoples of Yugoslavia, has the right to self-determination”?*

The commission in the second opinion decided that:

*a). In whatever circumstance, the right to self-determination should not affect the modification of existing boundaries at the time of independence (UTI Possidetis Juris), unless States agree otherwise .*

*b). When a country has more than one ethnic, religious or linguistic group, they have the right to be recognized under international law. Norms of international law require respect for the rights of minorities. This requirement is for all the territories of the republics in which there are minorities.*

*c). Serbian people in Croatia and Bosnia and Herzegovina should be offered every right that has to do with minorities and ethnic groups on the basis of international law and the provisions of Chapter 2 of the draft - Convention of 4 November 1991, of the Conference on Yugoslavia , which is accepted by these republics.*

*d). The Republics should provide to the members of these minorities and ethnic groups all human rights and fundamental freedoms recognized by the international law, including the right to choice the nationality<sup>6</sup>.*

So, we can say that in the case of dissolution of the former federal state of Yugoslavia the ethnic requirements were ignored. That's why there was

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<sup>5</sup> PELLET, Alain (1992): *The Opinions of the Badinter Arbitration Committee, A Second Breath for the Self-Determination of Peoples*. 3 EJIL (1992) 178, p. 184.

<sup>6</sup> Ibid. p. 184

territorial self-determination. The territorial self-determination used in western Balkan<sup>7</sup> countries devised multiethnic states. Functioning of the multiethnic states, notably in the western Balkan states, is very complicated, at the same time is a challenge for the European community. But while this is the only approach of the international community we should try at the same time to retain the international stability and to protect the rights of ethnic groups in the multiethnic states. In this line, Anna MOLTCHANOVA proposes a treatment of minority nationalism that preserves the stability of multinational states<sup>8</sup>. An important author of international law, Antonio CASSESE in his book ‘Self-Determination of Peoples’ explains the role of the minorities within states. According to him;

*“First, a satisfactory treatment of minorities is based on the imperative condition that internal self-determination for the whole population should be realized. That the whole population of the state that minorities live be granted the continuing right freely to choose its rulers through a democratic process is a (necessary but not sufficient) pre-condition for full respect of the rights of minorities. This fundamental concept was recently spelled out in the Report of the CSCE Committee of Experts on National Minorities, adopted on 19 July 1991”<sup>9</sup>.*

To protect the minority group rights he proposes three opportunities. According to him it is for the minority group to declare what type of protection they want:

1. Autonomy
2. Regional Self-Government
3. Participation in the national decision – making process<sup>10</sup>

Anyway this was also the vision of the European community. States in western Balkans are created on the territorial basis, ignoring ethnic issues. This type of European community policy was expressed from Javier

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<sup>7</sup> It is thought to the countries that have emerged from former Yugoslavia except (Slovenia), plus Albania.

<sup>8</sup> MOLTCHANOVA, Anna (2009): *National Self-Determination and Justice in Multinational States*. Springer Science + Business Media, Vol. 5, 2009, p.197 .

<sup>9</sup> CASSESE, Antonio (1999): *Self-Determination of People: A legal Reappraisal*. Cambridge: Cambridge University Press 1999, p. 351.

<sup>10</sup> Ibid. p. 352.

SOLANA, European Union High Representative for the Common Foreign and Security Policy at the time of NATO bombing campaign over Serbia in 1999. He said that:

*“What makes NATO so united in this crisis is the fact that in Kosova our long term interests and our values converge. For behind the plight of the Kosova’s there is even more at stake: the future of the project of Europe. The conflict between Belgrade and the rest of the international community is a conflict between two visions of Europe. One vision-Milosevic’s vision- is a Europe of ethnically pure states, a Europe of nationalism, authoritarianism and xenophobia. The other vision, upheld by NATO and the European Union and many other countries, is of a Europe of integration, democracy and ethnic pluralism. This is the vision that has turned Europe and North America into the closest, most democratic and prosperous community ever built...If this positive vision of Europe is to prevail, if Europe is to enter the 21<sup>st</sup> century as a community of states practicing democracy, pluralism and human rights, we simply can not tolerate this carnage at its centre’<sup>11</sup>.*

But, despite the 78 days bombing campaign by NATO, MILOŠEVIĆ’s regime killed thousand of innocent peoples, deported about one million ethnic Albanians and raped about twenty thousand Albanian women. According to Noel MALCOLM:

*” By 20 April 1999 it was calculated that nearly 600,000 refugees had left Kosova in the previous four weeks: 355,000 were in Albania, 127,500 in Macedonia, 72,500 in Montenegro and 32,000 in Bosnia. This was in addition to an estimated 100,000 who had left during 1998. And inside Kosova, according to NATO spokesman, there were five large pockets of ‘displaced’ Albanians, representing a total of 850,000 people<sup>12</sup>.*

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<sup>11</sup> LATAWSKI, Paul – SMITH, Martin (2003): *The Kosovo crisis and the evolution of post cold war- European security*. Manchester: Manchester University Press 2003, p.164.

<sup>12</sup> BLITZ, Brad K. (2006): *War and Change in the Balkans - Nationalism, conflict and Cooperation*. Cambridge: Cambridge University Press 2006, p. 153.

The escalation of situation in Kosova was also an important issue in the European Council meeting held in Berlin on 24 and 25 March 1999. According to the meeting outcomes:

*“Since the outbreak of hostilities in Kosovo in March 1998 around 440 000 people, more than one fifth of the population of Kosovo, have lied or been displaced. There are new victims every day. The civilian population is the target of the hostilities”*<sup>13</sup>.

Despite these war crimes and genocide, that was manifested by the massive violations of human rights of ethnic Albanians of Kosovo, the newest state of the southeast Europe didn't revenged against the ethnic minorities in general and against the Serb minority in particular. Besides this Kosovo's society has told that Kosovo is not going to forget the past but no way will revenge for war crimes that happened between 1998-1999 in this area of western Balkans.

## **7.2 Kosovo minority treatment**

Kosovo after the war was administered by the 1244, Resolution of Security Council of the United Nations Organization. Until 2008 Kosovo representing bodies in the international relations were mixed. While Kosovo did not participate on the Summit of Zagreb in 2000<sup>14</sup>, the Thessaloniki Summit was the first large scale EU event in which “Kosova's political leaders” were present. In attendance at this summit was the former Head of UNMIK<sup>15</sup>, Michael STEINER, Kosovo's President, Ibrahim

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<sup>13</sup> *Bulletin of the European Union*, No. 3, 1999, p. 20.

<sup>14</sup> Note: After the removal of MILOŠEVIĆ on 24 September 2000, the EU held a further summit to commence this more intense strategy. At the Zagreb summit in November 2000, post-Milosevic, the EU reaffirmed the European perspective of the countries participating in the stabilization and association process and their status as potential candidates for membership in accordance with the Feira Conclusions. For more see: BRANIFF, Máire: *Integrating the Balkans, conflict resolution and the impact of EU expansion*. London: I.B. Tauris and Co Ltd. 2011.

<sup>15</sup> United Nations Mission in Kosovo.

RUGOVA, and the Prime Minister, Bajram REXHEPI<sup>16</sup>. In this context by the “Thessaloniki’s agenda for Western Balkans”, approved by the heads EU states, people of a multiethnic and democratic Kosovo will have their place in Europe.<sup>17</sup>

More than this, minorities by the Constitution of the Republic of Kosova and The Comprehensive Proposal for the Kosovo Status Settlement<sup>18</sup>, which became part of the Constitution of the Republic of Kosovo, has guaranteed representative rights in the public institutions. The preamble of Constitution of the Republic of Kosovo amongst others says:

*“Determined to build a future of Kosovo as a free, democratic and peace-loving country that will be a homeland to all of its citizens....Committed to the creation of a state of free citizens that will guarantee the rights of every citizen, civil freedoms and equality of all citizens before the law”*<sup>19</sup>.

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<sup>16</sup> *Kosovo-EU Relations: The History of Unfulfilled Aspirations-Lost opportunities in Kosova’s European integration process*. Prishtina: Kosovo Foundation for Open Society 2013, p.9.

<sup>17</sup> *The Thessaloniki agenda for the Western Balkans* (2006). [Cit. 12.1.2015.] Available at <http://www.westernbalkans.info/htmls/page.php?category=391&id=419>.

<sup>18</sup> Note: The Comprehensive Proposal for the Kosova Status Settlement, or Ahtisaari Plan, presents the most formal proposal for resolving the Kosova situation. The former Finnish Premier Marti AHTISAARI, who won the Nobel Peace Prize, was appointed as Special Envoy from the United Nations in order to mediate a peace settlement between Republic of Kosovo and Serbia. At the end of the process of the negotiations between two sides he came to his proposal. On 26 march 2007, The Secretary- General submitted a report of his Special envoy to the Security Council . In this report AHTISAARI say’s that: Taking into account the recent history of Kosova, Kosova’s reality today and considering negotiations with the parties, I have come to the conclusion that the most sustainable solution for Kosova is supervised independence for an initial period by the international community ". For more see: LANDIS, Dan - ALBERT, Rosita D. (2012): *Contribution of the U. Schwegler and L.R. Smith. Handbook of Ethnic Conflict – International Perspectives*. Springer Science + Business Media 2012. Also see: *The ICJ Advisory Opinion on Kosovo*. ICJ Report 2010. Available at <http://www.icj-cij.org/docket/index.php?p1=3&p2=4&code=kos&case=141&k=21&p3=0>.

<sup>19</sup> *Constitution of the Republic of Kosovo*.

Article 3.1 of this Constitution expresses the liberal European vision for a multiethnic society. It emphasizes:

*“The Republic of Kosovo is a multi-ethnic society consisting of Albanian and other Communities, governed democratically with full respect for the rule of law through its legislative, executive and judicial institutions”<sup>20</sup>*

By the way, Kosovo has consolidated the legal framework related to the rule of law, human rights and the protection of minorities. This is said at the Feasibility Study for a Stabilization and Association Agreement between the European Union and Kosovo, in December 2012. According to this document:

*“....Over the past three years, the functioning of democratic institutions and the respect for the rule of law have been consolidated. The necessary institutions have been established.... The constitution of Kosovo and the overall legislative framework provide guarantees for basic human rights and the protection of minorities. Although Kosovo is not a member of the UN or the Council of Europe, its constitution stipulates that key UN and Council of Europe conventions and protocols are directly applicable in Kosovo and take precedence over Kosova's legislation. Over the past three years, Kosovo has taken steps to implement these provisions in practice..... The legislative framework for the protection of minorities is in place, including constitutional guarantees.*

According to Kosovo's constitution, the Council of Europe Framework Convention for the Protection of National Minorities is directly applicable in Kosovo. This framework Convention was decided to be drafted at the Vienna meeting by the Heads of States and Governments of the Council of Europe in October 1993. At the Vienna meeting it was decided that a legal instrument would be drafted with regard to the protection of national minorities.<sup>21</sup> The Framework Convention for the Protection of National Minorities<sup>22</sup> offers the equal treatment of minorities and majorities before

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<sup>20</sup> Ibid

<sup>21</sup> SHAW, Malcolm N. (2003): *International Law*. Fifth Edition. Cambridge: Cambridge University Press 2003, p. 341.

<sup>22</sup>The Framework Convention for the Protection of National Minorities was drafted by the Ad Hoc Committee for the Protection of National Minorities, of the Council of Europe. It was adopted on 10 November 1994 and opened for

the law. In this document the essential elements of national minority's identity are considered to be religion, traditions, language, and cultural heritage<sup>23</sup>.

This document is the first legally binding multilateral instrument devoted to the protection of the national minorities<sup>24</sup>. But it is interesting the fact that the framework Convention contains no definition of the notion of "national minority". According to the General Considerations of the Framework Convention for the Protection of National Minorities, the paragraph 12, "it is impossible to arrive at a definition (national minority) capably mustering general support of all Council of Europe member states".<sup>25</sup> But the Parliamentary Assembly of Council of Europe has provided an explanation related to the notion of 'national minorities'. According to Malcolm N. SHAW, Recommendation 1201 (1993) adopted by the Parliamentary Assembly and reaffirmed in Recommendation 1255 (1995) suggest that the notion 'national minorities' refers to persons who reside on the territory of the state concerned and are citizens of it; maintain longstanding, firm and lasting ties with the state; display distinctive ethnic, cultural, religious or linguistic characteristics; are sufficiently

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signature by the member states on 1 February 1995, in Strasbourg. The Convention came into force on 1 February 1998. For more see: SHAW, Malcolm N.: *International Law*. Seventh Edition. Cambridge: Cambridge University Press 2014. Also see: <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c10cf>>.

<sup>23</sup> MOLTCHANOVA, Anna (2009): *National Self-Determination and Justice in Multinational States*. Springer Science + Business Media, Vol. 5, 2009.

<sup>24</sup> Note: In sense of the right for self-determination, national minorities differ from the minority people. While the national minorities are excluded from the right of the self-determination, the minority people may have this right under special circumstances which are accompanied by huge violations of human rights. Also these two notions differ from each other because the national minorities are inferior numerically compared with the majority. While the minority people compared with the national minorities remain a bigger community and populate a compact territory within the state. For more see: RAIČ, David: *Statehood and the Law of Self-Determination*. The Hague: Kluwer Law International 2002.

<sup>25</sup> *The Framework Convention for the Protection of National Minorities, General Considerations*. Available at <<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016800c10cf>>.

representative, although smaller in numbers than the rest of the population of that state or of a region of that state; and are motivated by a concern to preserve together that which constitutes their common identity, including their culture, their traditions, their religion or their language<sup>26</sup>.

According to the article 1 of this framework Convention:

*“The protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights, and as such falls within the scope of international co-operation”.*

By the way let us summarize that Kosovo remains a model in the treatment of national minorities. Relying to the exPresident Ahtisaari’s Comprehensive Proposal for the Kosovo Status Settlement the Serb minority in Kosovo is positively discriminated. They have the right to have universities and hospitals. Their cultural heritage is protected by the central institutions, as well as, they are represented in two levels of governance. Persons belonging to minorities are well represented in the Assembly and in political functions at the governmental level. With strong international support, Kosovo has continued offering the possibility of return for displaced persons. Overall, over 23,000 persons belonging to minorities, most of them with the Serb national background, have returned to Kosovo since 2000. Kosovo has also started implementing decentralization, including the establishment of new municipalities with a majority of minority population...<sup>27</sup> Out of around 30 municipalities in Kosovo, 10 of them are ruled by Serbs. These rights are not recognized by Serbia for the Albanian national minority over there. That’s why it is not accepted the fact that Serbia took the status of Candidate Member from the EU at the time when there are major violations of the rights of the Albanian minority in Serbia, foreseen by the Framework Convention for the Protection of

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<sup>26</sup> SHAW, Malcolm N. (2003): International Law. Fifth Edition. Cambridge: Cambridge University Press 2003, p.343.

<sup>27</sup> *Communication from the Commission to the European Parliament and the Council on a Feasibility Study for a Stabilization and Association Agreement between the European Union and Kosova*, p. 7-9. Available at: <[http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/ks\\_feasibility\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf)>.

National Minorities and The European Convention for the Protection of Human Rights and Fundamental Freedoms, of the Council of Europe.

It used to be continuously presented into the academic as well as political discourse that independence of Kosovo will be used as precedent for other countries in the region, namely Bosnia and Herzegovina and Macedonia as countries lacking political and ethnic stability. Bosnians could use the Kosovo's model to split up the country as it remains to be fragile even two decades after the conflict with the division between Federation of Bosnia and Republic of Srpska<sup>28</sup>. Macedonians will do the same as there are still hot and sensitive ethnic issues country is going through. On the contrary, Kosovo as a multiethnic state has shown that the coexistence of different ethnic groups is possible. Thus the integration of national minorities in Kosovo's' public and political life is a fact that the newest state in western Balkans is a safe country with European future, where all ethnicities feel equal and safe.

Finally, it is to be said that the only way to maintain the stability within the western Balkan states is the self-governance for the national minorities. Stability in the Western Balkans countries, especially in those countries where there are national minorities and minority peoples, is possible only by the quality of the rights granted to them. Under the provisions of international law, minorities should enjoy their religious, linguistic, and cultural rights within the state, as well as their traditions. This is the multiethnic concept of states which is designed by the international community. Anyway we should consider that any violation of the rights of minorities in any country of the western Balkans could lead to the escalation of the overall situation in this part of Europe.

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<sup>28</sup> Note: Republic of Srpska did not exist in the former federation of Yugoslavia. There is an agreement between many scientists and politicians that such entity was created based on the genocide and bloodshed in Bosnia and Herzegovina.

## *Conclusion*

Let me finally conclude by saying that Kosovo, as a newest state in the Europe, is a successful model of international concept of multiethnic state where minorities feel safe and equal by the majority.

This was also the decisive direction of international law. Because the creation of states on territorial bases was seen by the international community as something that would bring peace and stability in this part of Europe. Multiethnic concept of states which derived by dissolution of former federations, also from the process of decolonization, brought a new order of functioning within the states. These multiethnic states which are all over the world promoted stability in international community. At least this is the fundamental approach of international community. But these heterogeneous states are potential source of instability if the rights of national minorities and minority peoples within states will be ignored.

There are such a huge number of these national minorities and minority people within states that any attempt to violate the rights of them will cause turbulences and wars. Therefore the international and European community is committed in the protection of political and civil rights for the national minorities and minority people within states. These rights have to do with the participation of the national minorities and minority people in the political life at one side, and at the other side these minorities the respective states should grant the rights which has to do with their language, religion and culture. Every other approach is in contrary to the basic international and European community documents.

Anyway Kosovo, as a multiethnic state in western Balkans, presents a country in which all the citizens are equal before the law. At the same time the minorities enjoy the rights which are provided by the fundamental documents of international law and European law. In this regard Kosovo remains a model of multiethnic state of western Balkans. As a *sui generis* case, which is treated by the international community, this country is successful story of coexistence with minorities. With all, with no distinction. Kosovo now is a stability factor in western Balkans in particular, and in the southeast Europe in general. But let us conclude that this stability is on the air while the Republic of Kosovo will go ahead in the integration process in the European Union. We can not forget the fact that

the integration process of the European Union, despite difficulties, has reduced the expansionist nationalism of many states. At the same time this development accompanied by the growth of obligations that states took in the area of human rights and minorities. By the way national minorities, as Serbs in Republic of Kosovo, and minority people, as ethnic Albanians in Macedonia, are integrated well in the political life, as well as Serbs in Kosovo and Albanians in Macedonia enjoys the rights foreseen by the fundamental instruments of international law. So, multiethnic states in western Balkans, especially Republic of Kosovo, reflects the area where for the moment the nationalists' feelings are neglected. These feelings could be activated whenever if there are tendencies for the violation of human rights, especially the rights of minorities. People within state can live in peace only by respecting the identity and rights of each other.

