

THE RECOGNITION OF STATES: CASE OF KOSOVO

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ABSTRACT

The concept of the recognition of states is considered as a difficult and complex concept among the international law literature because of the political and legal elements. This thesis explains the recognition of the former Yugoslav republics, particularly the recognition of Kosovo. It provides the reason why the international community did not recognize Kosovo in 1991 but it recognized in 2008.

The argument of this thesis is that the reason why the international community decided to recognize Kosovo in 2008 is because the break up of Yugoslavia was not a closed issue; secession of Kosovo would close the last unresolved status issue as Ahtissari plan. Moreover, considering that Kosovo Albanians suffered under the Milosevic regime which carried out massive exclusion, repression, discrimination, violence, and genocide which made it impossible for Kosovo Albanians to return back under Serbia's authority, and therefore made the international community change its position and recognize Kosovo as a sovereign and independent state.

..... *To my parents*

And

....*To my sister Alisa*

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Introduction

The phenomenon of the recognition of states is considered one of the most complicated issues among the international law literature ‘because it is a confusing mixture of politics, international law and municipal law.’¹ The reality has shown that this concept cannot be separated from politics. When an entity declares its independence, states sometimes are more influenced by politics than legal instruments in undertaking decisions whether or not to recognize an entity as a state.² Therefore, international law is sometimes challenged by the political decision on the recognition of states, which overrides the principles and criteria set forth by international law.

After the end of the cold war, especially with the disintegration of the United Soviet Socialist Republics (USSR), followed by disintegration of the Socialist Federal Republics of Yugoslavia (SFRY) many new states were created which received international recognition. Since then, international recognition has become a hot topic in the international agenda, and remains an ongoing issue of our era.

What this thesis seeks to outline is an interesting story of Kosovo/Kosova,³ from the composition of SFRY in 1945 to the decomposition of SFRY in 90s. This thesis will then trace the recognition process, namely from non-recognition of 1991 towards recognition of Kosovo in 2008.

When most of the republics of the former SFRY, such as Slovenia, Croatia, Bosnia and Herzegovina and Macedonia declared their independence and achieved international recognition as a result of the Arbitration of the Badinter Commission, the disintegration of Yugoslavia was formally legalized. What we have to bear in

¹ Peter Malanczuk, *AKEHURST’S, ‘Modern Introduction to International Law’*, Routledge, New York, Seventh edition 1997, p, 82.

² *Ibid*, p, 82.

³ Kosova is the term in Albanian, while Kosovo is used in Serbian and English.

mind is that here starts the interesting story of Kosovo, from 1990s to 2008. Despite the fact that Kosovo was part of the 90s events in Yugoslavia, and went along the same path as republics did not get the same results. Kosovo's independence was condemned and declared illegal by Yugoslavia, namely because Serbia considered it as part of its territorial integrity, the international community, possibly as a result of this the EC Badinter Commission explicitly responded with a rejection of recognition of Kosovo's independence.

It is important to examine the reason why Kosovo's independence was rejected in 1991, because the EC was dealing with the recognition of republics, in which Kosovo was not the case. But the EC also was unable to find a solution for Kosovo as it found for the republics, in this way it left Kosovo's status issue unsolved under the regime of Milosevic, who launched his campaign of violence against Albanians starting with the abolition of Kosovo's autonomy in 1989 to 1999, a period which lasted more than ten years facing the regime which carried out genocide, massacres and ethnic cleansing against Kosovo Albanians.