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## 8 The Impact of the Greek-Macedonian Name Dispute on Integration of the Republic of Macedonia to the EU and NATO

**Martin BALCO**<sup>1</sup>

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**Abstract:** *The name dispute between the Hellenic Republic and the Republic of Macedonia over the denomination "Macedonia" has been a major foreign policy obstacle to integration ambitions of the Republic of Macedonia into the European Union and the North Atlantic Treaty Organisation. Initially a historical bilateral dispute thus gained wider political, economic and security dimensions. The article characterizes and analyzes the substance of the dispute, its history and impact on the Republic of Macedonia. The long-term dispute has been causing instability in the Republic of Macedonia and not solving it ultimately carries risks with implications for the wider region. In the current situation of Greek unwillingness to retreat and the absence of pressure from the international community on Greece it is likely that smaller and economically weaker Macedonia will have to give way. However, this is unlikely for several reasons for the time being.*

**Key words:** *Macedonia, the Hellenic Republic, European Union*

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## *Introduction*

The Republic of Macedonia<sup>2</sup> has a relatively short history of its own statehood. It came into existence as an independent state in modern history in 1944 when the Anti-Fascist Assembly for the National Liberation of Macedonia proclaimed the People's Republic of Macedonia as part of the People's Federal Republic of Yugoslavia, since 1963 renamed as the Socialist Federal Republic of Yugoslavia. The end of the bipolar division of the world in the late 20th century is on the Balkan Peninsula associated mainly with the dissolution of Yugoslavia which was accompanied by a bloody civil war and the emergence of six (seven if we count Kosovo<sup>3</sup>) successor states. One of them was the Republic of Macedonia which declared independence from Yugoslavia on 8 September 1991. Since then Macedonia has faced many serious challenges on both the domestic and international fronts. The process of consolidation of the newly formed state, including international recognition, was not easy, especially due to opposition of the Hellenic Republic (further referred to as Greece) to the name, symbols and certain constitutional provisions of the newly independent state. Even though the Arbitration Commission of the Conference on Yugoslavia (commonly known as Badinter Commission) rendered an advisory opinion in favour of recognition of the Republic of Macedonia in January 1992, the European Community consented to delay its recognition in order to secure Greece's consent to the Maastricht Treaty and to support a united European front at the time when Common Foreign and Security Policy was coming into existence. The recognition was thus delayed for more than a year, but, in the end, Macedonia obtained it in a roundabout way by petitioning the Organization of United Nations (UN) for

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<sup>2</sup> The Slovak Republic recognized the Republic of Macedonia under its constitutional name and this denomination is used in this article. The Republic of Macedonia acts in international organizations under the name of Former Yugoslav Republic of Macedonia (FYROM) due to Greek objections to its constitutional name. In bilateral relations, however, majority of UN member states recognized Republic of Macedonia under its constitutional name. In this article, unless indicated otherwise, the name Macedonia refers to the Republic of Macedonia when discussing history since 1912 and to the larger historical-geographical region when used in earlier historical contexts.

<sup>3</sup> This designation is without prejudice to positions on status, and is in line with UNSC 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

membership, a case unique in the UN history. Macedonia was admitted to the UN on 8 April 1993, however, "being provisionally referred to for all purposes within the United Nations as "the former Yugoslav Republic of Macedonia" pending settlement of the difference that has arisen over the name of the State."<sup>4</sup>

There has been little progress in the issue since and the entanglement over the name between Greece and Macedonia (name or naming dispute as referred to in the literature) has thus entered its third decade. In the opinion of Associate Professor of Public International Law at the University of Oxford A. TZANAKOPOULOS, "It is a dispute in which national(istic) sentiment runs high on both sides, and this has caused it to be blown out of all proportion and to have lingered for way too long."<sup>5</sup>As a result, Macedonia's integration into European and Euro-Atlantic structures has been stalled and the dispute is a major obstacle thereto apart from internal problems of Macedonia. Greece has namely been vetoing Macedonian efforts to integrate into the European Union (EU) and the North Atlantic Treaty Organization (NATO), conditioning further progress of Macedonia's integration by resolving the name dispute.

## **8.1 Historical background of the Greek-Macedonian name dispute**

The roots of the current dispute over the name have their foundations in the development of the historical region of Macedonia and in different interpretations of historical and social events by nations inhabiting this area over the centuries. As the Editorial Board of the anthology of academic articles *The Name Issue Revisited* puts it, "The appearance of the Republic of Macedonia as an entity in international relations revived the forgotten 'Macedonian Question' and rekindled disputes amongst neighbouring

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<sup>4</sup>A/RES/47/225, 1993. [online]. General Assembly of United Nations,1993. [cit. 2014-12-20].<<http://www.un.org/documents/ga/res/47/a47r225.htm>>.

<sup>5</sup> TZANAKOPOULOS, A. (2011): *Legality of Veto to NATO Accession: Comment on the ICJ's Decision in the Dispute between fYR Macedonia and Greece* [online]. Blog of the European Journal of International Law [Cit. 20.12.2014.]. Available at <<http://www.ejiltalk.org/legality-of-veto-to-nato-accession/>>.

countries over questions related, directly or indirectly, to the history of the wider region of Macedonia as well as for legitimacy in using the Macedonian name and state symbols."<sup>6</sup>

Geographic delimitation of the historical-geographical region known as Macedonia has been changing over time. At present, it can be characterized as a territory including the northern part of Greece, the territory of the Republic of Macedonia, the south-western part of Bulgaria, the eastern part of Albania and the southern part of Serbia. The present-day Republic of Macedonia is therefore located on a small part of the territory of historical Macedonia, known as Vardar Macedonia. The ethnic composition of the population of the region changed significantly over the centuries. Ethnic origins of ancient Macedonians are unclear and a subject of contention. As the researcher's note in the *Encyclopaedia Britannica* states, "Historians are divided into two principal camps: those who believe that evidence indicates the ancient Macedonians were Greek (e.g., Nicholas G. HAMMOND, Robin Lane FOX, and Ian WORTHINGTON) and those who believe either that evidence is inconclusive or that it indicates that the ancient Macedonians were not Greek (e.g., Eugene BORZA, Ernst BADIAN, and Winthrop L. ADAMS)."<sup>7</sup> Along these lines, according to many Greek historians, ancient Macedonians were of Greek origin. These conclusions derive from both militarily and politically successful reign of Philip II. of MACEDON and his son Alexander the GREAT in the 4th century BC who identified themselves as Greek and spread Hellenistic culture. According to the Greek interpretation, this fact proves the Greek origin of ancient inhabitants of Macedonia from which they derive also the exclusive right to use the name Macedonia and symbols from this period. On the contrary, according to the Macedonian interpretation, supported by other historical

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<sup>6</sup> DZUVALEKOVSKA CASULE, M. (2012): *The Name Issue Revisited: An Anthology of Academic Articles*. Macedonian information centre 2012. 503 p. ISBN 9989207283.

<sup>7</sup> DANFOTH, L. (2014): *Macedonia: a contested name* [online]. Encyclopaedia Britannica [Cit. 20.12.2014.] Available at <<http://www.britannica.com/EBchecked/topic/1515349/Macedonia-a-contested-name>>.

sources, ancient Greeks did not consider the population of Macedonia (i.e. ancient Macedonians) Greek or even peers and called them barbarians.<sup>8</sup>

In the course of history, a multitude of nations and nationalities inhabited the region of Macedonia and during ancient, medieval and modern times, the territory of Macedonia was under the influence of several empires - firstly the Roman Empire, then the Byzantine Empire, later medieval Bulgarian and Serbian Empire and after the Battle of Kosovo in 1389, it came under the administration of the Ottoman Empire for more than five centuries. The complex historical development of this area, multitude of nationalities and relatively frequent changes of administrators of the territory became the basis for future territorial claims of the Balkan states on the region of Macedonia, based on (pseudo)historical lines of their own statehoods with the territory of Macedonia. Relatively newly consolidated states of Greece, Bulgaria and Serbia divided the territory of historical Macedonia after the Balkan Wars of 1912-1913. The so-called Aegean Macedonia went to Greece, Pirin Macedonia to Bulgaria and Vardar Macedonia went to Serbia. The present-day Republic of Macedonia was constituted on the territory of Vardar Macedonia after the Second World War.

A relatively late constituting of the present-day Macedonian state is connected with the specific character of the Macedonian national revival in comparison with national revivals of other nations on the Balkan Peninsula. National revivals of the South-Eastern Europe nations in the 19th century had generally three basic characteristics in common - firstly consciousness of existence of "their own" medieval states, secondly distinct language and thirdly "national" religion. However, these factors were hardly applicable in the case of population of the region of Macedonia. At the turn of the 19th century, one part of the population accepted Bulgarian national identity whereas another part accepted Hellenic identity. A large portion of the population, however, remained ethnically indifferent. In the 19th century, Serbian influences began to show and the process of the Albanian national awakening accelerated at that time, too. The territory of Macedonia, at that time still a part of the weakening Ottoman Empire, thus became a place of clashing of agitational efforts of these nations. Conflicting efforts of the

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<sup>8</sup> ROSŮLEK, P. (2008): *Stručná historie států. Makedonie*. Praha: Libri 2008. 130 p. ISBN 9788072773428

Greek, Serbian and Bulgarian Orthodox Churches can also be pointed out and the situation was similar in the field of education where the individual states started founding schools on the territory of Macedonia with the aim of Hellenisation, Serbianisation or Bulgarisation of the local population.

Despite these efforts, majority of the rural population still remained ethnically indifferent and the denomination "Macedonian" indicated rather a geographical or administrative reference than ethno-political.<sup>9</sup> In the case of Macedonia, it is therefore more appropriate to speak of a creation of a nation rather than of a national revival, even though majority of contemporary researches recognize that all modern nations are recent constructs. As Czech historian P. ROSŮLEK states, "creating of the Macedonian national identity and of its story is to be understood in the context of the Balkan neighbours. It was designated later and as a defensive reaction to agile nationalist policies of Bulgaria, Greece, Serbia as well as numerous Albanian population."<sup>10</sup> The distinct Macedonian identity began to emerge progressively in the late 19th under the influence of the ideology of *Macedonism* (sometimes referred also as *Macedonianism*) and the prominent proponents of a separate Macedonian nation, such as Georgi Pulevski or Krste Petkov Misirkov.

The year 1943 was crucial for the creation of the modern Macedonian state and nation. At the second session of the Anti-Fascist Council for the National Liberation of Yugoslavia it was established that a federal Yugoslavia was going to be created after the end of the Second World War and Macedonians would be one of six constituent nations in the new Yugoslavia, having their own republic.<sup>11</sup> The main aim of creating an independent Macedonian state which did not have a tradition in the Kingdom of Serbs, Croats and Slovenes (later the Kingdom of Yugoslavia)

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<sup>9</sup> ROSŮLEK, P. (2008): *Stručná historie států. Makedonie*. Praha: Libri 2008. 130 p. ISBN 9788072773428.

<sup>10</sup> ROSŮLEK, P. (2014): Antická dimenze Makedonské identity, spor o název země s Řeckem & Albánci v Makedonii. In *Bezpečnostné fórum 2014*. Banská Bystrica: Belianum 2014, p. 609-620. ISBN 978-80-557-0678-8.

<sup>11</sup> *Deklaracija Drugog zasjedanja Antifašističkog veća narodnog oslobođenja Jugoslavije, 29. novembar 1943.* [online]. Arhiv Jugoslavije [cit. 2014-12-20]. <[http://www.arhivyu.gov.rs/active/sr-latin/home/glavna\\_navigacija/leksikon\\_jugoslavije/konstitutivni\\_akti\\_jugoslavije/deklaracija\\_drugog\\_zasjedanja\\_avnoja.html](http://www.arhivyu.gov.rs/active/sr-latin/home/glavna_navigacija/leksikon_jugoslavije/konstitutivni_akti_jugoslavije/deklaracija_drugog_zasjedanja_avnoja.html)>.

was to help build a separate Macedonian nation, allowing for the elimination of Bulgarian influence in the region and for possible territorial aspirations towards Aegean and Pirin Macedonia.<sup>12</sup> The Constitution of the Socialist Republic of Macedonia (SRM) as a part of the Federal Republic of Yugoslavia entered into force on 1 January 1947. During the existence of Yugoslavia, "despite frequent irritants from the local government, press, and radio in Skopje, Athens had never raised any objections to the constitutional framework of the FSR of Yugoslavia, nor had it ever questioned its internal administrative structure of federate republics. Indeed, a Greek consulate general continued to function in Skopje, maintaining normal *de facto* relations with the authorities of the Republic, although officially it was accredited to the federal government in Belgrade."<sup>13</sup>

The declaration of independence of the Republic of Macedonia from Yugoslavia from 8 September 1991 constituted a new chapter in the history of the area. Under Article 1 of the Constitution of the Republic of Macedonia, the Republic of Macedonia is a sovereign, independent, democratic and social state.<sup>14</sup> Immediately after the declaration of independence Greece opposed recognition of the newly formed state due to denomination "Macedonia" in its name which - according to Greek interpretation - is solely Greek heritage. Moreover, Greek officials claimed that the new constitution implies a security threat and possible territorial pretensions of the new state against Greece, particularly the Greek northern region of Macedonia. According to the Constitution, Macedonia would "assist and make links with Macedonian nationals in neighbouring countries. Greece interpreted the wording as having secessionist

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<sup>12</sup> ROSŮLEK, P. (2008): *Stručná historie států. Makedonie*. Praha: Libri 2008. 130 p. ISBN 9788072773428, p. 46-48.

<sup>13</sup> It is important to note, however, that on the other hand, "official Greek policy, supported by all major Greek political parties, rejected the existence of a "Macedonian" nation. This denial, however, did not negate the existence of a separate Slavic people in the SRM, but objected to its Macedonian name which was considered a constituent element of Greek cultural heritage." See: KOFOS, E. 2014. *Greece's Macedonian Adventure: The Controversy over FYROM's Independence and Recognition* [online]. Myriobiblos [Cit. 20.12.2014.] Available at <[http://www.myriobiblos.gr/texts/english/kofos\\_adventure\\_1.htm](http://www.myriobiblos.gr/texts/english/kofos_adventure_1.htm)>.

<sup>14</sup> *Constitution of the Republic of Macedonia*. 1991. [online]. The Assembly of the republic of Macedonia [Cit. 20.12.2014.] Available at <<http://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nsp>>.

undertones."<sup>15</sup> As a result of international pressure, two amendments to the Macedonian Constitution were adopted in 1992. According to Amendment 1, paragraph 1 "The Republic of Macedonia has no territorial claims against any neighbouring state" and Amendment 2, paragraph 1 states that "The Republic of Macedonia will not interfere in the internal affairs of other states."<sup>16</sup>

Greece also contested symbols of the new state - mainly the Vergina Sun (also known as the Vergina Star) pictured on the flag, regarded by Greeks a symbol of ancient Macedonian kings and purely Greek national symbol. Greek-Macedonian relations further deteriorated despite Macedonian concessions and culminated in early 1994 when Greece imposed a unilateral economic embargo on the Republic of Macedonia. The blockade was lifted after the intervention of the international community after eighteen months, but cost the Macedonian economy "an estimated US\$2 billion."<sup>17</sup>

On 15 September 1995, the Interim Accord between the Hellenic Republic and the former Yugoslav Republic of Macedonia was concluded. Both sides committed to a compromise - Macedonia to change its state symbols and Greece to recognize the state under the provisional name of Former Yugoslav Republic of Macedonia and not to impede the entry of the state into international organisations. Weak diplomatic relations were also established.<sup>18</sup>

The agreement established a fundamental framework, or a binding code of conduct, that regulates relations between the two countries to this date, with occasional accusations of violations from both sides. Relations between Greece and Macedonia improved and intensified after 1995 which

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<sup>15</sup> ALIC, A. (2007): *Greece-Macedonia: Sticks and stones* [online]. International Relations and Security Network. [Cit. 20.12.2014.] Available at <<http://www.isn.ethz.ch/DigitalLibrary/Articles/Detail/?id=53418&lng=en>>.

<sup>16</sup> *Constitution of the Republic of Macedonia*. 1991. [online]. The Assembly of the republic of Macedonia [Cit. 20.12.2014.] Available at <<http://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nspcx>>.

<sup>17</sup> *Constitution of the Republic of Macedonia*. 1991. [online]. The Assembly of the republic of Macedonia [Cit. 20.12.2014.] Available at <<http://www.sobranie.mk/the-constitution-of-the-republic-of-macedonia.nspcx>>.

<sup>18</sup> *Interim Accord between the Hellenic Republic and the FYROM*. 1995. [online]. United Nations [Cit. 20.12.2014.] Available at <<http://www.hri.org/docs/fyrom/95-27866.html>>.

was reflected in an increase in bilateral trade and Greek foreign investments in Macedonia. While the Interim Accord brought some relaxation in the bilateral relations, the dispute about the name of Macedonia remained unresolved. The Interim Accord namely limited itself to binding both parties to continue negotiations under the auspices of the UN in order to solve the name dispute.

## **8.2 Integration process of the Republic of Macedonia to the EU and NATO in the shade of the name dispute**

The European Union is currently the strongest economic integration in the world. It has managed to meet most of its strategic objectives since its foundation in 1957 (at that time called the European Economic Community) - to build a customs union, common market and monetary component of the economic and monetary union. After the fall of the Berlin Wall, the EU membership became a strategic foreign policy goal for the countries of the former Eastern Bloc. The reasons were not only economical, but also political. Although the states of former Yugoslavia cannot be counted as states of the Eastern bloc due to a specific and unique position of Yugoslavia during the Cold War, we can certainly observe the compliance of the goals of the states of both groups in the area of foreign policy. For these states, the EU has become not only a symbol of economic growth, but also an imaginary comeback to Europe from which they had been separated after the Second World War. All former Yugoslav countries have defined integration to the EU as their primary foreign policy goal. Slovenia successfully joined the EU in 2004 and it took nine more years until Croatia joined the Union as its 28th member on 1 July 2013. Macedonia together with Montenegro and Serbia have acquired status of candidate country to the EU and Bosnia and Herzegovina and Kosovo are listed as potential candidate states.

Macedonia submitted the application to join the EU on 22 March 2004, following the signature of the Stabilisation and Association Agreement and the Agreement on Trade in 2001 (Macedonia signed such agreements as the first of the Western Balkan states). Macedonia turned in the application for

EU membership in 2004 and obtained the status of candidate country, an imaginary second step on the path to the EU, on 16 December 2005. The European Commission subsequently recommended the opening of accession negotiations on 1 October 2009. Despite the fact that the European Commission's annual progress reports since 2009 have consistently recommended the opening of accession negotiations, this has not yet happened due to the Greek opposition. Even though Greece agreed under the Interim Accord of 1995 not to object to the application by or the membership of Macedonia in international organizations under the name of FYROM, it has been blocking its progress in the integration process to the EU since 2009. It conditions the unlocking of the process by resolving the name dispute. The EU holds ultimately a similar view, having made it clear to Macedonia that the dispute must be resolved before the start of accession negotiations, as the EU will not allow this (bilateral) dispute to become an internal problem of the whole Union.<sup>19</sup> Macedonia has thus found itself in a stalemate.

The situation is similar in Macedonia's aspiration to join NATO. Membership in NATO (perhaps only with the exception of Serbia) has similar postulates for the countries of the former Eastern Bloc and former Yugoslavia as in the case of integration into the EU - the closure of the past and orientation towards the West, with new security guarantees. Countries aspiring for NATO membership are expected to meet certain political, economic and military criteria which are set out in the NATO's Membership Action Plan. The consent of all NATO member states is also necessary for the start of the negotiations. At the 2008 Bucharest summit, NATO's invitation to the Republic of Macedonia was blocked by Greece. As the Bucharest Summit Declaration states "an invitation to the former Yugoslav Republic of Macedonia will be extended as soon as a mutually acceptable solution to the name issue has been reached."<sup>20</sup>

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<sup>19</sup> ECHO, S. (2012): *No Breakthrough in Macedonia Name Talks* [online]. Balkan Insight [Cit. 20.12.2014.] Available at <<http://www.balkaninsight.com/en/article/no-breakthrough-in-macedonia-name-talks>>.

<sup>20</sup> *Bucharest Summit Declaration* [online]. North Atlantic Treaty Organisation [Cit. 20.12.2014.] Available at <[http://www.nato.int/cps/en/natolive/official\\_texts\\_8443.htm](http://www.nato.int/cps/en/natolive/official_texts_8443.htm)>.

Macedonia subsequently filed an application for a ruling by the International Court of Justice (ICJ) on the legality of Greece's actions at the summit with regard to interpretation and implementation of the Interim Accord. International Court of Justice ruled in December 2011 that "the Hellenic Republic, by objecting to the admission of the former Yugoslav Republic of Macedonia to NATO, has breached its obligation under Article 11, paragraph 1, of the Interim Accord of 13 September 1995."<sup>21</sup> This decision, however, has had no effect on the revision or modification of the Greek stance and has not caused any shift in the dispute. It is mainly the result of the fact that the ICJ granted the declaratory relief sought by Macedonia, but refused to order Greece to refrain from similar conduct in the future, as demanded by Macedonia. According to A. TZANAKOPOULOS, "This was because Greece's good faith was to be presumed - there was no reason to suppose that a State will repeat conduct found to have been wrongful."<sup>22</sup>

Although the EU and primarily the Organization of United Nations (since 1993) undertook several activities towards resolving the dispute, there has been little progress to date and despite regular UN-mediated meetings, the parties have not reached an agreement regarding the name of the Republic of Macedonia. Two special UN mediators, Cyrus VANCE and Matthew NIMETZ (since 1999) have come up with several compromise proposals since, such as the Republic of Upper Macedonia, Republic of Northern Macedonia, New Macedonia or Republic of Vardar Macedonia, but without much success. A great impediment is the Greek requirement and insistence on the use of a possible new name *erga omnes*, i.e. both in bilateral and multilateral relations and for internal use in Macedonia which is inadmissible for Macedonia.

Moreover, after the armed conflict in Macedonia with the Albanian minority in 2001, *Macedonism* became more assertive and an official ideology of the ruling elite. A few years later in response to Greece's

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<sup>21</sup> No. 2011/37. 2011. [online] International court of justice. [Cit. 20.12.2014.] Available at <<http://www.icj-cij.org/docket/files/142/16841.pdf>>.

<sup>22</sup> TZANAKOPOULOS, A. (2011): *Legality of Veto to NATO Accession: Comment on the ICJ's Decision in the Dispute between FYR Macedonia and Greece* [online]. Blog of the European Journal of International Law. [Cit. 20.12.2014.] Available at <<http://www.ejiltalk.org/legality-of-veto-to-nato-accession/>>.

blocking of Macedonia's NATO accession, the policy of *antiquisation* (antikvizacija) backed by the nationalist ruling party VMRO-DMPNE was put in motion. It includes the renaming of public sites after ancient Macedonian personalities (e.g. Skopje's "Alexander the Great" Airport) and the transformation of public spaces through the erection of monuments and statues from antiquity and the Middle Ages (disclosure of a monumental statue of Alexander the Great in the main square in Skopje). Antiquisation has been intended to put pressure on Greece as well as for the purposes of domestic identity-building. Obviously, it has been interpreted as an act of provocation in Greece.

Although the economic crisis has created space to exercise pressure on Greece in the negotiations on this issue after 2008, this possibility has been left unused by the international community. The 2011 article in *The Economist* explains possible reasons thereof: "With Greece now surviving on European loans, some spy an opportunity for its EU creditors, many of whom find Greek intransigence tiresome, to demand more flexibility over the long-running dispute. But that looks naive. Spyros Economides, an academic at the London School of Economics, says that no pressure has been put on Greece to let Macedonia begin EU accession talks, and he does not expect any now. The euro crisis means that enlargement is hardly a priority for Europe. Indeed, many countries are quite happy to find any excuse not to pursue it. Greek objections over Macedonia's name will do nicely."<sup>23</sup>

## ***Conclusion***

Position of the Republic of Macedonia in international relations has been complicated from the outset: Greece vetoes international acceptance of Macedonia's name, Serbia denies the autonomy of its church, and Bulgaria (while accepting Macedonia as a state) denies the existence of a Macedonian language and a Macedonian nation.<sup>24</sup> However, it is the long-

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<sup>23</sup> Call it what you want. 2011. [online]. In *The Economist*. [Cit. 20.12.2014.] Available at <<http://www.economist.com/node/21541400>>.

<sup>24</sup> *Macedonia's Name - Why the Dispute Matters and how to Resolve it*. 2001. [online] International crisis group. [Cit. 20.12.2014.] Available at

standing and seemingly dead-locked dispute with Greece over the name that causes most serious difficulties for the Republic of Macedonia. It presents a major obstacle for deeper integration of Macedonia both to the EU and NATO with all the consequences. In the context of the accession to the EU, it is important to mention that in addition to the Greek attitude, Bulgaria has also expressed complaints in relation to Macedonia's bid for the EU membership and vetoed the opening of accession negotiations with Macedonia in 2012 alongside Greece. On that occasion, Bulgarian Prime Minister B. BORISOV accused Macedonia "of stealing from Bulgaria's history and badmouthing his country."<sup>25</sup> With regard to the integration to NATO, Greece has also been blocking the invitation to the organization despite the fact that Macedonia meets the accession criteria. The 2011 ICJ ruling did not affect the decision taken by NATO Allies at the Bucharest summit in 2008. The statement by the former NATO Secretary General Anders Fogh RASMUSSEN on ICJ ruling noted: "We agreed that an invitation will be extended to the former Yugoslav Republic of Macedonia as soon as a mutually acceptable solution to the name issue has been reached. This decision was reiterated at subsequent summit and ministerial meetings."<sup>26</sup>

Despite the fact that the international community has been trying to mediate the dispute practically from its inception, the unresolved name issue appears to be irreconcilable for the time being. On the one hand, we can find the reasons for the failure in intransigence of both sides, with Macedonia refusing to abandon its constitutional name and Greece refusing to accept it under any conditions. On the other hand, the blame lies also with the international community. Their efforts have not been so as intensive as for example significant activities of the EU in mediating the Belgrade-Prishtina dialogue. As S.A. SOFOS notes, "The international community has tried to

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<<http://www.isn.ethz.ch/Digital-Library/Publications/Detail/?id=28041&lng=en>>.

<sup>25</sup> *Bulgaria vetoes Macedonia's EU accession talks*. 2012. [online]. Euractiv [Cit. 20.12.2014.] Available at <<http://www.euractiv.com/enlargement/bulgaria-vetoes-macedonia-eu-acc-news-515809>>.

<sup>26</sup> *Statement by the NATO Secretary General on ICJ ruling*. 2011. [online]. North Atlantic Treaty Organisation [Cit. 20.12.2014.] Available at <[http://www.nato.int/cps/en/SID-50672CA8-1A1DD013/natolive/news\\_81678.htm](http://www.nato.int/cps/en/SID-50672CA8-1A1DD013/natolive/news_81678.htm)>.

facilitate a compromise between the parties; but their efforts have largely been detached from the pragmatics underlying the dispute and have often ignored the complex social dynamics at play ... The name issue has been addressed in an unimaginative and highly legalistic way, stripped of its dynamic and continuously evolving nature, thus revealing the dearth of conceptual, methodological and practical rigour in our approaches to conflict transformation in the region."<sup>27</sup>

In spite of its seeming insignificance, the dispute has easily intoxicated the public in both countries, with the intolerant nature of the dispute being reflected even in literature, theatres or sports. "There is little by the way of geopolitical strategy in the dispute, but local politics certainly plays a key role, with neither side willing to back down from their hard-line stance now that the public has been consumed by the fires ... The nature of the dispute is illustrated by the fact that it has done nothing to hinder the two countries' excellent trade relations."<sup>28</sup> It is important to note, however, that the dispute about the name of the Republic of Macedonia constitutes just one dimension of a broader, multi-layered latent conflict, "one that touches so much upon the fundamentals of the two societies involved that, it is argued, we are facing an intractable conflict."<sup>29</sup> The ongoing discussion only hints at many nuanced issues and interpretations in the centre of this controversy.

Further delay in resolving the issue (and thus in Macedonia's membership of NATO and the EU) may have serious negative implications for the future of Macedonia. Public support for the EU entry in Macedonia has been decreasing because of the long stagnation in the integration process which burdens inter-ethnic relations between Macedonians and Macedonian Albanians that have been relatively fragile following the 2001 conflict. For the Albanian political elite in Macedonia is not joining the EU and NATO because of the unwillingness to change the name of the country

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<sup>27</sup> DZUVALEKOVSKA CASULE, M. (2012): *The Name Issue Revisited: An Anthology of Academic Articles*. Macedonian information centre 2012. 503 p. ISBN 9989207283.

<sup>28</sup> ALIC, A. (2007): *Greece-Macedonia: Sticks and stones* [online]. International Relations and Security Network. [Cit. 20.12.2014.] Available at <<http://www.isn.ethz.ch/Digital-Library/Articles/Detail/?id=53418&lng=en>>.

<sup>29</sup> DZUVALEKOVSKA CASULE, M. (2012): *The Name Issue Revisited: An Anthology of Academic Articles*. Macedonian information centre 2012. 503 p. ISBN 9989207283.

unacceptable. The country also faces serious economic difficulties and the delay has exacerbated the sense of resentment among Macedonians.

It is likely that in the absence of pressure of the international community on Greece, smaller and economically weaker Macedonia will have to give way. However, this is not likely to happen as long as the nationally oriented right led by the popular party VMRO-DPMNE is in power. However, the question is how would the majority of Macedonian population react if the political elites agreed to change the name of the country. According to the president of the World Macedonian Congress T. PETROV, any change in the name of Macedonia would mark the final change, or even denial of the Macedonian nation as a whole, its language and identity, and so it sees also the majority of Macedonians.<sup>30</sup>

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<sup>30</sup> TRAJKOVSKI, M. (2012): *A new effort in Macedonia, Greece name dispute talks*[online]. SETimes. [Cit. 20.12.2014.] Available at <[http://www.setimes.com/cocoon/setimes/xhtml/en\\_GB/features/setimes/features/2012/11/27/feature-03](http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/features/2012/11/27/feature-03)>.

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## 9 Lobbying à l'Union Européenne

**Karolina TICHÁ\***

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**Abstract:** *The article addresses to the concept of regulation of lobbying in the EU context. Its objective is to map the existing regulatory efforts, both in the EU institutions as well as in selected member states. Its purpose is to compare different approaches and reveal the most contentious points. The aim of further description and comparison of Canadian and American experience is to notice the positives and negatives that come with the regulation of lobbying in practice. In conclusion, the summarized findings are presented as a potential source of inspiration, which Croatia as the other Western Balkans countries can use in the future.*

**Key words:** *lobbying, Union européenne (UE)*

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### *L'Introduction*

Le lobbying est un phénomène qui fait partie de la vie politique et sociale actuelle. Il joue un rôle positif parce qu'il améliore la connexion entre les droits civils et politiques. Il permet aux citoyennes de ne pas seulement jeter une fiche de vote mais de participer plus à la formation politique. En plus, le lobbying présente un moyen de représentation d'intérêts particuliers qui s'imposent difficilement dans le dialogue politique. Grosso modo il contribue à la réduction du déficit démocratique à la formation de la politique de l'UE. Mais il est toujours perçu comme quelque chose d'illégal ou de nuisible pour les affaires publiques.

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L'actualité du sujet choisi est aussi soulignée par l'attitude des médias qui apportent les informations des lobbyistes avec une connotation négative et qui habituent à confondre le mot « lobbying » avec la corruption ou les pratiques déloyales.

En cadre des pays des Balkans de l'Ouest, cette incohérence notionnelle est plus forte. La perception du lobbying par rapport à la conception du bon gouvernement est assez difficile dans la culture politique de ces pays-là. Au contraire, en fonction de la mondialisation progressive, tous les pays seront forcés de régler ce phénomène au niveau national aussi que d'influence des groupes de pression étrangères.

Il est aussi évident que l'augmentation du taux des groupes d'intérêts et de la professionnalisation de ses activités est ce que l'on voit comme le miroir de la société actuelle – sa fragmentation et son hétérogénéité.

## **9.1 Le caractère unique du Lobbying à l'Union européenne**

*Le Lobbying à l'UE* est unique par son caractère et aussi plus difficile qu'au niveau nationale. C'est grâce à de multiples niveaux de formation des affaires publiques que l'UE est un espace où des acteurs qui viennent d'environnement historique, institutionnel et culturel différent, se rencontrent. Chaque acteur du lobbying apporte sa propre expérience et sa propre compréhension d'intérêt publique. L'ambiance concurrentielle est forte ce qui cause le développement de formes de lobbying, de stratégies sophistiquées et de meilleure orientation en arène de l'UE.

Le citoyen courant peut avoir à l'esprit la question « comment est-il possible d'influencer le processus législatif, les décisions adoptées en dehors des structures votés et institutionnalisés<sup>1</sup>, de même que s'assurer que le lobbying ne devienne pas un privilège de bourgeois ? »

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<sup>1</sup> Voir: ZHAO, CH. (2007): *Deliberation or Bargaining? An Analysis on the Convention on the Future of Europe. Working Paper Series on European Studies* 2007.

De sorte qu'il y a toujours des trous dans la compréhension du rôle de lobbying. Pour l'amélioration de cette situation, il faut intelligiblement *changer la connaissance du lobbying*. La façon par laquelle on peut l'atteindre, est de voir la détermination, les limites précises et les règles du jeu - en d'autre terme la régularisation.

L'ambition de cet article n'est pas de présenter une analyse accaparante mais plutôt systématiser les points de vue concrètes et les règles adoptées pour qu'on puisse *estimer le système de régularisation établi dans les institutions de l'UE*.

Par conséquent, il faut commencer à l'exploration de l'état actuel de la régularisation du lobbying dans les institutions de l'UE aussi que dans les Etats membres choisis pour comparer les attitudes différentes et découvrir les points où il y a le plus de contentieux. Ensuite on va continuer la description d'expérience américaine et canadienne sur laquelle on a essayé d'attirer l'attention des avantages et des inconvénients que la régulation du lobbying apporte. Et enfin, on a voulu évoquer la considération de la possibilité de l'application des formes et des moyens de régulation pour l'eurolobby current et lesquels peuvent assurer l'effectivité la plus probable.

Il apparaît que *la définition de lobbying* fondée sur la distinction de la corruption est insuffisante. Le lobbying joue un rôle irremplaçable dans le processus de la création des affaires publiques. De nos jours, il devient aussi une profession courante pour beaucoup de personnes. Donc si on veut isoler les connotations négatives qui sont évoqué pour quelques hommes politique ou citoyens, il faut se focaliser sur sa mise en place dans la vie juridique et le paramètres des règles du jeu.

Toutefois ce n'est pas si simple. Chaque brouillon de la régulation autant d'avantages que d'inconvénients. Ces ambivalences sont renforcées par le fait que le lobbying (comme la profession) sort du secteur privé mais il est complètement orienté vers la formation des affaires publiques – leur formulation, implémentation et réalisation. Le lobbying crée un pont entre le gouvernement et les citoyens. C'est pourquoi chaque aspiration de la régulation de lobbying apporte plusieurs points de contentieux qui sont déterminés par l'effort d'atteindre à la plus grande transparence possible et au renforcement de la démocratie du processus de décision.

Initialement, on a procédé à cet article avec un peu de naïveté quand on a pensé que l'on puisse décrire et comparer plusieurs types de systèmes de régulation du lobbying et successivement extraire le meilleur de ce qui pourrait être applicable dans le cadre de l'UE. Comme il est apparu, une réflexion approfondie sur des éléments de la régulation évoque de plus en plus des questions.

D'une part, la régulation seule compte un pas en avant qui supporte la transparence et l'ouverture du système politique. En plus, pour le public, la légitimité du lobbying est en relation directe avec son expression législative. D'autre part, la régulation du lobbying porte plusieurs risques qui peuvent signifier l'approfondissement de déficit démocratique à l'UE.

De nos jours, il n'existe pas un seul modèle approuvé de la régulation du lobbying qu'on puisse pratiquer dans toute son ensemble. En confrontant des connaissances théorétiques avec les expériences des états choisis, on a identifié les points concrets qui posent les problèmes les plus graves pour la régulation du lobbying.

## **9.2 La diversité des acteurs du lobbying**

L'un (qui est dans le contexte de l'UE plus visible que dans un autre lieu) est la capacité de contenir *la diversité des acteurs du lobbying* et successivement la définition qui correspond à la nature de tous ces acteurs. Pour le brouillon de l'autorégulation, ce problème est insignifiant, parce que les sujets du lobbying déclarent eux mêmes et ils s'engagent volontairement à l'exécution des règles et aux obligations.

*L'institutionnalisation du lobbying* signifie la confirmation de son importance et de sa forte position. Cependant la coopération entre la Commission européenne (Commission) et les lobbyistes n'avait pas été contrôlé jusqu'au début des années 90. Pendant longtemps, la Commission prenait une attitude réservée et se confiait à l'autorégulation pour protéger de bonnes relations avec les groupes d'intérêts. La Commission voulait garder « la porte ouverte » donc elle transmettait la responsabilité aux

lobbyistes et elle-même n'abordait pas des mesures radicales<sup>2</sup>. Elle l'a fait jusqu'à obtenir la pression de Parlement européen (Parlement).

Mais dans les années 90, une attitude indifférente était typique du Parlement qui éditait les cartes pour l'entrée aux bâtiments du Parlement seulement sur la base d'une demande personnelle.

Les premiers changements ont été subi après l'acceptation de Ford de donner des renseignements car ayant toujours évité la nécessité de définir « qu'est-ce que le lobbyiste exactement ». D'après ces renseignements, le registre des personnes qui exigent l'accès répétitif au Parlement, a été mis en place. La situation actuelle avec la définition, quand la Commission et le Parlement utilisent « Transparency Register » (depuis 2011), est très similaire. « Transparency Register » distingue seulement 6 catégories de sujet de lobbying<sup>3</sup>:

- (1) les lobbyistes professionnels et les sujets de droit qui pratiquent le lobbying,
- (2) « in-house » lobbyistes,
- (3) les organisations non-gouvernementales
- (4) les « think-tanks » et les institutions académiques et de recherche
- (5) les organisations qui défendent l'Église et la communauté religieuse
- (6) les organisations qui défendent le service public et territorial

On observe que la détermination exacte des personnes lobbyiste devient l'objet de plusieurs renouvellements des normes du droit aux Etats-Unis et au Canada ainsi que la raison de l'inefficacité de la régulation du lobbying en Hongrie, en Lithuanien et en Pologne.

La faute qui apparait la plus souvent, c'est l'omission des « in-house » lobbyistes, les sujets de droit qui pratiquent le lobbying et les organisations

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<sup>2</sup> Voir: CHARI, R. – MURPHY, G. (2007): *Examining and Assessing the Regulation of Lobbyists in Canada, the USA, the EU institutions, and Germany: A Report for the Department of the Environment, Heritage and Local Government*. Dublin, 2007.

<sup>3</sup> Voir: 2010/2291(ACI) (2011): European Parliament/European Commission Agreement: transparency register for organisations and self-employed individuals engaged in EU policy-making and policy implementation. Brussels: EC/EP 2011.

non-gouvernementales où au contraire les normes de droit se concentrent seulement aux lobbyistes professionnels.

Les seules définitions utilisées (qui sont souvent inspirées par le modèle américain) se distinguent d'après quelques critères : la position géographique de l'état, la tradition du système démocratique, la culture politique, l'environnement institutionnel ou l'approche au « public affairs management » etc. Les complications sont causées par l'extension de la définition qui est soit assez vaste et la définition ne contribue pas à la transparence, soit très restreinte donc beaucoup des acteurs du lobbying sont omis. Bref la bonne définition est la condition primaire pour une régulation du lobbying qui soit utile, fonctionnelle et réussie.

Une partie de la définition fait aussi une liste des métiers auxquels on a interdit de faire du lobbying. Habituellement, il s'agit des destinataires de lobbying pour éviter les conflits d'intérêts. En même temps, cette liste crée l'effet inverse c'est-à-dire qu'elle empêche *le mécanisme de « revolving doors »*. Pour cela la loi fixe un délai de protection (au Canada c'est 5 ans) durant lequel les anciens fonctionnaires publics (les membres du Parlement et des ministères, leurs consultants et assistants) ne peuvent pas entrer dans la vie publique comme les lobbyistes. La limitation de leur retour, est vue comme une façon de mettre en place des obstacles contre une connexion incontrôlée entre le lobbying et la formation des affaires publiques.