It became an even more important issue, after ending the war in Kosovo in 1999 through NATO intervention; the United Nations deployed its mission in Kosovo called UNMIK under Security Council Resolution 1244.⁴ According to this resolution, despite the fact that Kosovo would be administrated by the international community, Kosovo would be given a substantial autonomy within the Federal Republic of Yugoslavia, which was to be decided by the Security Council. In order to determine the political and legal status of Kosovo, the Secretary General of the UN Security Council appointed a special envoy, the former President of Finland, Marti Ahtisari (Nobel price winner of 2009). Unable to reach an agreement between Serbs

⁴ See, United Nations Security Council Resolution 1244 on Kosovo, adopted on 10th June 1999. <http://bjoerna.dk/kosova/UN-SC-Res-1244.htm>

and Albanians Ahtissari came over with a Comprehensive Proposal who concluded that independence should be granted for Kosovo/Albanians known as 'Ahtisary's plan'.⁵ Considering Serbia's rejection, and Russia, as Serbia's protector which is a permanent member of the UN Security Council with veto rights, the Resolution regarding Kosovo's independence was not possible to be passed, because Russia warned that she was going to use her veto. For this reason, Ahtisary's proposed plan never went to the Security Council's table for approval Kosovo's independence.

But the Assembly of Kosovo on 17th February 2008 declared Kosovo an independent and sovereign state,⁶ thus Kosovo became the last place to secede from the former Yugoslav Federation which was already dissolved.⁷ This time the world response towards recognition of Kosovo's independence, different from 1991, reacted by individual recognition of Kosovo. Only a day after its declaration of independence, the most powerful and democratic countries in the world, among them the U.S, UK and France, formally recognized Kosovo, and until the present time Kosovo has been recognized by 60 out of 192 UN member states. All these important points illustrated above are reasons why an investigation of the recognition of Kosovo is needed.

Therefore, the research question is why the international community did not recognize Kosovo's independence in 1991 but recognized it in 2008? What made the international community change its mind and shift from non-recognition to recognition of Kosovo (while the reason for non-recognition in 1991 was because only republics were qualified for recognition, while Kosovo was one of the Yugoslav Autonomous Provinces, which could not be recognized)?

⁵ Marti Ahtisari plan, UNSC Doc. S/2007/168, 26 March 2008.

⁶ See the Kosovo Declaration of Independence by the Assembly of Kosovo, Sunday, 17.02.2008, 17:20, <http://www.assembly-kosova.org/?krye=news&newsid=1635&lang=en>

⁷ The dissolution of Yugoslavia started with Croatian and Slovenia declaration of Independence in 1990s, in this period Bosnia and Herzegovina, and Macedonia seceded from Yugoslavia, then Montenegro seceded from 'Serbia Montenegro,' which basically means that seceded from Yugoslavia as well, finally Kosovo was the last place to secede from Yugoslavia.

Overview of the Argument - The specific reason why Kosovo's independence

was rejected in 1991 by the international community, namely the Badinter Commission, was because it considered Kosovo as part of Serbia's territory. According to Guidelines on the recognition of new states, this explicitly states that the right to self-determination of Serbs outside Serbia is limited (for instance Serb entities in Croatia and Bosnia and Herzegovina), in other words it referred to all entities that did not have a territorial claim and did not control their population and territory, which also included Kosovo. However, the reason why the international community decided to recognize Kosovo in 2008 is because the break up of Yugoslavia was not a closed issue, secession of Kosovo would close the last unresolved status issue as the British Prime Minister said. Moreover, considering that Kosovo Albanians suffered under the Milosevic Regime which carried out massive exclusion, repression, discrimination, violence, and genocide⁸; which made it impossible for Kosovo Albanians to return back under Serbia's authority, and therefore made the international community change its position and recognize Kosovo as a sovereign and independent state.

In order to answer the question posed in this thesis, an assorted methodology, one that combines primary and secondary sources will be used. This research contains purely qualitative analyses, in which will be used in the three chapters of the thesis. The first part the thesis will slightly review the International Law literature, such as books and journal articles which explicitly explain theories and the general rules of recognition. Furthermore, many scholars talk about the practice of recognition of new states after the cold war, such as the recognition of the USSR, Czechoslovakia and particularly recognition of the former Yugoslavia.

⁸ UNSC Doc. S/2007/168, 26 March 2008, p.2.