Si on sait déjà qu'on peut identifier les lobbyistes et les destinataires de leurs activités, car on dispose de quelques *moyens de régulation*. Concrètement c'est : une obligation d'enregistrement et d'information, un code éthique, un système de sanction, une autorité exécutant de la surveillance et plus efficacement tous doit être « contenu » dans la forme législative.

Premièrement, l'obligation d'enregistrement ne pose pas de problème. Bien sûr, il y a des opposants qui disent que *la création des registres obligés* à mettre des obstacles à la participation de la société civile et crée une perturbation de l'accès équitable aux fonctions publiques. On peut supposer que l'instauration de l'obligation de s'enregistrer porte l'augmentation des dépenses à lobbying ce qui peut causer des

complications aux petits groupes ou aux organisations nouvelles<sup>4</sup>. Disant par ses adversaires, que la régulation du lobbying aide à l'identification des lobbyistes solvables de même que des projets politiquement lucratifs.

Néanmoins selon les recherches d'OECD, la plupart des sujets de lobbying à l'UE qui sont interpellés (entre lesquelles sont représentés des organisations non-gouvernementales en majorité) ne considère pas la registration obligatoire comme une complication ou un problème marquant<sup>5</sup>.

La vague d'indignation se lève avec la liste de données que les lobbyistes sont obligés de déclarer et publier. Le but de la collecte de ces informations est l'assurance de la visibilité et la plus grande transparence possible. Sans compter qu'il faut garantir que l'environnement concurrentiel (dans le cas le lobbying qui sort du secteur privé) ne sera pas déséquilibré.

D'autres choses sont présente notamment *la découverte des données financières* c'est-à-dire des revenus et des dépenses consacrés aux activités du lobbying. Cela est habituellement une source de conflit entre les lobbyistes professionnels et les organisations non-gouvernementales. Dans le cas de lobbyistes professionnels ou les représentants du secteur privé, on peut voir la publication des données financières comme un endommagement de la sécurité des clients du privé est ce qui sort du traité entre le client et le lobbyiste. Donc les lobbyistes font face à un choix difficile – pour la protection de leurs clients, ils ne peuvent pas participer à déceler des données financières car qu'ils peuvent être soupçonnés d'un manque de confidentialité et en plus, perdre des clientes actuelles ou potentielles. Même si les lobbyistes décident de publier leurs transactions financières, ils peuvent rompre les conditions du traité concernés les informations confidentiels des clients.

La possibilité d'instauration des registres est liée avec la nécessité de l'impartition explicitement où on doit se registrer. Cela peut commencer après une signature du traité (entre le lobbyiste et son client), après le premier contact entre le lobbyiste et le fonctionnaire public, jusqu'à

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<sup>4</sup> Voir: CHARI, R. – HOGAN, J. – MURPHY, G. (2011): *The Legal Framework for the Regulation of Lobbying in the Council of Europe Member States*. Strasbourg, 2011.

<sup>5</sup> Voir: OECD. GOV/PGC(2009)9. *Lobbyists, government and public trust: Promoting integrity by self-regulation*. Paris, 2009.

atteindre un contenu déterminé des activités de lobbying ou éventuellement après qu'on dépasse une limite financier consacré au lobbying. Au moyen de ces paramètres, on peut réguler soit l'accès au lobbying soit les activités concrètes.

Le system de régulation aux Etats- Unis est plus concentré sur les activités des lobbyistes qu'à l'accès dans la profession (comment il y a au Canada) et en même temps joue un rôle important pour les limites financières. A la dernière réglementation HLOGA (Honest Leadership and Open Government Act, 2007), les limites financiers déterminés pour la registration ont été réduits de 50 % (en comparaison avec des limites initiales) de même qu'il est obligatoire de publier la liste des contributions données pour la campagne électorale au niveau fédéral.

Sur *la description du modèle canadien*, on peut démontré l'application du system de la registration obligatoire et unifié ce qui est concentré dans l'accès au lobbying, pas ses aspects financiers. Ce qui est d'une grande importance car c'est ce qui joue aussi sur l'obligation des lobbyistes de faire connaître des informations assez vastes et détaillées sur le but de leurs activités (cela fait partie du renouvellement de Lobbyists Act en 2008). Concrètement, cela signifie que les lobbyistes doivent publier:

- le nom de leurs client et tous les sujet qui peuvent potentiellement profiter (directe ou indirecte) du lobbying effectué au nom de ce client,
- le nom du projet, de la loi, de la politique, de la subvention, de la décision etc. dont les intentions ils vont faire du lobbying,
- l'existence éventuel de contributions financières réservées à l'organisation qu'ils défendent,
- les organes d'administration publique qu'ils vont contacter.

En comparaison, « Transparency Reigster » utilisé actuellement à l'UE a toujours un caractère volontaire et exige des sujets registrés :

- le report annuel des revenus et des dépenses liés au lobbying et concentrés aux organes, agences ou institutions de l'UE,
- toutes les sources financières reçues de l'UE pendant l'année dernière après la registration

En général, les registres peuvent être complétés par les codes de l'honneur ou professionnels. D'une part, ces codes font partie du concept

principale de l'autorégulation. D'autre part, ils peuvent faire une impression fonctionnelle considérable ou sans effet. Avant tout, les codes ont un caractère éducatif et ils doivent contribuer à une meilleure réputation des lobbyistes dans les yeux du public et des fonctionnaires publics, comme les professionnelles qui sont fixés par les règles éthiques. En même temps, les codes doivent servir comme une liste de principes que les lobbyistes sont obligés de suivre dans la vie quotidienne. De ce point de vue, les codes sont une question de prestige de la profession.

Dans le cas de l'UE, *les règles éthiques* qui sont bien formulées et formalisées, sont une partie inséparable de la création d'une politique démocratique et transparente. Voilà pourquoi, « *Code of conduct* » est une condition pour la régISTRATION dans le « Transparency Register ». A l'UE les codes ont leur tradition<sup>6</sup>. Donc les lobbyistes en sont habitués et par leur intermédiaire, ils représentent la responsabilité et l'honnêteté au travail et dans d'autres principes splendides. En plus, chaque organisation qui accorde le patronage aux lobbyistes professionnels dans l'espace européen (SEAP, EPACA, AALEP etc.), conditionne son adhésion par l'obligation de respecter des standards de l'honneur.

Cependant, l'instauration de registres et des codes de l'honneur ou professionnels n'est pas suffisant. Pour qu'ils ne deviennent pas les moyens d'une fin en soi, il faut les ajouter par un système de sanction et le plus efficacement par une autorité qui va effectuer la surveillance. Par exemple, aux Etats-Unis, l'institution qui contrôle le lobbying au niveau central manque toujours. En revanche, au Canada, le Bureau indépendant du commissaire du lobbying fonctionne depuis 2008 et ce bureau exécute l'administration d'un registre et il est autorisé à initier une enquête si il a un soupçon de la violation de la loi ou des règles liés à la registration. Ensuite, on peut trouver ici une liste de délits que le lobbyiste peut commettre<sup>7</sup>:

- offrir des informations fausses,

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<sup>6</sup> Voir: McGRATH, C. (2008): The development and regulation of lobbying in the new member states of the European Union. *Journal of Public Affairs*, No. 5, 2008.

<sup>7</sup> Voir: *Lobbying Act*, 2008, Article 14 – Offences and Punishment, Paragraphe 1.

- offrir des informations imprécises,
- offrir des informations faussées,
- n'offrir aucunes informations.

Cette liste de délits est fournie par un system de sanctions des amendes financières jusqu'à un emprisonnement.

Dans le cas de trois états membres de l'UE, en Lituanie, il y a un registre de lobbyistes qui est administré par La haute Commission éthique qui est autorisée à suspendre des activités de lobbying de personnes qui ont violé une loi. D'après la définition lithuanienne légale de lobbying, la registration est obligatoire seulement pour les sujets, pour lesquelles le lobbying est une activité commerciale et encore, la loi couvre uniquement le lobbying législatif. C'est pourquoi la régulation de lobbying ne jouie pas d'un grand succès ni d'une grande efficacité.

En Hongrie, avant l'adoption de la régulation légal du lobbying, il y a eu une instauration la registration facultative. Les sujets registrés ont reçu régulièrement des cartes d'invitations pour les sessions parlementaires et des débats sur la législation préparée dans les secteurs différents. Selon la loi de 2006, tous les lobbyistes doivent être inscrits dans le registre (actuellement administré par le Bureau central de la justice) et publier (par trimestre) des rapports qui contiens<sup>8</sup>:

- les noms de leurs clients,
- la fréquence de leurs activités de lobbying,
- tous les moyens utilisés,
- la liste de tous les fonctionnaires publiques qu'ils ont contactés pendant les trois derniers mois.

Des législateurs hongrois ont aussi pensé au system du contrôle réversible. Donc les rapports de lobbyistes sont comparés avec les rapports similaires, publiés par les institutions touchés. Donc le Bureau central de la justice peut initier une enquête seulement en cas de disparité entre ces deux rapports. Au moment de la violation de la loi, le Bureau central de la justice peut expulser le lobbyiste du registre pour une période de 1 à 3 ans ou

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<sup>8</sup> Voir: POGATSA, Z. (2006): *The law on lobbying in Hungary, and its effects*. Europeum: Institut for European policy 2006.

infliger une amende financière. La Hongrie a toutefois aboli la loi de lobbying au janvier 2011.

La Pologne a incliné à la création de « Registre de lobbyistes professionnels » comme une couverture avec la plus haute transparence. Le registre exige des lobbyistes polonaises seulement les informations<sup>9</sup> de bases de sorte qu'ils jouissent d'un plus grande nombre de sujets enregistrés qu'en Lituanie ou en Hongrie. Son administration est complètement dans les mains du ministère de l'Intérieur qui a droit d'infliger (de nouveau) une amende financière<sup>10</sup>. De manière semblable à la Hongrie, la responsabilité de publier les contacts avec des lobbyistes est transmise aux fonctionnaires publics qui doivent aussi décrire le taux d'influence qu'un lobbyiste a eu sur la forme finale d'une loi/décision.

Malgré tous les efforts dépensés en Lituanie, en Pologne ou en Hongrie, on peut constater que la régulation du lobbying a plus compliqué la situation de lobbyistes professionnels que tirer le lobbying d'une zone grise.

Un des buts de cet article est d'évaluer si les attitudes et les mesures adoptées aux états membres sont plus faibles, ou comparables ou si ils excèdent l'état de régulation appliqué aux institutions de l'UE.

Tant que l'UE a 27 états membres, on se permet d'assurer qu'***il y a 27 attitudes différentes au lobbying et à leurs régulations***. Pour une meilleure orientation et pour avoir la possibilité de comparer, on a choisi une distinction dans 3 groupes:

- (1) Les états sans une loi ou un modèle légal de régulation du lobbying.  
Ce groupe est le plus grand – il est représenté par 15 états.  
Toutefois, cela ne signifie pas que le lobbying n'existe pas ou ne fonctionne pas ici.
- (2) Les états avec une forme de régulation indirecte. Ce sont les états qui

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<sup>9</sup> Voir: GALKOWSKI, J. (2008): *Polish Lobbying Law – Towards Transparency*. Paris: 2008.

<sup>10</sup> Voir: MAKOWSKI, G. *Regulation of Lobbying in Poland*. Prague: European, Institute for European Policy, 2011.

pratiquent des registres volontaires, des codes de l'honneur ou professionnels ou un contrôle minimal de l'accès des groupes d'intérêts aux fonctionnaires publics.

- (3) Les états qui ont adopté une loi de lobbying. Il est surprenant que les états qui pratiquent la régulation directe soient tels, qu'ils ont une histoire totalitaire et qu'ils n'ont pas beaucoup d'expériences avec lobbying moderne et dans cas on peut supposer que la perception du lobbying est assez différente qu'au niveau de l'UE.

### 9.3 L'évolution de la culture politique est nécessaire

Cette diversité des attitudes témoigne d'une indifférence tant de l'UE que des états membres. Ils veulent se combattre par une grande transparence, contre la corruption et contre le clientélisme.

Il est difficile de dire clairement si les états membres devancent ou s'ils ont du retard sur les institutions de l'UE. La régulation légale du lobbying existe seulement dans les quatre pays (Lituanie, Pologne, Slovaquie et Grande Bretagne) où elle n'apporte pas un effet attendu et elles sont détentrices de plusieurs défauts et « loopholes ». La variante la plus efficace pour les états membres, c'est qu'il rassemble les formes de la régulation indirect<sup>11</sup> ou les paramètres des règles (utilisé p.e. en Allemagne, en France etc.).

Pourtant cette attitude suppose *un certain degré d'évolution de la culture politique* qui est fondé sur les valeurs libérales et pluraliste et sur la morale ainsi que sur la croyance d'utilité d'un dialogue ouvert entre les fonctionnaires publics et les représentants des différents intérêts qui sont considérés comme des experts portant des informations de qualité.

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<sup>11</sup> Voir: CHARI, R. – HOGAN, J. – MURPHY, G. *International Trends in Lobbying Regulations: Lessons Learned for Ireland*. Dublin, 2010.

En même temps, il faut ne pas oublier si les paramètres sont très rigides ou incompatible, le lobbying peut devenir une profession d'élite qui sert exclusivement aux intérêts particuliers. C'est-à-dire que le lobbying n'accompli plus sa fonction d'origine et il peut troubler la perception de la légitimité des décisions politiques.

En d'autres termes, il est possible de créer *un pluralisme élitare* ou une institutionnalisation de l'environnement fortement concurrentiel dans lequel l'accès aux fonctionnaires publics est limité par un nombre de joueurs stratégiques. Le système reste toujours ouvert mais il est restrictif au sens que les sujets du lobbying doivent suivre des règles rigides ou d'autres exigences que tous les acteurs ne sont pas capables de satisfaire.

La crainte de cet effet et le fait de rompre des assemblages avec des représentants d'intérêts a été notable dans le cas où la Commission a d'une part supporté des efforts du Parlement de réguler le lobbying mais d'une autre part reste dans l'application d'un modèle d'autorégulation. Néanmoins, quand la base de données CONNECS a mis en service (la version dernière en 2001), c'était la Commission qui avait avantagé des groupes d'intérêts plus grands et plus stables pour limiter le taux augmenté de lobbyistes. Par conséquent, cela mène à un développement du lobbying secondaire, cela signifie que des groupes d'intérêts pratiquent du lobbying aux sujets qui ont un accès plus facile à la Commission.

D'abord, on peut voire le lobbying comme une « main-d'œuvre » bon marché pour les institutions de l'UE grâce auquel elles obtiennent des informations nécessaires. Ensuite, il est aussi vrai que dans les secteurs de l'agriculture ou de l'industrie, les portes sont plus ouvertes pour les joueurs financiers forts. Et enfin, l'UE garde l'existence (c'est-à-dire l'UE supporte financièrement) des organisations qui sont matériellement ou personnellement faibles mais qui représentent des intérêts spécifiques (plus souvent non-lucratifs).

## *La conclusion*

Pour conclure, il reste une question s'il y a un système de régulation qui est lié à tous les acteurs divers du lobbying dans l'UE et qu'en même temps il peut être compatible avec une gamme hétérogène d'intérêts imposés. Au point que, pour éviter un pluralisme élitaire qui puisse empêcher certains intérêts de participer, la régulation soit concentrée sur les moyens, les méthodes et les techniques que les lobbyistes et les groupes d'intérêts appliquent dans la vie professionnelle quotidienne. Ainsi que pour l'augmentation de la transparence et de la légitimité du processus de décisions, il faut fixer des règles à deux parties – les expéditeurs et les destinataires des activités du lobbying.

La pratique montre qu'aucun des modèles de la régulation (pas même les américains) ne fonctionnent sans fautes, pour la première fois sans craintes on peut dire que le lobbying de l'UE et sa régulation sont une avancée pour le futur. Bref on ne peut néanmoins pas oublier que chaque forme de la régulation adoptée sera influencée (plus ou moins) par les lobbyistes.

Des expériences des Etats membres aussi que d'attitude choisie par les institutions européennes particulières, tous les deux peuvent fonctionner comme une source d'inspiration surtout pour la Croatie. Dans les années prochaines, on suppose que l'UE dégage une pression sur des Etats membres à créer d'une forme nationale de régularisation du lobbying, dans l'intention de reconnaître le lobbying à l'outil légitime de la politique publique.

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# 10 L'influence de la question du Kosovo sur l'eurointégration de la Serbie (2008-2012)

*Hana VERMEŠOVÁ\**

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**Abstract:** *The article deals with the mutual relation of the Kosovo policy of the government of Mirko CVETKOVIĆ and the integration of the Republic of Serbia to the EU. Its main objective is to analyse the most important events that have in large measure influenced this relation. The article consists of two chapters. The first chapter deals with the position of Serbia on the reconfiguration of the UNMIK as well as with the „legal battle for Kosovo“ in form of the defence of Serbian attitude in front of the ICJ. The chapter is concluded by the adoption of joint euro-Serbian draft of the Resolution of the General Assembly of the UN that provided the platform for the dialogue Belgrade-Prishtina. The second chapter analyses the outcomes of so-called “technical phase “of the Dialogue (2011-2012), which had significant impact on granting of the status of candidate country to EU to Serbia.*

**Key words:** *the Republic of Serbia, Kosovo, integration to EU, reconfiguration of UNMIK, advisory opinion of ICJ concerning the independence of Kosovo, Dialogue Belgrade-Prishtina, granting of the status of EU candidate country to the Republic of Serbia*

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## *L'Introduction*

Pendant le 20<sup>ème</sup> siècle, la Serbie a connu un développement politique compliqué, marqué par des changements fréquents de sa structure politique. En 1918, la Serbie est devenue un symbole d'intégration des slaves méridionaux sous Le Royaume des Serbes, Croates et Slovènes (en 1929

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surnommé dans Le Royaume de Yougoslavie). En 1946, la ville de Belgrade est nommée capitale de la République fédérative populaire de Yougoslavie, qui a en 1963 obtenu le préfixe «socialiste». Au cours des années quatre-vingt-dix, le régime a perdu son caractère socialiste (1993-2003), et en 2003 La Communauté d'États de Serbie et Monténégro est créée. En 2006, la Serbie a commencé sa propre indépendance unitaire.

Après la chute du régime autoritaire de Slobodan MILOŠEVIĆ, la Serbie était gouvernée par six gouvernements, qui se sont efforcés à moderniser le pays dans tous les domaines. L'histoire politique moderne est marquée par deux événements importants : par la dissolution de la Yougoslavie et par la déclaration d'indépendance du Kosovo. Ces actes ont confirmé la division du spectre politique sur des partis politiques modernistes, c'est-à-dire réformistes, qui protègent la perspective Serbe européenne, et des partis traditionalistes, posent la portée sur la conservation du Kosovo dans le cadre de la Serbie. L'eurointégration et «la question du Kosovo» sont devenues des domaines-clefs dans la vie politique serbe<sup>1</sup>.

Le but de l'article est d'analyser des événements de la politique intérieure (de la Serbie) et internationale, qui ont influencé la relation mutuelle de la «question du Kosovo» et l'eurointégration de la Serbie. Par l'analyse de ces événements l'auteur essaie de présenter l'hypothèse selon la laquelle le gouvernement de Mirko CVETKOVIĆ (2008-2012) s'efface ses intérêts par rapport au Kosovo en faveur de l'eurointégration de la Serbie. La deuxième hypothèse prévoit que l'UE conditionne l'eurointégration de la Serbie par la reconnaissance du Kosovo *de facto*, par des accords conclus en dialogue Belgrade - Pristina.