The second part of the thesis will utilise a combination of historical, legal and political literature, namely books, article and original documents of the former Yugoslavia and its break-up. The third and last part of this thesis will mostly deal with primary sources such as newspapers, news and documents concerning the declaration of Kosovo's independence, namely the most important document known as Ahtissati plan and sources on the individual recognition of Kosovo.

Accordingly, the thesis will be structured in three chapters. The first chapter will present and analyse the existing literature concerning recognition of states in general explained by the International Law literature, including here the declaratory and constitutive theories, the importance of recognition in international law, and admission of new states in the UN. Moreover, the second part of the literature review will be about the recognition of USSR, Czechoslovakia with special attention to recognition of the former Yugoslavia, including here Kosovo.

The second chapter offers a historical background of Kosovo under the SFRY, from the composition of SFRY to its decomposition. It offers insights into the improvements of the status of Kosovo under the Yugoslav Constitution from 1946; 1963 to the last constitution of 1974, which was abolished in 1989. Mainly, talks about non-recognition of Kosovo, even though it was one of the major dreams of Albanians demanding a Kosovo Republic which would lead them towards secession from the SFRY. Finally, the chapter explicitly focuses on the declaration of 'Kosova Republic' in 1990 and Kosova independence in 1991 and the reason and consequences of non-recognition of Kosovo by the EC, namely the Badinter Commision.

The third chapter concludes the recognition of Kosovo's independence by the international community and the reason why the international community decided to

recognize Kosovo individually. Finally, attached is an appendix which contains two tables of countries which have formally recognized Kosovo's independence and countries which have not. The importance of the appendix is to show the date and the democratic index of the countries which formally recognized Kosovo.

CHAPTER I: EXISTING LITERATURE REVIEW AND RESEARCH GAP

This literature review will provide a short overview of the recognition of states in general, starting from the International Law perspective, since recognition has mostly been dealt within the legal literature, as an integrated part of it. Then it will discuss the practical form of recognition as some authors have written in particular about the recognition of the former Yugoslav republics in 1990s such as Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, and non recognition of Kosovo.

1.1 Recognition concept

Peter Malanczuk in his book AKEHURST'S, '*Modern Introduction to International Law*,' says that Recognition is one of the most complicated subjects in the international law, 'because it is a mixture of politics, international law and municipal law.'⁹In other words, recognition is a difficult subject because legal and political instruments cannot be separated; 'when granting or withholding recognition states are influenced more by political than by legal considerations, but their acts do have legal consequences.'¹⁰ He argues that once a state comes into existence, other states start facing with problems whether or not to recognize a new state, in this way Malanczuk says that 'recognition means a willingness to deal with the new state as a member of the international community.'¹¹

Carter Trimble in his chapter on '*States and Other Major International Entities*,' speaks about recognition of states and governments from the International

⁹ Peter Malanczuk, AKEHURST'S, '*Modern Introduction to International Law*', Routledge, New York, Seventh edition 1997, p, 82.

¹⁰ Ibid, p, 82.

¹¹ Ibid, p, 83.

Legal perspective. In regard to the recognition concept Carter argues that ‘recognition of a state is a formal acknowledgment by another state that the entity qualifies for statehood.’¹²

1.2 Declaratory and Constitutive Theories

Moreover, in International Legal literature there are two theories that argue over the matter of recognition from different views, such as declaratory and constitutive theories. According to declaratory theory, recognition by other states is only ‘declaratory.’ It argues that a state is an entity that fulfils the standards of the United Nations charter, criteria on rights and duties¹³ found in the 1933 Montevideo Convention such as: a permanent population; a defined territory; government; and capacity to enter into relations with other states; these criteria clarify the position of states in International Law.¹⁴ According to declaratory theory, after a state meets these requirements, it is a duty of other states to accept it as such. In contrast to declaratory theory, Constitutive theory argues that recognition plays a significant role in the creation of states; recognition is therefore ‘constitutive.’ According to constitutive theory, ‘an entity is not a state in international law unless it is generally recognized as such by other states.’¹⁵ Some scholars within the constitutive theory argue that criteria on rights and duties should be applied here as well.

Both theories raise the question whether there is a duty to recognize an entity as a state or not, that is, either the state meets the Montevideo Convention’s criteria or

¹² Carter Trimble, ‘Recognition of states and governments,’ *States and Other Major International Entities. The attributes of states, Constitutive and declarative theories of state recognition. Legal obligation of political favour? Recognition and non-recognition of governments. Effects of recognition then and now. Recent practice concerning state succession (Germany, Soviet Union, Yugoslavia, Czechoslovakia)*, International Law, Little Brown, Boston, 1991, p.421.

¹³ Ibid, p.417.

¹⁴ Alexander Papkovic & Peter Radan, ‘*Creating New States*,’ Theory and Practice of Secession, Ashgate Published, Ltd, England, 2007, p.11.

¹⁵ Carter Trimble, p, 421.

¹⁵ Ibid, p, 417.

not. Many scholars claim that none of the states are under obligation to recognize another entity as a state. According to International Law, Brownlie argues there is no legal duty concerning recognition, he stresses that recognition is ‘a public act of state, [and] is an optional and political act.’¹⁶

1.2 The New Practice of Recognition and the Importance of Admission of States in the United Nations

Christian Hillgruber, writing in *‘The Admission of New States to the International Community,’* explicitly argues that the new practice of recognition of the new states’ of the former USSR and Yugoslavia to the UN, ‘have overridden the traditional principle of international public law.’¹⁷ He believes that declaratory theory failed to explain the recognition of new states; the former Yugoslav countries before their admissions to the UN acquired individual recognition first, then collective, while declaratory theory does claim that recognition is ‘declarative’ and does not play a significant role in creation of new states because a state has to fulfil the criteria of the Montevideo Convention as was explained above. Furthermore, Hillgruber explains the importance that recognition and admission in the UN have for a state. Once an entity is recognized it gains a ‘legal status under international law, and becomes a subject of international law.’¹⁸ While regarding admission of the new states to the UN, Hillgruber states that after the candidate gets admission to the UN, not only does it become a new state, but also it ‘becomes part of the globally organized community of states by way of co-option.’¹⁹

¹⁶See what Professor Brownlie argues regarding recognition, in his book ‘Principles of Public International Law,’ this quotation is taken from Carter Trimble’s book, ‘International Law,’ p.417.

¹⁷ Christian Hillgruber, European Journal of International Law, ‘The Admission of New States to the International Community,’ Volume 9, Number 3, 1998, p, 491.

¹⁸ Ibid, p, 492.

¹⁹ Ibid, p.429.

1.3 Rules of Recognition

Malcom Shaw in Julia Dahlitz's book '*Secession and International Law*,' talks about a number of forms and trends of recognition, as well as providing general rules of recognition with respect to secession. His focus is to examine secession claims from the international point of view, which, 'in practice, if not necessarily in law, need to be internationally recognized.'²⁰ According to Shaw, this is how 'recognition may be seen as an international process of validation of the international law claim.'²¹ Shaw bases this statement on the decision of the Canadian Supreme Court regarding the secession of Quebec. In regard to unilateral secession, the court noted that 'unconstitutional declaration of secession' may possibly bring the state to a *de facto* secession.²² In this way, 'recognition could validate an effective secession' notwithstanding whether it is against the domestic or international law.²³

Shaw counts five elements involved in recognition: 'first, if there is a right or at the least a reasonable expectation to be recognized; second, the right of the recognizing state so to act; third, the criteria that may be seen as conditioning the exercise of this activity; fourth, the extent to which the process itself is subject to international scrutiny'; and finally the fifth, cases that the international community in regard to recognition acts with one voice, together decides either to obstruct or call for individual recognition, by individual states.'²⁴

Considering that there are two forms of recognition, individual and collective recognition, according to Shaw recognition can be extended, refused in case of secession of a country which is seen as a precedent and would cause consequences for

²⁰ Julie Dahlitz, *Secession and International Law*, Conflict Avoidance, T.M.C. ASSER PRESS, The Netherlands, 2003, p. 243.