L'article est divisé en deux parties. La première chapitre élabore la politique du gouvernement de Mirko CVETKOVIĆ par rapport au Kosovo jusqu'à 2010 en présentant la politique «le Kosovo et l'Union Européenne»

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<sup>1</sup> Note: Cette prémisse est supportée par la proclamation du programme gouvernemental de 2008 où l'eurointégration repose sur la première place, et la conservation de l'indépendance territoriale sur la deuxième. «*La gouvernement Serbe nouvelle ne va jamais reconnaître l'indépendance du Kosovo*» Voir: *Ekspoze predsednika Vlade Republike Srbije Mirka Cvetkovića*. 2011. Beograd: Vlada Republike Srbije 2011. [Cit. 14.12.2014.]. Available at <<http://www.srbija.gov.rs/vlada/>>.

(1). Cette partie analyse le point de vue serbe sur la reconfiguration de la Mission d'administration intérimaire des Nations unies au Kosovo (MINUK) et «la bataille juridique» pour le Kosovo sous la forme de la défense devant la Cour internationale de justice (CIJ), terminée par la décision subséquente en faveur de Pristina. La proposition serbe de la résolution de l'Assemblée générale des Nations Unies (qui permettait la discussion sur le statut du Kosovo en assistant des Nations Unies) a été changée après l'intervention européenne. C'est l'UE qui est, d'après cette résolution «mutuelle», le médiateur dans le dialogue courant. La deuxième partie se concerne sur le dialogue Belgrade - Pristina «technique» (2011-2012), qui peut être considéré comme une nouvelle étape dans les relations entre la Serbie et les représentants de Pristina sous la surveillance de l'UE (2). Bien que le but des négociations soit d'améliorer les relations entre ces deux entités, elles aboutissent à la crise du Kosovo du Nord. La chapitre est clôt par la décision du Conseil européen par rapport à l'attribution du statut de candidat à l'UE à la Serbie. L'obtention du statut de pays candidat en 2012 est synonyme du bilan politique du gouvernement de Mirko CVETKOVIĆ. Également il faut considérer le prix payé pour cette réussite.

Cet article est une étude de cas «*case study*», avec un thème concret. L'émphase est mise sur des relations causales, qui ont affecté la vie politique serbe. Pendant la recherche, l'auteur a utilisé des proclamations officinales (gouvernementales, européennes, onusiennes) et des journaux (*Politika, Danas, Večernje Novosti, Blic, B92*). Pour des raisons de simplification, au lieu de Kosovo et Métochie ou la République du Kosovo on utilise le terme «Kosovo». Il faut souligner le fait que l'auteur respecte la position slovaque officielle par rapport au Kosovo selon laquelle la Slovaquie considère le territoire du *Kosovo et Métochie* comme partie intégrale de la Serbie en suivant la Résolution de l'Assemblée générale de Nations Unies 1244/1999.<sup>2</sup> Pour nommer la République du Kosovo et ses organes, on utilise le terme neutre «l'administration de Pristina».

L'article offre une caractéristique simple de la situation politique en Serbie (2008-2012) dans des relations «la Serbie- l'UE - le Kosovo».

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<sup>2</sup> Voir: Vyhlásenie NR SR k riešeniu budúceho štatútu srbskej provincie Kosovo. 2007. [online]. Národná rada Slovenskej republiky, 2007. [Cit. 4.12.2014.]. Available at <[www.nrsr.sk/web/dynamic/Download.aspx?DocID=250260](http://www.nrsr.sk/web/dynamic/Download.aspx?DocID=250260)>.

## 10.1 La politique du gouvernement de Mirko Cvetković par rapport au Kosovo - la politique «le Kosovo et l'Union Européenne»

Le gouvernement de Mirko Cvetković a été institué après des élections avant terme en 2008<sup>3</sup>. Le programme du gouvernement, présenté le 7. juillet 2008, proclame «la future européenne de la Serbie, sa pleine intégration dans l'UE» comme la priorité la plus importante. «Il est indispensable de réaliser des réformes pour se rapprocher de l'UE dans les domaines politiques, économiques et judiciaires en même temps». Deuxièmement, «le nouveau gouvernement ne va jamais reconnaître l'indépendance du Kosovo et Métochie. La Serbie, en coopération avec d'autres autorités des pouvoirs va prendre tous les moyens juridique et diplomatique pour conserver le Kosovo et Métochie dans le carde de la Serbie»<sup>4</sup>. Immédiatement, le nouveau gouvernement a commencé la lutte diplomatique contre Pristina et en même temps, il devait faire face à l'installation de la mission EULEX dans le territoire du Kosovo.

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<sup>3</sup> Note: La crise politique en Serbie a été évoquée par la déclaration d'indépendance unilatéral du Kosovo en 2008. Le chef du gouvernement de ce temps-la Vojislav KOŠTUNICA a refusé de signer l'Accord de stabilisation et d'association (ASA) avec l'UE parce que beaucoup des Etats membres ont reconnait Kosovo comme un pays indépendant. Au contraire, président de la Serbie Boris TADIĆ et son Parti démocratique (qui était en coalition avec le Parti démocratique de la Serbie de KOŠTUNICA) ont proclamé la signature indispensable malgré la situation internationale. Le chef du gouvernement a annoncé des élections avant le terme et on a crée le gouvernement de fonction, qui a signé l'ASA. Voir: TADIĆ, B. 2011.*Ne odustajemo od EU*. In *Politika* 2011. [Cit. 14.12.2014.] Available at <<http://www.politika.rs/rubrike/tema-dana/200741.lt.html>>.

<sup>4</sup> Voir: *Ekspoze predsednika Vlade Republike Srbije Mirka Cvetkovića*. 2011. [online]. Vlada Republike Srbije, 2011. [Cit. 14.12.2014.] Available at <<http://www.srbija.gov.rs/vlada/>>.

### 10.1.1 La reconfiguration de la MINUK d'après «les conditions serbes», vraiment une victoire diplomatique?

La mission EULEX Kosovo (*European Union Rule of Law Mission in Kosovo*) a été créée par l'Action commune de l'UE 2008/124/CFSP du 4 février 2008. L'article 1 constitue la mission EULEX, qui va assister aux institutions du Kosovo, aux entités judiciaires et aux agences de renforcement du droit, qui soutient la création d'un système judiciaire multiethnique. L'assistance aux institutions du Kosovo dans tous les domaines concernant le droit, la garantie des droits sauf l'orientation politique et la lutte contre la corruption ont été proclamé comme des buts de la mission.<sup>5</sup> La création de la mission EULEX prévoit la cession de certaines fonctions de la MINUK, alors on peut parler de sa reconfiguration.

Ce procès évoquait la polémique dans la société politique serbe dès l'établissement de la mission EULEX en février 2008, quand les préparations pour l'arrivée ont commencé, à ce temps-la sauf l'acceptation du côté serbe. Les partis de l'opposition - le Parti démocratique de la Serbie et le Parti radical serbe ont insisté pour que l'acceptation de la reconfiguration présente la marche à la reconnaissance du Kosovo. Le Président TADIĆ et le Parti démocratique ont déterminé la reconfiguration par l'accomplissement des conditions serbes, dans lesquelles les plus importantes sont celles de la validation du mandat de la mission EULEX par le Conseil de sécurité des Nations Unies, ainsi que la confirmation de sa neutralité, en respectant la Résolution 1244/1999.<sup>6</sup> «La ligne rouge» serbe est présentée dans «l'accord de six poids» du Secrétaire général des Nations unies BAN Ki Moon, qui a énuméré des domaines dans lesquels la mission EULEX serait opérée (la police, la justice, le douane, les frontières, la protection des objets culturels et cléricaux, le transport et la

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<sup>5</sup> Voir: *Council Joint Action 2008/124/CFSP on the European Union Rule of Law Mission in Kosovo*. 2008. [online]. European Council, 2008. [cit. 14.02.2014.]. <[http://www.eulex-kosovo.eu/en/info/docs/JointActionEULEX\\_EN.pdf](http://www.eulex-kosovo.eu/en/info/docs/JointActionEULEX_EN.pdf)>.

<sup>6</sup> Voir: TADIĆ, B. 2008. *Euleks samo uz uslove Beograda*. In *Politika.online*. 2008. [Cit. 14.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/Tadic-Euleks-samo-uz-uslove-Beograda.lt.html>>.

télécommunication). Selon cet accord, la mission EULEX est subordonnée à la Résolution 1244/1999 et dispose d'un statut neutre.<sup>7</sup> A la fin, la reconfiguration était approuvée par le Conseil de sécurité le 26. novembre 2008 en prenant en compte «l'accord de six poids»<sup>8</sup> Un jour de plus, le gouvernement de la Serbie a également accordé la reconfiguration de la MINUK.<sup>9</sup>

Au début, la mission EULEX devait faire face à plusieurs des problèmes. La réception des fonctions a montré sous-dimensionnement personnel et professionnel. La disposition des fonctionnaires d'EULEX s'est affrontée avec le refus des Serbes du Kosovo, qui ont rejeté la coopération dans le champ douanière.<sup>10</sup>

En Serbie l'installation de la mission EULEX selon des conditions serbes a été proclamée comme une victoire diplomatique. La mission a obtenu un statut neutre, qui est devenu l'objet de la critique de l'opposition. Elle demande l'administration stricte de la Résolution 1244/1999, qui considère Kosovo dans le cadre de la Serbie, et pour ça la neutralité est en fait sa négation. Au contraire, le statut neutre de la mission est convenant pour Pristina, qui a après la pression international finalement accepté cette reconfiguration de la mission selon la Résolution 1244/1999.

En fait, la mission EULEX commencerait probablement à fonctionner, avec ou sans l'accord serbe. Alors, l'acceptation serbe était seulement «*pro forma*» et sa mise en place finale peut être considérée comme une concession serbe.

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<sup>7</sup> Voir: *Beograd čeka da Brisel ubedi Prištinu*. 2008. In *Politika.online*. 2008. [Cit. 14.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/Beograd-čeka-da-Brisel-ubedi-Prishtinu.lt.html>>.

<sup>8</sup> Voir: *SC/9512 Kosovo situation calm, but political transition following declaration of independence more complex than expected* Security Council told. 2008. [online]. New York: UN Security Council 2008. [Cit. 14.12.2014.]. Available at <<http://www.un.org/News/Press/docs/2008/sc9512.doc.htm>>.

<sup>9</sup> Voir: *Usvojen zaključak o prihvatanju principa iz Izveštaja generalnog sekretara UN*. 2008. Beograd: Vlada Republike Srbije 2008. [Cit. 14.12.2014.]. Available at <<http://www.srbija.gov.rs/vesti/vest.php?id=99016>>.

<sup>10</sup> Voir: CEROVINA, J. - MARINKOVIĆ, A. 2009. *Srpske opštine prepreka za Euleks*. In *Politika* 2009. [Cit. 14.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/96487.lt.html>>.

### 10.1.2 Un désenchantement par l'avis consultatif de la Cour Internationale de la Justice et la résolution de l'Assemblée générale de Nations unies euro-serbe «mutuelle»

Après février 2008, des efforts diplomatiques serbes se concentraient sur le projet de la Résolution de l'Assemblée générale des Nations Unies par rapport à l'avis consultatif de la Cour Internationale de la Justice (CIJ). L'Assemblée générale a adopté la Résolution n°63/3 le 8 octobre 2008, dans laquelle on demande l'avis consultatif sur la question formulée par Belgrade : «*La déclaration unilatérale d'indépendance des institutions provisoires d'administration autonome du Kosovo est-elle conforme au droit international ?*». Au début, la Serbie a considéré l'acceptation de la Résolution sous cette forme comme une victoire démocratique. «La Serbie a montré, que dès ce jour, elle peut utiliser plus de moyens diplomatiques dans le combat pour la question du Kosovo», dit le Ministère des affaires étrangères Vuk JEREMIĆ.<sup>11</sup>

La présentation des opinions devant la Cour s'est passée en décembre 2009. La Serbie s'efforçait de démontrer que la déclaration d'indépendance unilatérale du Kosovo est illégitime et contraire au droit. «Dans la Résolution 1244/1999, le territoire du Kosovo est défini comme partie intégrale de La République fédérative yougoslave, de laquelle la Serbie est un Etat successif ... La Résolution 1244/1999 présume, que le statut définitif du Kosovo sera le résultat d'un consensus politique. Les Albanais kosovars ne disposent pas d'un droit d'autodétermination... Les auteurs de la déclaration d'indépendance unilatérale du Kosovo sont inférieurs à la Résolution 1244/1999 et aux règles de la MINUK, qui ont été violés... L'administration internationale a été établie par la Résolution 1244/1999 et on ne peut pas l'annuler unilatéralement. La déclaration d'indépendance du Kosovo n'est pas une solution finale de statut du Kosovo»<sup>12</sup>

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<sup>11</sup> Voir: *Uspeh Srbije u UN*. 2008. In *Politika* 2008. [Cit. 14.12.2014.]. Available at <<http://www.politika.rs/rubrike/Svet/Uspeh-Srbije-u-UN.lt.html>>.

<sup>12</sup> Voir: *CR 2009/24 Public sitting on the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo*. 2009. The Hague: International Court of Justice 2009.

La représentation de Pristina a opéré avec l'argument, que «la question du Kosovo» est un cas *sui generis*. «Il n'y a pas de doutes que le Kosovo est un Etat souverain et indépendant, la déclaration d'indépendance est le résultat naturel du développement politique. La Résolution 1244/1999 n'empêche pas à la proclamation d'indépendance et le retour à l'ordre avant mars 1999 est impossible»<sup>13</sup>

Parmi d'autres, l'opinion serbe était supportée par la Russie, la Chine, l'Espagne, l'Argentine. Au contraire, par exemple des Etats Unis, l'Allemagne, la France et la Croatie ont soutenu Pristina. La décision était historique pas seulement pour la Serbie, mais pour la Cour elle-même - pour première fois, elle a disserté sur l'égalité de la sécession d'une partie du territoire d'un Etat souverain. La décision peut devenir le précédent dans le droit international.

Le 22. juillet 2010 «La Cour a conclu que l'adoption de la déclaration d'indépendance du 17 février 2008 n'a violé ni le droit international général, ni la résolution 1244/1999/ du Conseil de sécurité, ni le cadre constitutionnel. En conséquence, l'adoption de ladite déclaration n'a violé aucune règle applicable du droit international... La résolution 1244/1999 n'excluait pas l'adoption de la déclaration d'indépendance du 17 février 2008, ces deux textes étant de nature différente: contrairement à la résolution 1244/ 1999, la déclaration d'indépendance constitue une tentative de déterminer définitivement le statut du Kosovo»<sup>14</sup>

Par cette constatation, la position de la Résolution 1244/1999 a été affaiblie. Elle contribue au dialogue à long terme, mais ne définit pas la solution finale pour Kosovo. Selon la Cour, la Résolution 1244/1999 ne contient aucune clause, qui interdit la déclaration d'indépendance. La

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Cit. 01.12.2014.] Available at <<http://www.icj-cij.org/docket/files/141/15710.pdf>>.

<sup>13</sup> Voir: *CR 2009/25 Public sitting on the Accordance with International Law of the Unilateral Declaration of Independence by the Provisional Institutions of Self-Government of Kosovo*. 2009. The Hague: International Court of Justice 2009. [Cit. 01.12.2014.] Available at <<http://www.icj-cij.org/docket/files/141/15712.pdf>>.

<sup>14</sup> Voir: *141/2010 Conformité au droit international de la déclaration unilatérale d'indépendance relative au Kosovo*. 2010. The Hague: International Court of Justice 2010. [Cit. 01.12.2014.]. Available at <<http://www.icj-cij.org/docket/files/141/15988.pdf>>.

formulation de la question elle-même est devenue l'objectif de la critique - la question était formulée rigoureusement et la Cour ne s'occupait pas avec le fait, si la République du Kosovo dispose des éléments d'un Etat. Il est vrai que la réponse sur la question posée est négative, toutefois l'avis consultatif ne détermine pas que la Déclaration du 17. février 2008 est conforme au droit international. Sur la question stricte, la Cour a rendu un avis «neutre».

La décision de la Cour était une déconvenue pour la Serbie. «La caisse de Pandore a été ouverte. La Serbie participera activement au débat devant l'Assemblée générale des Nations Unies. Je suis persuadé, que l'Assemblée générale va conclure que la sécession n'a pas rendu l'Etat aux Albanais kosovars», le Ministère des Affaires étrangères a constaté.<sup>15</sup>

Immédiatement après la présentation de l'avis consultatif, le gouvernement serbe a commencé à préparer le projet de la Résolution de l'Assemblée générale des Nations Unies, qui a été présenté le 28 juillet 2010. Le texte du projet constate que la CIJ n'a pas confirmé le droit des Albanais kosovars de la déclaration d'indépendance et la sécession unilatérale n'est pas la solution acceptable pour des question territoriales. C'est seulement le dialogue pacifique qui va résoudre toutes les question ouvertes.<sup>16</sup> En fait, ce projet de la Résolution laisse le statut du Kosovo ouvert. Le Royaume Uni s'éreint cette formulation en critiquant le non-engagement l'UE et les pays de *Kvinta* (le Royaume Uni, la France, l'Allemagne, l'Italie, des Etats Unis). Comme a dit Philippe PAREM, le représentant du Royaume Uni dans les structures onusiennes : «Cette discussion doit être fermée. Le Kosovo est un Etat reconnu et ce procès est irréversible ... Si la Serbie veut ouvrir cette problématique, elle va directement confronter des Etats qui ont

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<sup>15</sup> Voir: JEREMIĆ, V. 2010., „*Pandorina kutija*” otvorena, idemo u UN. In *Politika* 2010. [Cit. 18.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/143447.lt.html>>.

<sup>16</sup> Voir: BAKOVIĆ, B., CEROVINA, J. 2010. *Srbija razgovara: Kakvi su dometi srpske kosovske politike*. In *Politika* 2010, Vol. CVI, No. 34746, p. 4. ISSN 0350-4395.

reconnu le Kosovo.... et c'est contre les intérêts des citoyens du Kosovo, et de la Serbie aussi. »<sup>17</sup>

Des Etats membres de l'UE ont, directement ou indirectement, demandé à la Serbie de retirer ce projet de la résolution. La visite non-officielle du 26 août 2010 en Serbie de Guido WESTERWELLE, le Ministère allemand des affaires étrangères est considéré comme «la dernière mise en garde» pour le changement du projet. «Le Dialogue entre Belgrade et Pristina est indispensable, c'est une chance d'améliorer la vie ordinaire. Dans l'UE, nous pensons que cette chance est dans les conférences à Bruxelles, pas à New York »<sup>18</sup> Avant le voyage en Serbie, WESTERWELLE a admis que la confrontation et l'ouverture du statut du Kosovo peut menacer l'eurointégration de la Serbie.<sup>19</sup> Pendant sa visite officielle à Belgrade le 31 août 2010, le Ministre des affaires étrangères britanniques William HAGUE a répété cette position européenne.<sup>20</sup>

Au début du septembre 2010, le changement du projet a été annoncé. Le côté serbe a reformulé le texte original en coopérant avec l'UE. Le nouveau projet n'utilise pas les termes «la sécession unilatérale», les négociations sur «des questions ouvertes» sont changé pour le terme de négociations sur «des questions de la vie». La résolution «mutuelle» convoque au dialogue pour chercher la solution acceptable et met l'accent sur le rôle de l'UE dans ce procès. Le projet a été approuvé par l'Assemblée générale le 9 septembre

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<sup>17</sup> Voir: *S/PV.6367 Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo (S/2010/401)*. 2010. New York: UN Security Council 2010. [Cit. 01.12.2014.]. Available at <<http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/kos%20spv6367.pdf>>.

<sup>18</sup> Voir: VESTERVELE, G. – TADIĆ, B. 2010. *Budućnost Srbije u EU*. In *Politika* 2010, Vol. CVI, No. 34771, p. 1,5. ISSN 0350-4395.

<sup>19</sup> Voir: VALTER, L. 2010. *Borba za Kosovo ili perspektiva EU*. In *Danas* 2010. [Cit. 01.12.2014.]. Available at <[http://www.danas.rs/danasrs/politika/borba\\_za\\_kosovo\\_ili\\_perspektiva\\_eu.56.html?news\\_id=197975](http://www.danas.rs/danasrs/politika/borba_za_kosovo_ili_perspektiva_eu.56.html?news_id=197975)>.

<sup>20</sup> Voir: TADIĆ, B. 2010. *Srbija spremna na kompromis sa EU Hejg: Najlakši kompromis – povlačenje rezolucije*. In *Politika*. 2010, Vol.. CVI, No. 34776, p. 5. ISSN 0350-4395.

2010.<sup>21</sup> La Résolution ouvre la plateforme pour le dialogue Belgrade-Pristina courant.

Bien que le président TADIĆ ait défini la résolution «mutuelle» comme le résultat de la coopération et du consensus entre la Serbie et l'UE, la pression européenne sur la Serbie afin de changer le texte est flagrante. Les commentaires quotidiens des politiques européennes (qui ont reconnu le Kosovo), qui ont incriminé la politique serbe par rapport au Kosovo et leurs avertissements avant le ralentissement du procès d'eurointégration, et les visites de WESTERWELLE et Hague elles-mêmes, sont les preuves de cela.

Le changement du projet serbe de la résolution de l'Assemblée générale est, après l'acceptation de la reconfiguration de la MINUK, le deuxième retrait significatif de la Serbie dans sa politique vers le Kosovo au profit de l'eurointégration du pays.

## **10.2 L'étape nouvelle dans des relations entre la Serbie et les représentants de Pristina sous la surveillance de l'UE**

Le dialogue Belgrade-Pristina est fondé sur la Résolution de l'Assemblée générale des Nations Unies n° A/RES/64/298 laquelle présume que «le dialogue lui-même serait un facteur de paix, de sécurité et de stabilité dans la région. Il va supporter la coopération, atteindre le progrès dans la voie vers l'UE et en même temps, il va améliorer la vie du peuple»<sup>22</sup>.

Les buts proclamés du dialogue sont défini généralement et ils s'orientent sur la coopération régionale. Le programme n'incorpore pas l'ouverture du statut du Kosovo. L'administration du Pristina refuse

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<sup>21</sup> Voir: *Generalna skupština UN jednoglasno usvojila Rezoluciju Srbije o Kosovu*. 2010. In *Politika*. 2010, Vol. CVI, No. 34785, p. 1, 5. ISSN 0350-4395.

<sup>22</sup> Voir: *Resolution A/RES/64/298 - Request for an advisory opinion of the International Court of Justice on whether the unilateral declaration of independence of Kosovo is in accordance with international law*. 2010. New York: UN General Assembly 2010. [Cit. 1.2.2014.] Available at <[http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/RES/64/298](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/64/298)>.

strictement toutes discussions sur le statut du Kosovo du Nord, habité par des Serbes.

Borislav STEFANOVIĆ a été nommé chef de l'équipe serbe pendant les négociations, Edita TAHIRI est la représentante de Pristina. Le diplomate britannique Robert COOPER a été commissionné par l'UE comme la personne interposée. Les sujets du dialogue n'étaient pas connus au début.

Pristina, sauf le manque du soutien politique domicile, devait faire face à l'accusation internationale, présentée dans le rapport de Dick MARTY, un diplomate suisse, qui a été élaboré pour l'Assemblée parlementaire du Conseil de l'Europe. Dans le «*Traitement inhumain de personnes et trafic illicite d'organes humains au Kosovo*» MARTY accuse l'Armée de libération du Kosovo (son chef ancien Hashim THACI maintenant premier Ministre du Kosovo) de la procédure pénale grave, qui se passait au Kosovo et l'Albanie septentrionale.<sup>23</sup> La mission EULEX a commencé l'investigation préliminaire.

Bien que la coalition gouvernementale serbe avait été préparée à négocier, l'administration de Pristina n'est pas unifiée. Après l'échec pendant le vote sur la résolution par rapport au dialogue dans le parlement de Pristina, le gouvernement a décidé que l'accord gouvernemental est suffisant. La participation finale de Pristina au dialogue est le résultat de la pression européenne.

### 10.2.1 Le dialogue Belgrade – Pristina, la coopération désirée ou forcée ?

Les négociations du dialogue Belgrade-Pristina ont commencées en mars 2011 et pendant l'étape «technique», neuf ronds du dialogue sont passés. En fait, les sujets des négociations copient «les six poids» du secrétaire générale des Nations Unies.

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<sup>23</sup> Voir: *Resolution 1782 (2011):Investigation of allegations of inhuman treatment of people and illicit trafficking in human organs in Kosovo*. 2011. Strasbourg: Parliamentary Assembly of Council of Europe 2011. [Cit. 1.2.2014.]. Available at <<http://assembly.coe.int/Mainf.asp?link=/Documents/AdoptedText/ta11/ERES1782.htm>>.

Les premiers résultats concrets ont été présentés après le cinq rond du dialogue au début de juillet 2011 dans le domaine de la liberté du déplacement, des livres de maître, de l'évidence des voitures et de l'utilisation de la carte d'identité et du passeport. Par rapport à la liberté du déplacement, des habitants du Kosovo peuvent voyager en Serbie avec des documents de l'administration de Pristina (en passant la frontière administrative, ils vont obtenir un document du Ministère des affaires intérieures serbe, qui confirme, que des documents de Pristina servent seulement pour l'identification et n'ouvrent pas le statut du Kosovo.) Les Serbes du Kosovo du Sud<sup>24</sup> peuvent se déplacer sans passeport du Kosovo (qui est exigé par l'administration de Pristina), des cartes d'identité de Pristina sont suffisantes. Même si STEFANOVIĆ a considéré ces agréments comme «le mode, qui ne reconnaît pas le Kosovo et résoudre des problèmes des peuples ordinaires»<sup>25</sup>, des Albanaises Kosovars ont obtenu la possibilité de voyager en Serbie avec des documents de Pristina. De plus, des équipes ont mis d'accord sur l'utilisation des cartes d'identité, pas strictement des passeports, mais ça, en même temps, signifie l'attribution des cartes d'identité de Pristina aux Serbes du Kosovo, ce contre quoi les Serbes du Kosovo du Nord ont protesté.

Sauf les premiers résultats du dialogue, le juillet 2011 est marqué par le début de la crise au nord du Kosovo. La crise a commencé par l'introduction de l'embargo de Pristina sur le commerce serbe<sup>26</sup> le 20 juillet 2011.<sup>27</sup> Quelques jours plus tard, l'administration de Pristina a essayé d'occuper des frontières administratives par les douaniers de Pristina. Les Serbes du Kosovo ont répondu par l'élévation des barricades sur les endroits les plus

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<sup>24</sup> Note: Les Serbes du Kosovo sont concentrés surtout au nord de Kosovo. Dans le reste du territoire, ils sont dispersés dans les enclaves, entouré par des habitants majoritaires albanaises.

<sup>25</sup> Voir: *Dogovor o dokumentima i tablicama*. 2011. In *Večernje Novosti*, 2011. [Cit. 14.12.2014.]. Available at <<http://www.novosti.rs/vesti/naslovna/aktuelno.69.html:336474-Dogovor-o-dokumentima-i-tablicama>>.

<sup>26</sup> Note: Pristina a argumenté que c'est seulement un acte de réciprocité. L'embargo sur le commerce du Kosovo est en force en Serbie.

<sup>27</sup> Voir: *Dijalog Beograda i Prištine odložen do septembra*. 2011. In *Politika*. 2011, Vol. CVII, No. 35092, p. 5. ISSN 0350-4395.

importantes qui mènent vers la Serbie. Plusieurs des perturbations et conflits entre la KFOR et les Serbes du Kosovo sont passés.

En août 2011, la chancelière allemande Angela MERKEL pendant sa visite officielle de la Serbie a souligné, que la crise au Kosovo du Nord (à cause de la quelle le dialogue était arrêté) ne contribue pas au procès de l'eurointégration du pays. «C'est indispensable d'acquérir le progrès dans le dialogue .... la mission EULEX doit être permit d'exercer son mandat sur tout le territoire du Kosovo. En même temps, il faut s'approcher à l'abolition des institutions parallèles au Nord du Kosovo»<sup>28</sup>. Elle a posé des demandes nouvelles par rapport à l'eurointégration<sup>29</sup> - la coopération avec Pristina, la dislocation complète de l'EULEX et l'abolition des institutions de Belgrade au Nord du Kosovo.

Au cours du sixième rond du dialogue subséquent à septembre 2011, les partis ont conclus sur la question douanière. L'administration de Pristina va utiliser le terme «*Le Douane Kosovar* » mais sans éléments d'Etat. L'abolition d'embargo de Pristina sur le commerce serbe est devenu la condition de Belgrade. Par contre, Pristina a essayé d'installer à nouveau la police douanière aux frontières administratives Jarinje et Brnjak au Kosovo du Nord. Les Serbes ont répondu avec le renforcement des barricades.<sup>30</sup>

Début octobre 2011 la KFOR a ouvert la frontière administrative Jarinje pour les piétons, le transport routier et le marchandise non-commerciale (en assistance de la mission EULEX et des douaniers de Pristina) mais des routes venant et allant vers les frontières sont bloquées.<sup>31</sup> Cette situation instable n'a pas aidé à donner une image positive de la Serbie devant la publication de l'Avis de la Commission sur la demande d'adhésion de la Serbie à l'Union européenne en octobre 2011.

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<sup>28</sup>Voir: TADIĆ, B. 2011. *Srbija želi da reši konflikte na zapadnom Balkanu.; Merkel: Napredak u dijalogu s Kosovom pa status kandidata*. In *Politika*. 2011. Vol. CVII, No. 35127, p. 1, 5.ISSN 0350-4395.

<sup>29</sup>Note: L'Allemagne dispose d'une position clé dans l'UE.

<sup>30</sup>Voir: *Tahiri: Prihvatanje pečata – priznavanje Kosova*. 2011. In *Politika*, 5 September 2011. [Cit. 25.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/190187.lt.html>>.

<sup>31</sup>Voir: RADOMIROVIĆ, B. 2011d. *Srbi sa severa neće ni srpske carinike na prelazima*. In *Politika*, 2011. [Cit. 25.12.2014.]. Available at <<http://www.politika.rs/rubrike/tema-dana/193779.lt.html>>.

Selon l'Avis de la Commission sur la demande d'adhésion de la Serbie à l'UE «le pays aura accompli de nouveaux progrès substantiels en ce qui concerne la priorité essentielle suivante: réaliser de nouvelles avancées sur la voie de la normalisation des relations avec le Kosovo, dans le respect des conditions du processus de stabilisation et d'association, en respectant pleinement les principes de la coopération régionale inclusive; en respectant pleinement les dispositions du traité instituant la Communauté de l'énergie; en trouvant des solutions pour les télécommunications et la reconnaissance mutuelle des diplômes; en continuant de mettre en œuvre de bonne foi tous les accords conclus et en coopérant activement avec la mission EULEX pour que celle-ci exerce ses fonctions sur l'ensemble du territoire du Kosovo.»<sup>32</sup> Malgré le fait que les politiciens serbes ont apprécié l'avis positivement, il détermine l'attribution du statut de pays candidat par le retour au dialogue, lequel dépend de la volonté de Pristina.

Belgrade a immédiatement changé sa politique par rapport aux barricades. «Les barricades ont empêché l'installation des institutions de Pristina au nord du Kosovo, mais il est temps pour un processus politique maintenant», dit STEFANOVIĆ pendant le huitième rond du dialogue du 30. novembre 2011. Pendant ces négociations, l'accord sur la liberté du déplacement a été atteint. Selon cet accord, on va créer les contrôles sur des frontières administratives Jarinje et Brnjak communes. Les policiers serbes, les officiers de la mission EULEX, les représentants de Pristina vont y assister, les douaniers de Pristina vont servir d'observateurs. On va rater des éléments d'Etat.<sup>33</sup> Les Serbes du Kosovo ont refusé d'accepter cet accord, car selon d'eux c'est la reconnaissance du Kosovo *de facto*.

Bien que les Serbes essaient d'accomplir des conditions dérivées de l'avis, en décembre 2011 «le Conseil européen charge le Conseil de vérifier et de confirmer que la Serbie a continué de faire preuve d'un engagement crédible et de progresser dans la mise en œuvre de bonne foi des accords

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<sup>32</sup>Voir: *Мишљење Комисије о Захтеву Србије за чланство у Европској унији*. 2011. COM (2011) 668. {SEC (2011)1208}. Брисел: Европска Комисија 2011. [Cit. 01.12.2014.]. Available at <[http://www.seio.gov.rs/upload/documents/eu\\_dokumenta/misljenje\\_kandidatura/misljenje\\_ek\\_2011.pdf](http://www.seio.gov.rs/upload/documents/eu_dokumenta/misljenje_kandidatura/misljenje_ek_2011.pdf)>.

<sup>33</sup>Voir: *Stefanović: Barikade su ispunile cilj*. 2011. In Blic, 4 December 2011. [Cit. 01.12.2014.]. <<http://www.blic.rs/Vesti/Politika/293683/Stefanovic-Barikade-su-ispunile-cilj>>.

conclus dans le cadre du dialogue, qu'elle est parvenue à un accord concernant une coopération régionale ouverte à tous et qu'elle a activement coopéré avec la mission EULEX et la KFOR afin de leur permettre d'exécuter leurs mandats. À la lumière de cet examen, le Conseil prendra en février 2012 une décision sur l'octroi à la Serbie du statut de pays candidat, une confirmation devant intervenir à cet égard lors de la réunion du Conseil européen en mars.»<sup>34</sup> Ça signifie la mise en action du résultats du dialogue.

Le président TADIĆ a constaté, que «la politique du Kosovo et de l'UE n'a pas digérer une défaite. La Serbie ne peut, ni abdiquer pas de la future européenne. Je suis persuadé que nous allons obtenir le statut la prochaine fois.»<sup>35</sup> Le vice-président du gouvernement pour intégration européenne a démissionné. L'autre vice-président du gouvernement Ivica DAČIĆ: «C'est évident qu'on demande à Belgrade - il faut reconnaître le Kosovo. Ne nous mentons pas et ne nous parlons des contes. C'est requiert.»<sup>36</sup> Président TADIĆ a confirmé des mots de DAČIĆ, mais la Serbie n'a pas accepté cette condition.<sup>37</sup>

Les représentants de la coalition ont commencé pour le première fois à parler de la condition de la reconnaissance du Kosovo en changement pour le statut du pays candidat (l'opposition relève sur ce fait depuis longtemps). Ces discours peuvent être considérés comme «l'excuse» devant les électeurs dans le domaine de l'eurointégration. Le but est de montrer, que le pays est prêt mais des conditions politiques pour l'attribution du statut sont incomptables avec l'intérêt d'Etat, alors avec la question du Kosovo.

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<sup>34</sup> Voir: *Мишљење Комисије о Захтеву Србије за чланство у Европској унији. 2011. COM (2011) 668. {SEC (2011)1208}*. Брисел: Европска Комисија 2011. [Cit. 01.12.2014.]. Available at <[http://www.seio.gov.rs/upload/documents/eu\\_dokumenta/misljenje\\_kandidat\\_ura/misljenje\\_ek\\_2011.pdf](http://www.seio.gov.rs/upload/documents/eu_dokumenta/misljenje_kandidat_ura/misljenje_ek_2011.pdf)>.

<sup>35</sup> Voir: *Tadić: Ne odustajemo od EU.* 2011. In *Politika*, 2011. [Cit. 01.12.2014.]. Available at <<http://www.politika.rs/rubrike/tema-dana/200741.lt.html>>.

<sup>36</sup> Voir: *Dačić: Od Beograda se traži da prizna nezavisnost Kosova.* 2011. In *Politika*, 2011. [Cit. 01.12.2014.]. Available at <<http://www.politika.rs/rubrike/Politika/201130.lt.html>>.

<sup>37</sup> Voir: *Tadić: Tražili su da priznamo Kosovo, nismo prihvatili.* 2011. In *Blic*, 13 December 2011. [Cit. 01.12.2014.]. Available at <<http://www.blic.rs/Vesti/Politika/295624/Tadic-Trazili-su-da-priznamo-Kosovo-nismo-prihvatili>>.

## 10.2.2 La conclusion du Conseil européen - le bilan politique du gouvernement cessant

Après le sommet du Conseil européen du 9 décembre 2011 et la non-attribution du statut de pays candidat à l'UE, la Serbie se concentrait à la conclusion de l'accord par rapport à la représentation régionale du Kosovo. Le dialogue était important surtout pour la Serbie car l'attribution du statut est déterminé par le progrès dans le dialogue. Par rapport aux autres conditions du Conseil européen, les résultats du dialogue sont entrés en force à la fin du décembre 2011, le retour de la mission EULEX était partiellement permit le 22 février 2012 sous la condition de non-participation des douaniers de Pristina.<sup>38</sup>

Pendant le neuvième rond du dialogue, les parties ont conclus le compromis sur la représentation de Pristina dans le champ régional. L'administration de Pristina va se présenter comme Kosovo, avec la référence suivante : «ce nom ne détermine pas le statut du Kosovo, il est conforme à la Résolution 1244/1999 et à l'avis consultatif de la Cour International de la Justice sur la déclaration d'indépendance». STEFANOVIĆ a noté que cette formulation est une victoire diplomatique de Belgrade, parce qu'on a réussi à omettre le terme de « déclaration d'indépendance du Kosovo». Selon lui, cet accord est conforme à la constitution serbe, et comme ça la Serbie a rempli les conditions européennes.<sup>39</sup> Même si Belgrade a réussi à remplir cette condition politique, Pristina a gagné la possibilité de se présenter par elle-même sur le champ régional, alors *de facto* se représenter comme un Etat indépendant.

Le résultat positif par rapport au statut du pays candidat était, jusqu'à le neuvième rond du dialogue, improbable mais l'accord sur la représentation régionale de Pristina a avancé la position serbe.

C'était la session du Conseil de l'UE, qui a précédé au sommet du Conseil européen et sa recommandation positive considérée comme «avant-

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<sup>38</sup> Voir: RADOMIROVIĆ, B. 2012. *Usmenim dogovorom Euleks ponova na severu KiM*. In *Politika* 2012. [Cit. 28.12.2014.]. Available at <<http://www.politika.rs/rubrike/tema-dana/208739.lt.html>>.

<sup>39</sup> Voir: *Dogovoreno predstavljanje Kosova*. 2012. In *Politika*, 2012. [Cit. 28.12.2014.]. Available at <<http://www.politika.rs/rubrike/tema-dana/209505.lt.html>>.

attribution» du statut. Pendant la discussion, la Lituanie, la Pologne et la Roumanie ont exprimé des objections. En conclusion, «le Conseil a examiné si la Serbie a continué de faire preuve d'un engagement crédible et a progressé dans la mise en œuvre de bonne foi des accords conclus dans le cadre du dialogue entre Belgrade et Pristina, elle est parvenue à un accord concernant une coopération régionale ouverte à tous et si elle a activement coopéré avec la mission EULEX et la KFOR afin de leur permettre d'exécuter leurs mandats; le Conseil a conclu que tel est le cas. À la lumière de cet examen, le Conseil recommande d'octroyer à la Serbie le statut de pays candidat et attend avec intérêt que le Conseil européen confirme cette décision lors de sa réunion de mars». <sup>40</sup> Au sommet du 1. - 2. mars 2012, «Le Conseil européen fait siennes les conclusions sur l'élargissement et le processus de stabilisation et d'association que le Conseil a adoptées le 28 février 2012 et convient d'accorder à la Serbie le statut de pays candidat.» <sup>41</sup>

Les représentants de l'UE et des pays membres de l'UE ont salué l'attribution du statut de pays candidat à la Serbie, dont signifie la confirmation du chemin européen de la Serbie et du bilan des réformes exercées. En Serbie, le président TADIĆ a souligné, que la politique «le Kosovo et l'UE» a réussi à l'examen international. <sup>42</sup>

Dans le domaine de l'intégration, le statut de pays candidat représente une étape importante. C'est non seulement le bilan positif de la politique du gouvernement de Mirko CVETKOVIĆ par rapport à l'eurointégration, mais on a effectué la phase primaire du but tracé par le premier Ministre du gouvernement démocratique Zoran ĐINĐIĆ. De l'autre côté, c'est le processus des négociations d'adhésion qui est vraiment important, parce que

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<sup>40</sup> *General Affairs Press Release.6854/12.2012.* Brussels: Council of the European Union 2012. [Cit. 12.12.2014.] Available at <[http://www.consilium.europa.eu/ueDocs/cms\\_Data/docs/pressData/EN/genaff/1282\\_71.pdf](http://www.consilium.europa.eu/ueDocs/cms_Data/docs/pressData/EN/genaff/1282_71.pdf)>.

<sup>41</sup> *Záverý Európskej rady 1. a 2. marca 2012. EUCO 4/12.2012.* Brusel: Európska rada 2012. [Cit. 3.3.2012.]. Available at <[http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/SK/ec/128558.pdf](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/SK/ec/128558.pdf)>.

<sup>42</sup> RADIĆEVIĆ, N. 2012. *Srbija postala kandidat za članstvo u EU.* In *Politika*, 2012. [Cit. 12.12.2014.]. Available at <<http://www.politika.rs/rubrike/tema-dana/210265.lt.html>>.

le statut est connu comme «la salle d'attente de l'UE», qui est la situation de la Macédoine et la Turquie.

### *La Conclusion*

Dans les relations euro-serbe on peut observer trois grands problèmes politiques - la critique de l'UE par rapport au régime du Communauté d'États de la Serbie et du Monténégro, la coopération serbe avec le Tribunal pénal international pour l'ex-Yougoslavie et des positions différentes vers le Kosovo. De nos jours, la Serbie et le Monténégro sont des pays indépendants, la coopération avec le TPIY est conclu (par l'arrestation de KARADŽIĆ, MLADIĆ et HADŽIĆ). La question du Kosovo reste la dernière, et le plus grand défi dans la relation mutuelle.

La déclaration d'indépendance du Kosovo en 2008 a donné lieu à des élections avant terme, qui ont créée le gouvernement de Mirko CVETKOVIĆ (2008-2012) avec la politique «le Kosovo et l'Union européenne». Parfois, il n'est pas facile de savoir ce qui est prépondérant.

L'hypothèse primaire qui présuppose le retrait de la politique gouvernementale par rapport au Kosovo au profit de l'eurointégration du pays s'est confirmée. La reconfiguration de la mission MINUK et le début du dialogue Belgrade - Pristina sont les événements les plus importants. La victoire diplomatique sous la forme de reconfiguration sous les conditions serbes est ambiguë. La mission EULEX a commencé les préparations même sans le conseil serbe, alors l'acceptation supplémentaire était utilisée pour la présentation d'une victoire devant la société serbe et international. *De facto*, c'est la concession serbe au profit d'une meilleure position pour l'eurointégration. La pression européenne sur le changement de la proposition serbe de la résolution de l'Assemblée générale des Nations Unies (qui ouvre le statut du Kosovo) et la résolution «mutuelle» suivante (qui donne la plateforme pour le dialogue contemporain) est la deuxième démonstration que l'eurointégration est pour le gouvernement de Mirko CVETKOVIĆ prioritaire.

La deuxième hypothèse, rattachée à la pression de l'UE sur la Serbie par rapport à la normalisation des relations Belgrade - Pristina en utilisant le

dialogue pour améliorer la position serbe dans l'eurointégration, est confirmée aussi. Le dialogue est le résultat de la résolution euro-serbe mutuelle, dont l'UE est le médiateur. En octobre 2011, le progrès au dialogue est devenu l'autre condition politique dans le processus de l'eurointégration de la Serbie. Bien que des agréments conclu entre Belgrade et Pristina ont aidé au statut de pays candidat, comme ça la Serbie reconnaît le Kosovo *de facto*.

C'est difficile d'évaluer si la politique pro-européenne du gouvernement de Mirko CVETKOVIĆ est avantageuse pour le pays. Sans aucun doute, l'attribution du statut de pays candidat est une réussite mais il faut regarder des circonstances dans lesquelles il a été obtenu.

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# 11 Kosova in Former Yugoslavia and Its Way to the EU Integration: Perspectives and Challenges

*Afrim HOTI\**

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**Abstract:** *Republic of Kosovo is one of the newest legitimately born countries in the world. The country proclaimed its independence just few years ago, with the main aim of becoming part of the European Union as well as of reaching the international integration through membership on world's most powerful organizations and forums such as the European Union, United Nations, World Bank, the Council of Europe, NATO, World Economic Forum, and so on. Since its beginnings as an independent country, Kosovo has dealt with serious challenges along with various obstacles and difficulties on getting the proper country representation on lobbying for worldwide countries recognition; on building alliances and foreign affairs with other countries; constructive neighboring environment; as well as domestic problems which needed proper strategy of improvement and responsive implementation plan toward it, such as lack on rule of law and democracy application, non efficient public administration and weak judiciary system, large network of organized crime, great rate of corruption, and so on. This article tempts analyzing and identifying key challenges that country faces, on its path toward the European integration process. The problem of such lack on country's recognition, a problem that penalizes Kosovo on such integration process, is not a lone one. There are other major causes of problems which contribute on country's lack on that regard. The only sure fact is: there will be no EU perspective for Kosovo, as far as country will not build the proper mechanisms and tools on fully or partially fulfilling the preset criteria and standards for EU accession.*

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**Key words:** *Republic of Kosovo, Kosovo independence, security and stability*

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## ***Introduction***

Kosova is a new independent and sovereign state. It declared the independence on 17<sup>th</sup> of February 2008 and is recognized<sup>1</sup> by roughly 110 countries worldwide. The proclamation of country's independence raised two fold opinions; not only on regional perspectives, but on the international also. Western powers led by United States of America and most powerful EU countries, clearly stated that this step of Kosova authorities might be a step for strengthening the regional security and stability. On the other hand, there were opposing countries, influenced from Serbian authorities and supported by Russian Federation which were against the declaration of Kosovo Independence. They proclaimed that the independence of the country will seriously damage the security and stability in the region and wider. Moreover, according to these opposing forces, the independence of Kosovo is not a Sui Generis case, and moreover it can cause the precedent of new conflicts on other regions worldwide.

As the Balkan region aims the EU perspective, the new indications show that several important steps have been taken from Western Balkan countries in the direction of improving fair neighborhood relations among them. Kosovo is continuing to be part of these initiatives and contribute to the region. At the regional summit<sup>2</sup> held in Prizren, Kosovo, in 2010, all Kosovo neighboring countries representatives, apart from Serbia, clearly proclaimed that the independence of Kosovo is an action which contributed

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<sup>1</sup> Note: 23 out of 28 European Union members recognized Republic of Kosova so far. Even those who are refusing to do so, develop to some extent normal relations with the country. Spain, Greece, Slovakia, Romania and Cyprus are still resisting recognizing the country's independence but, apart from the last one, all recognize the Kosovo passports and other documents issues by Kosovo authorities.

<sup>2</sup> The summit was held in Pristine on 20<sup>th</sup> of September 2010 in which took part the Heads of the Committees of Foreign Policy of the Parliaments of Kosova, Albania, Bulgaria, Croatia, FYR of Macedonia, Montenegro and Turkey.

to the security and stability of the region, and that Kosovo's perspective is similar to other countries, which is the path toward EU integration. Moreover, they lobbied on international actors, so to recognize the legitimacy of Kosovo's Independence. *"We do express our statement that independence of Kosova became a stability factor in the region, opening new perspectives for the regional and European integration, and within this aim we do call the neighboring countries as well as others to recognize the independence of Kosova"*<sup>3</sup>.

## 11.1 Short historical background on Kosova

History of Kosova is more complex than it seems to be during previous centuries. Since nineteenth century and onwards, the opposing national actions of the Albanian and Serbian inhabitants of Kosova province increasingly shaped the history of this state. Viewed by the perspective of each party, the province was associated by historical events, considered as fundamental for the development of each party's national identities. Seen by Albanians part view, Kosovo played a vital role on development of the Albanian nationalism. At that time, in one of its southern cities of Kosovo, Prizren, the Albanian national identity experienced a significant increase. In Prizren, during one of the countless crises of South East Europe, which involved biggest European powers, the Albanians established, on June 10, 1878, a political organization called the 'League of Prizren',<sup>4</sup> The League, however, played an important part on fostering the Albanian national identity<sup>5</sup>. The Serbians on the other part have historically considered Kosovo as the structure of their medieval Serb Kingdom; a land of monasteries, castles and the resting place of great kings.<sup>6</sup> The legends and myths

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<sup>3</sup> Point 4 of the Summit Final Declaration.

<sup>4</sup> LATAWSKI, P. – SMITH, M. (2003): *The Kosovo crisis and the evolution of post cold war - European security*. Manchester: Manchester University Press 2003, p. 4

<sup>5</sup> ZAVALANI, T. (1969): Albanian nationalism. In SUGAR, P. – LEDERER, I. (eds): *Nationalism in Eastern Europe*. Seattle: University of Washington Press 1969, p. 61–66.

<sup>6</sup> LATAWSKI, P. – SMITH, M. (2003): *The Kosovo crisis and the evolution of post cold war- European security*. Manchester: Manchester University Press 2003, p. 4.

associated with Prince Lazar, the Serbian leader at *Kosovo Polje*, who played a role on linking relationship bridges between medieval kingdom and on establishing a modern Serb national consciousness of nineteenth century and onwards<sup>7</sup>.

Kosova, as a country which was so essential on views, for Serbian and Albanian national identity, would certainly become a contested territorial piece. When such kind of nationalistic conflicts happen, the demography has a crucial role in formulating claim and counter-claim<sup>8</sup>. The ethnographic composition of Kosovo and its evolution, since nineteenth century, form an important setting to a contemporary conflicts arena between Albanians and Serbians fighting for getting the control over it. By the last quarter of the nineteenth century, the population of Kosova had an Albanian majority, while the Serbians became a sizeable minority<sup>9</sup>. Nowadays, the rate of population remain similar, where the majority community is Albanians, by covering over 92% and Serbians 5%.

## **11.2 Kosovo amid political and legal developments under Former Yugoslavian Federation**

The developments of Kosovo during the period of former Yugoslavia were filled with ups and downs, as regards of the Albanians view, since the majority of them greatly associated their life destiny to the destiny of Kosovo. Since the idea of Great Yugoslavia was fading down in all its components, by not excluding Kosovo issue. At that period, a new area of politics in FYI appears, an era which will be associated to the Europe fate in the following years, historically acknowledged as the Europeanization era.

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<sup>7</sup> See: ANZULOVIC, B. (1999): *Heavenly Serbia: From Myth to Genocide*. London: Hurst and Co. Ltd., 1999.

pp. 11–31. See also: JUDAH, T. (2009): *The Serbs: History, Myth and the Destruction of Yugoslavia*. 3rd ed.

New Haven, Yale University Press. 2009. pp. 29–47.

<sup>8</sup> See: MALCOLM, N. (2002): *Kosovo: A Short History*. Pan 2002. p. 193.

<sup>9</sup> See: *Ibid.* p. 195

It was the Kosovo that the compromise first broke down, and Kosovo became the burial ground of the Yugoslavian ideal. Early in March 1981, a student protest against deprived conditions at Pristina's university campus escalated into a huge street demonstration of thousand students. Two weeks afterward, disturbances erupted again, on the occasion of the torchbearers' relay, an event organized annually by the Socialist Youth Alliance to celebrate Yugoslavian unity, and at this time thousands of industrial employees came out into streets in support to such event. Tanks were sent in, but the revolt was spread into other towns. Kosovo came under a curfew, and a state of emergency was declared. Calls for 'Kosovo's Republic' brought in security forces, in a major operation to suppress the province<sup>10</sup>.

Kosovo illustrates the maxim that revolutionary situations can arise when hopes of improvement arise, and that only by expressing frustration. The reforming years dug its fruits firstly in University of Pristina, as an autonomous institution (1970), and in the Constitution of 1974 established Kosovo as a constituent member of the federation, by liberating the province from its direct subordination by Serbian Assembly in Belgrade. Within the provincial party's organization, Albanians reached to made significant triumphs: by the end of the 1970-s they reached to have around 70 percent of the membership level, and an akin proportion on provincial police (but not of the S. D. B., which was administered of Serbs and Montenegrins). Economic development limped far behind. Most of Kosovo's Albanians lived in extended families engaged in traditional peasant farming on smallholdings. Only 12 per cent of the total population was employed by social sector, and the unemployment rate was three times higher than the Yugoslavia's average, at the level of over 40 percent. It was a case of rough development on a grand scale<sup>11</sup>.

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<sup>10</sup> See: BENSON, L. (2001): *Yugoslavia: A Concise History*. Basingstoke, Hampshire: Palgrave Macmillan  
2001, p. 136

<sup>11</sup> See: *Ibid*, p. 137.

### 11.2.1 Political discourse

On former Yugoslavian political scene, there were two antagonistic ideas or theories about the legal and political position of the federation. The first one was the Centralist Theory, which was supported mainly by Serbia and the second was the Decentralist Theory, which was supported and promoted by other nations of former federation by aiming to gain the same political position within the federal state.

#### 1. Centralist Theory (1945–1966)

Was a theory promoted by Serbians, by intending the domination of Serbians over other nations in Yugoslavia. The fall of Aleksandar RANKOVIĆ marked descend of this political theory. MILOŠEVIĆ tried to restore the theory by the end of 80's and beginning of 90's.

#### 2. Decentralist Theory (1966–1990)

This theory was promoted by Former President Josip BROZ TITO under the principle of “*Brotherhood and Unity*” aiming to reach the equal position of all Yugoslavian entities. The failure of this theory brought into Yugoslavian agenda the dissolution of federation, as final and only alternative.

### 11.2.2 Constitutional discourse

Constitutional developments in former Yugoslavian Federation were quiet dynamic. Everything started with the first Constitution of 1946, were Kosovo's existence was declared legally, as a unit/region but its political status was advanced into a status of the province, with a second countries constitution of 1953<sup>12</sup> and the third one of a 1963. According to David RAIČ, “Kosovo, from this legal framework won significantly”. Albanians from Kosovo, directly benefited by this policy. Kosovo from being a “region” was declared a “province” similar to Vojvodina, which was used to be since 1945, and both gained political status of federal units”. Developments in Kosovo after 1966 for Albanians in Kosovo, according to

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<sup>12</sup> See: RAIČ, D. (2002): *Statehood and the Law of Self-Determination*. Martinus Nijhoff Publishers, 2002, p. 345.

Raif DIZDAREVIĆ, marked the beginning of Renaissance Period<sup>13</sup>. Kosovo's constitutional position was advanced through the constitution of 1974, where for the first time the province took the status of constituent element of federation, to be followed by the disagreements in federal level and constitutional changes at the end of 80's, where MILOŠEVIĆ tried to restore the Serbian domination in Yugoslavia, whose target was the abrogation of Kosovo's 1974 autonomy. Undeniably, he abrogated the aforementioned autonomy, and replaced it with that of 1989, adopted it without the approval of Kosovo, and absolutely under the military pressure. This marks the moment of separation from the Republic of Serbia and of instituting Kosovo structures, on the vision of establishing an independent state, whose objective could be the integration into the EU.

## **11.3 Kosovo Nowadays – different political contexts**

### **11.3.1 Regional context**

State-building politics of Kosova during the 1990-s were based on non-violent resistance, despite the continuing persecution, and repression caused by the Serbian regime and by systematic human rights violation. Despite Kosovo's efforts for peaceful solutions, in 1998, Serbia began an army conflict in Kosovo, just after it has finished three aggressive wars in Slovenia, Croatia, and Bosnia and Herzegovina. From the beginning of the war in 1998, Serbia implemented the genocidal policy, which had applied previously in Bosnia and Herzegovina. This war was characterized by mass homicides of Albanian civilians, destruction of properties, mass raping and deportation of almost a million people, which represented more than half of Kosovo's population. This genocide was an implementation in practice of the official political platform of the Serbian State<sup>14</sup>. In the latest ICTY

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<sup>13</sup> See: DIZDAREVIĆ, R. - HADŽIHASANOVIĆ, Aziz - HADŽIHASANOVIĆ, Asja (2000): *Od Smrti Tita do Smrti Jugoslavije: svjedočenja*. Sarajevo: Biblioteka Refleksi Svjetlost 2000, p. 329.

<sup>14</sup> Note: There were many projects composed on the idea of creating Great Serbia starting from "Nacertanje" followed by many others drafted by Serbian authors like Ilija GARAŠANIN, Vuk Stefanović KARADŽIĆ, Nikola STOJANOVIĆ, Vaso ČUBRILOVIĆ and many others. While the memorandum of the Academy

deliberation, a senior military general of Serbian army admitted that the state of Serbia has sponsored the violence and crimes committed in Kosovo.<sup>15</sup>

It used to be continuously presented into the academic as well as political discourse, by those against the independence idea, that independence of Kosovo will be used as precedent for other countries in the region, namely Bosnia and Herzegovina and Macedonia, as countries lacking political and ethnic stability. Bosnians could use the Kosovo's model to separate the country, as it remains fragile even after two decades following the conflict, to separate the country on Federation of Bosnia and Republic of Srpska<sup>16</sup>. Macedonians would consider the same idea, as there still exist some unclosed and sensitive ethnic issues that the country has. The ethnic separation appears to be the case which might happen, and eventually the Kosovo's independence could have some negative impacts, in terms of provoking such political trend in the region. Nevertheless, crucial for the regional context, is the fact that Republic of Kosovo is recognized by all neighboring countries, excluding Serbia and Bosnia, and this political act of Kosovo is clearly reflecting and contributing on peace and stability of the entire region.

### 11.3.2 European context

The European Union is built on the common values of the European countries. It is built to improve peace and security in Europe, also to guarantee fundamental European values, such as peace and security over the continent, respecting the international law, the human rights and the

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of Sciences and Arts of Serbia, whose president was Dobrica ĆOSIĆ, in 1986, was the basic document for the Greater Serbia and its hegemony against other nations of the former Yugoslavia. For more see: BLITZ, B. K. (2006): *War and Change in the Balkans: Nationalism, Conflict and Cooperation*. Cambridge: CUP, 2006. Also see: MEIER, V. – LELO, E. (2007): *Fundi i Jugosllavisë - Goditja në Kosovë*. Lubjanë: Liria, 2007.

<sup>15</sup> See: *Position Paper Recognition*. [Cit. 1.2.2015.] More available at <[www.mfa-ks.net/](http://www.mfa-ks.net/)>.

<sup>16</sup> Note: Republic of Srpska did not exist in the former federation of Yugoslavia. There is an agreement between many scientists and politicians that such entity was created based on the genocide and bloodshed in Bosnia and Herzegovina.

minorities' rights, building democratic institutions and securing state's borders. Nowadays, EU is present in Kosovo through: European Commission Liaison Office in Kosovo, Special Representative of the EU, EULEX and Member States representations through Embassies or Liaison Offices.<sup>17</sup> Lessons learned during the war in Bosnia pushed EU to think more seriously and to reflect quicker in order to avoid potential crisis within continent and beyond. After the failure of European community in protecting its common values in Bosnia and Herzegovina, European Union was determined to not allow a new failure in Western Balkans. These beliefs were proven to be right, by the action of NATO intervention in Kosovo, few years after. During a meeting in Berlin, the European Council<sup>18</sup> openly and on a unified voice emphasized:

*“... Europe cannot tolerate a humanitarian catastrophe in its midst. It cannot be permitted that, in the middle of Europe, the predominant population of Kosovo is collectively deprived of its rights and subjected to human rights abuses. We, the countries of the European Union, are under a moral obligation to ensure that indiscriminate behavior and violence ... are not repeated. We have a duty to ensure the return to their homes of the hundreds of thousands of refugees and displaced persons. ... We are responsible for securing peace and cooperation in the region. This is the way to guarantee our fundamental European values, i.e. respect for human rights and the rights of minorities, international law, democratic institutions and the inviolability of borders.”*<sup>19</sup>

The fact that Kosovars were continuously in the side of peace and democracy was reflected also during the war period, and during the peace negotiations in Rambouillet. Rambouillet negotiations were held in a

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<sup>17</sup> See: *Kosovo and EU, European Union Office in Kosovo / Special Representative of the European Union in Kosovo*. Prishtina: Kosovo National Council for European Integration. (Cit. 20.1.2015.) Available on: <[http://eeas.europa.eu/delegations/kosovo/eu\\_kosovo/political\\_relations/index\\_sq.htm](http://eeas.europa.eu/delegations/kosovo/eu_kosovo/political_relations/index_sq.htm)>.

<sup>18</sup>Note: A special European Council meeting, chaired by Mr. SCHRÖDER, President of the Council and Chancellor of Germany is held in Berlin on 24 and 25 March 1999. In this meeting two statements on Kosovo are adopted. Other declarations adopted deal with the Middle East peace process and enlargement, and the trade and cooperation agreement with South Africa. For more see: *Bulletin of the European Union*, 3 – 1999, p. 21

<sup>19</sup> See: CARLSNAES, W. - SJURSEN, H. – WHITE, B. (2004): *Contemporary European Foreign Policy*. London: Thousand Oaks, and New Delhi: Sage Publishers, 2004., p. 134

conference where super world powers were gathered, in order to discuss on finding a political resolution for Kosovo war. These powers demonstrated their commitment on building peace in Kosovo and region as well as on pushing the countries in conflict toward reconciliation and EU integration. The Kosovars, during these dialogue series, were expressed completely pro a peaceful solution by eventually signing the Rambouillet Accords. Kosovars attitude toward such delicate process was and is crucial, as it has shown their aximum restraint.<sup>20</sup> Anyway, Kosovo's objective remains its full integration into the European Union, NATO and permanent friendship with the United States of America. An important act toward that objective remains the establishment of good neighborhood relations of Kosovars with neighboring countries. Even that still exist a lot of political obstacles of the country, both capitals, Pristina and Brussels have opened their cooperation paths to follow up and to integrate Kosovo into the EU structures. Statehood of Kosovo seen on regional perspective continues to be contested by Serbia and Bosnia and Herzegovina. The second ones impacted by the Serbian entity in the country. The rest, Albania, Macedonia, Montenegro, Croatia, and Slovenia, recognized Kosovo and developed interstate friendships, diplomatic relations, business partnerships, academic joint programmes and students exchange, and so on, with the Republic of Kosovo. Seen on the European level, there still exists some disagreements, which in perspective seem to be unsustainable.

In 2000 the EU decided that Western Balkans<sup>21</sup> needed a new comprehensive policy approach. In such case, EU would continue to deploy their foreign policy and crisis management instruments, in order to promote regional stabilization of Balkan, but they would also keep the promise for establishing an association; integrating the Western Balkans countries gradually into European structures. The Stability Pact for South-Eastern Europe was implemented after. In the spring of 2000, the EU met in Feira, Portugal, to discuss the European perspective of the Western Balkans countries. This perspective would be implemented through the *Stabilization-Association Process*. The success in this process would be

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<sup>20</sup> See: *Bulletin of the European Union*, No. 3, Brussels: 1999, p. 21.

<sup>21</sup> Note: It is thought to the countries who have emerged from former Yugoslavia except (Slovenia) and Albania.

measured through signing the *Stabilization-Association Agreement*, and more, its implementation is a precondition for full membership in the EU that would happen later. A similar perspective was repeated in 2014 Berlin's Conference<sup>22</sup> for Western Balkans where at its Final Declaration was emphasized: "The Final Declaration emphasizes that all the countries of the Western Balkans will have an opportunity to join the European Union, if they meet the conditions for accession. It also states that, the region has already made great achievements as regards creating stability, developing good neighborly relations, and modernizing government, society and the economy"<sup>23</sup>.

Earlier than the independence of Kosovo, the EU's perspective was in shadow, since Kosovo's representing body of international affairs, were mixed. While Kosovo did not participate in Summit of Zagreb in 2000<sup>24</sup>, the Thessaloniki Summit was the first large scale EU event in which "Kosovo's political leaders" were present. Attendant at this summit was the former Head of UNMIK<sup>25</sup>, Michael STEINER, Kosova's President Ibrahim RUGOVA, and the Prime Minister of Kosovo Bajram REXHEPI<sup>26</sup>. EU perspective for Kosovo was confirmed by the "Thessaloniki's agenda for Western Balkans", approved by the leading EU states where it was said that, people of a multiethnic and democratic Kosovo will have their place in

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<sup>22</sup> Note: The Western Balkans Conference in Berlin was attended by representatives of Albania, Bosnia and Herzegovina, Croatia, Kosovo, the Former Yugoslav Republic of Macedonia, Montenegro, Serbia and Slovenia.

<sup>23</sup> See: *Westbalkan konferenz*. (Cit. 4.2.2015.) Available at <[http://www.auswaertiges-amt.de/EN/Europa/WestlicherBalkan/AktuelleArtikel/140828\\_Westbalkan\\_konferenz.html](http://www.auswaertiges-amt.de/EN/Europa/WestlicherBalkan/AktuelleArtikel/140828_Westbalkan_konferenz.html)>.

<sup>24</sup> Note: After the removal of Milosevic on 24 September 2000, the EU held a further summit to commence this more intense strategy. At the Zagreb summit in November 2000, post-Milosevic, the EU reaffirmed the European perspective of the countries participating in the stabilization and association process and their status as potential candidates for membership in accordance with the Feira Conclusions. For more see: BRANIFF, M. (2011): *Integrating the Balkans-Conflict resolution and the Impact of the EU expansion*. I.B. Tauris & Co. Ltd, 2011.

<sup>25</sup> See: United Nations Mission in Kosovo.

<sup>26</sup> See: *Kosovo-EU Relations: The History of Unfulfilled Aspirations? Lost opportunities in Kosovo's European integration process*. Pristina: the Kosovo Foundation of Open Society, 2013, p. 9.

Europe.<sup>27</sup> Most significantly the Stabilization and Association Process gave the country the perspective of future membership in the EU<sup>28</sup>. The key meeting was the EU-Balkans Thessaloniki Summit, held in June 2003, where was clearly stated that the future of the Balkans would be in the EU, and that progress toward such direction would be depending on the fulfillment's level of the preconditions and requirements that are applied to other candidates<sup>29</sup>.

The Balkans is an enclave within the EU's borders, which neither foreign nor internal ministries can neglect this fact for a long time, giving its potential both for helping and for hindrance of the EU's security. Seen on regional and wider prospect, the EU integration is the only option. The states of Turkey and Russia offered and continue to occasionally offer Kosovo, opportunities for diplomatic proximity, but not in economical aspect level, financial aid or political support, as the EU offers. Croatia's accession into EU, in July 2013 brought another member who could be a strong advocate for the region, and could help pushing forward the EU enlargement process, but as it was later proved, it still has many potential bilateral disputes between former Yugoslavian countries.<sup>30</sup>

Anyway, in terms of moving forward aiming the integration into the EU structures, Kosovo has lots of remained work to be done. In 2013, thirteen years after the beginning of SAP, Kosovo has not done any official action

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<sup>27</sup> See: *The Thessaloniki agenda for the Western Balkans*. 2006. (Cit.30.1.2015.) Available at <http://www.westernbalkans.info/htmls/page.php?category=391&id=419>.

<sup>28</sup> Note: The war in Kosovo led to the substantial evaluation of enlargement of security and geopolitics which somehow provoked a accelerated change, not to say the EU discourse at the high level negotiations in Helsinki, on December 1999. Latvia, Lithuania, Slovakia, Bulgaria and Malta started their membership negotiations in February 2000. Because of failing to comply with the EU standards and criteria's EU is refusing the membership negotiations with other countries. Anyway, in March 2001, there was an agreement with Turkey as a initial phase for negotiations which will be followed by the Thessaloniki Summit in 2003, where the green light for the EU perspective was given to Western Balkan countries, including Kosovo. For more: WEIDENFELD, W. – WESSELS, W. (2004): *Europe from E to Z – An EU Integration Guide*. Bonn: Europe Union Verlag GmbH, 2004, p. 429.

<sup>29</sup> See: BLITZ, B. K. (2006): *War and Change in the Balkans - Nationalism, Conflict and Cooperation*. Cambridge: CUP, 2006, p. 102.

<sup>30</sup> Ibid, p. 109 – 111.

towards a SAA. However, it is informally included in this process of membership, through some forms of “dialogues”. Compared to other countries of the region, Kosovo has never participated equally in the Stability Pact for South-Eastern Europe.<sup>31</sup> Twenty-three out of twenty-eight EU countries recognized Kosovo’s independence so far. There is still some unfriendliness approach toward such recognition of five remaining EU actors, such as of Spain, Cyprus whereas Greece, Romania and Slovakia seems to be in the rights track, as they do not directly recognize the country, but they show some indication of cooperation and an de facto recognition. It is considered that these countries will make a decision on recognition almost immediately. Because of the lack of unified voice of EU members, on recognizing Republic of Kosovo’s Independence as a group; the majority of EU members have already, individually, recognized this new born country. There are five EU members remaining to recognize the independence’s as a legitimate act, which is believed to happen quickly, since this whole process reflects also the EU integration processes, for the EU membership in general. The best way to outline this is the Stabilization and Association Process, where differently from the standard procedures applicable to other countries, including Kosovo neighbors; a “sui generis” procedure was introduced and allowed by the EU treaty, solely for Kosovo case<sup>32</sup>. It exists a common believe that the lack of recognition by these countries, is mostly linked to their internal composition and conflicts, rather than directly to the issue of Kosovo’s independence as an act. Yet, the importance of this resistance to recognize the country should not be neglected; in particular the one of Spain and its influence blocked the Latin American countries on recognizing Kosovo’s Independence. If Kosovo would have the Spanish support, the country could move forward and improve its position into the international community directly, and would

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<sup>31</sup> See: *Kosovo-EU Relations: The History of Unfulfilled Aspirations - Lost opportunities in Kosovo’s European integration process*, Pristina: Kosovo Foundation for Open Society, 2013, p.7.

<sup>32</sup> EUROPEAN COMMISSION (2013): *Recommendation for the Council decision authorization to open the negotiations for the Stabilization and Association Process between the European Union and Kosovo*. Brussels: European Commission, 2013. (Cit. 30.1.2015.) Available at: <[http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/ks\\_recommendation\\_2013\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/ks_recommendation_2013_en.pdf)>.

“soften” relations with its neighbor, Republic of Serbia, concurrently. Besides, the EU integration is an irreversible process. Considering this membership prospect as a strategic objective, after the proclamation of the independence, the country has putted the aim to be integrated into EU, as on top of the agenda. In order to accomplish such an objective, there are a lot of mechanisms, local and international, which are working on fulfilling the present criteria, starting from compliance and harmonization of Kosovo legislation with the EU Acquits. Inside Kosovo’s Government framework, a particular ministry was established on that purpose, recognized as Ministry for European Integration of the Republic of Kosovo, by covering several departments which deal with specific issues of the EU integration process of the country. Parallely, within the Kosovo Assembly, a functional Committee for EU Integration has been established. Aiming the consolidation of activities and strategic orientations towards the EU, the country’s President, within its competencies, has established the National Council for EU Integration<sup>33</sup>. The entire structure of Kosovo institutions, are established in line to the EU level like ministries as well as the decentralized municipalities, in order to meet the criteria and conditions set for becoming candidate country.

But, at the same time, these are not the only criteria’s to be met as a country, as, like most of the Western Balkans countries are facing more other challenges, also. Same as other countries in transition, in South East Europe, Kosovo is facing lots of challenges:

- Lack of rule of law,
- Democratization of the society and protection of human rights,
- Protection of national minorities, their treatment and integration into the state structures,
- Establishment of the security sector institutions,
- Cooperation with the international actors in the country to address issues like corruption, organized crime and so on,
- Democratic and parliamentary oversight of institutions is at an early stage of development.

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<sup>33</sup> For more look at: *National Council for European Integration*. (Cit. 30.1.2015.) Available at <<http://www.president-ksgov.net/?page=1,138>>.

Based on the Constitution of the Republic of Kosovo minorities are treated according to the highest European standards. Article 3 of the Constitution, which relates the issue of Equality before the Law, among others stipulates that:

*“The Republic of Kosovo is a multi-ethnic society, consisting of Albanian and other Communities”*<sup>34</sup>

In October 2012, the Commission issued a Feasibility Study for SAA involving EU and Kosovo. Study revealed the reality that Kosovo is mostly ready for opening Stabilization and Association Agreement negotiations, in addition suggested to the European Commission to prepare the Directive on the questioned agreement, at the time when Kosovo would have taken some concrete positive actions on the following issues:

- Rule of law,
- Public administration,
- Protection of minorities and
- Commerce.<sup>35</sup>

In the context of the Council Conclusions of February 2012, the Commission made a Declaration stating that "the Commission's Feasibility Study will examine whether the political, economic and legal criteria for a Stabilization and Association Agreement are fulfilled. The launch of the Feasibility Study for a Stabilization and Association Agreement with Kosovo is without prejudice to the legal status and Member States' positions on the recognition of Kosovo".<sup>36</sup> According to the Feasibility Study for a Stabilization and Association Agreement between the European Union and Kosovo:

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<sup>34</sup> Constitution of the Republic of Kosovo.

<sup>35</sup> HOTI, A. (2013):. Mesimdhënes ne Departamentin e Shkencave Politike ne Universitetin e Prishtines. Marreveshja Stabilizim Asociim për Kosovën. Prishtine: Instituti i Kosovës për Administratë Publike, 2 dhe 3 Maj 2013.

<sup>36</sup> EUROPEAN COMMISSION (2012): *Communication from the Commission to the European Parliament and the Council on Feasibility Study for a Stabilization and Association Agreement between the European Union and Kosovo.* (Cit. 30.1.2015.) p. 2-3. Available on: <[http://ec.europa.eu/enlargement/pdf/key\\_documents/2012/package/ks\\_feasibility\\_2012\\_en.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2012/package/ks_feasibility_2012_en.pdf)>.

*“Kosovo's political system is based on the principles of a parliamentary democracy. These principles are enshrined in its constitution and legal framework. Over the past three years, the functioning of democratic institutions and the respect for the rule of law has been consolidated. The necessary institutions have been established.... Kosovo has gradually strengthened its structures dealing with European integration processes”.*

The question is how long the process of accession might take. Following the Croatia membership into EU on last year, it is likely for a long gap to be created, until any other country could be ready for membership. Montenegro and Serbia will be in constant membership negotiations for years until now, with an unlikely membership before 2020. Albania is distant from meeting the conditions on good governance or economic reform, although Bosnia and Herzegovina still has severe problems with rule of law which will postpone negotiations with EU on membership. Until the question of country naming is solved between the Former Yugoslav Republic of Macedonia and Greece, there is no hope on positive steps toward next stage<sup>37</sup>.

### 11.3.3 International context

Russian Federation, as natural Serbian ally, promised in 1999, following the end of the Kosovo's War that it will be constructive in the process of resolution of Kosovo's problem. The history has shown that what they declared and what they stand for proved exactly the contrary. Russians did not play any constructive role; they did exactly the contrary from how they were declared, becoming an obstacle for the whole political process. Russia blocked political initiatives taken by western countries, meant to address and close up the problem. In order to “justify” the fear, they declared the similarity of Kosovato territories like some Caucasus, Georgia regions and lately comparing its situation to the current developments in Ukraine<sup>38</sup>, Russia provoked the promulgation of independencies of these regions

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<sup>37</sup> GRABBE, H. (2013): Conclusions. In PRIFTI, E. (ed.): *The European Future of the Western Balkans*. Paris: European Union Institute for Security Studies 2013, p. 111.

<sup>38</sup> Georgian regions of Ossetia and Abkhazia promulgated their respective independencies and were recognized by the Russian federation. Russian justified it with the “*Kosovo precedent*”.

following the recognition of them, all as an answer to Kosovo's independence.

### *Conclusion*

State-building process in Kosovo remains in an early and transitional stage. Despite the fact that there is a progress and few success stories of the country, there is still a distant walk ahead, in order to achieve EU and international standards and values. Nevertheless, democracy has marked a significant progress, in comparison to the earlier period. Rule of law remains among the primary country's objectives and it imposes a lot of tasks and obligations on the local as well as international level. Economic development seems to take an advantage in terms of the country's agenda, especially after the proclamation of independence.

Statehood of Kosovo in the region continues to be contested by Serbian neighbors and Bosnia and Herzegovina, which is impacted by Serbian entity in the country. The rest, Albania, Macedonia, Montenegro, Croatia, Slovenia did recognize and develop friendship, diplomatic and good relations with Republic of Kosovo. At the European level, there is still a resistance which in a perspective seems not to be sustainable. Anyway, this is a European process and will remain as such having Kosovo included into all EU structures and processes. Country is challenged by many obstacles but at the same time there is no doubt that has an EU perspective.

State recognitions followed by the legal opinion of the International Court of Justice for Kosovo confirmed in the best way the existence of the country as well as its birth in compliance with the international law.

Finally, Kosovo issue reflects the unique case of international relations where international community through recognitions and international justice through the legal opinion of ICJ on Kosovo, come together. The "battle" continues as per to or not to recognize the country. This, at the same time is the European interest.

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Afrim Hoti earned his master's degree (M.A. 2002) at the University of Sarajevo/Bologna on Human Rights and Democratization in South East Europe, a program supported by Italian Ministry of Foreign Affairs and European Commission. His focus of master research was on Specifics of Power in Kosovo under International Administration from Human Rights Perspective. He finished his PhD studies also (2013) at the University of Hamburg/Sofia, on the Globalisation as Factor of Security. He is author of two publications so far. The first one is "*Protection of Rights in Kosovo – Two legal studies to evaluate the level of compliance of the domestic legislation and practices with the applicable international standards*". This publication was supported by the Madrid Chamber of Advocates and University of Cantabria from Spain. Second publication is his book with the title "*Principle of Self-Determination and Its Evolution in International Law*". He also published in several newspapers in Kosova and abroad. Mr. Hoti has worked so far in different institutions in Kosova like as Advisor at the Kosova Parliament, Government as well as Special Chamber of the Kosova Supreme Court. He was continuously involved in different international projects with USAID, EC, UNDP and so on. He took part in many international conferences in and out of Kosova. Lectures at different universities in Kosova and the region. Lecturing in Pristine University since 2004 whereas in October 2013, is elected as Assistant Professor at the Department of Political Science of the University of Pristine. Currently is the Head of Department. He is co-editor of this monograph.

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