²¹ Ibid, p.243.

²² Ibid. p.245.

²³ Ibid. p. 245.

²⁴ Ibid, p. 244.

all states. Shaw argues that once a country is recognized individually by states there is obviously 'a shift from individual to collective recognition through international organizations.'²⁵

1.4 Recognition of the New States of the USSR and Former Yugoslav Republics

One of the best known authors concerning self-determination is Hurst Hannum, in his book '*Negotiating Self-determination*,' Chapter 3: *Self-Determination in the Twenty-First Century*, he deals with recognition of the independence of the former Soviet republics, specifically the former republics of Yugoslavia. Hannum argues that recognition of the former USSR countries to the United Nations was not difficult because of the disintegration of the USSR, which 'was formally accomplished only with the consent of all of the constituent parts of the state.'²⁶ Furthermore, he argues that 'the UN simply substituted the new Russian Federation for the old Soviet Union, and the fourteen other countries were admitted as a new member,'²⁷ which was not the case with the former Yugoslavia. In case of the Yugoslavia, republics decided to separate without any consent. Similarly to the USSR, the partition of Czechoslovakia was peaceful. In 1993 Czechoslovakia separated into the Czech Republic and Slovakia, and both acquired immediate recognition by the international community.²⁸

There are different ways of perceiving the break up of Yugoslavia, for instance Hannum insightfully explains the dissolution of Yugoslavia which had begun

²⁵ Ibid, p. 244.

²⁶ Hurst Hannum & Eileen F. Babbitt, '*Negotiating Self-determination*,' Chapter 3: *Self-Determination in the Twenty-First Century*, Lexington Books, the Rowman & Littlefield Publishing Group, Oxford, 2006, p. 62.

²⁷ Ibid, p.62.

²⁸ Ibid, p. 68.

with the secession of the two former Yugoslav republics, namely Slovenia and Croatia, and the individual and collective recognition procedure of the two republics from the international community. Slovenia and Croatia declared their unilateral independence from Yugoslavia in 1991, the world's reactions concerning their independence in the beginning seemed to be very pessimistic because the world wanted to 'maintain Yugoslavia's territorial integrity.'²⁹ This is the reason why the US, EC and the CSCE opposed the recognition of Slovenia and Croatia. On February 29, 1992, the plebiscite on Independence of the republic of Bosnia and Herzegovina was held; the referendum was strongly supported by Muslim Bosniaks and Croats, while being boycotted by Serbs. The dissolution of Yugoslavia became even more evident with the third former republic of Yugoslavia's independence, namely Bosnia and Herzegovina, but the EC created an Arbitration Commission of the Conference in Yugoslavia in 1991 under the chairmanship of Robert Badinter, set forth to decide whether to recognize or not the new states.

The Bandinter Commission issued fifteen opinions, amongst them it concluded that 'Yugoslavia was in the process of dissolution,' in this regard on April 1992 the EC, and the US, recognized the independence of Slovenia, Croatia and Bosnia Herzegovina, and all of them were admitted to the United Nations,³⁰ except Macedonia, a year later in 1993, it became a member of the UN, not with her name but under the name of 'The Former Yugoslav Republic of Macedonia,' because of Greece's disagreement about the new state's name.³¹

Richard Caplan has written a chapter in the book *Nations and Nationalism* about *Conditional recognition as an instrument of ethnic regulations: the European Community and Yugoslavia*. Caplan's focal point in this chapter is recognition of the

²⁹ Ibid, p.63.

³⁰ Ibid, p.64.

³¹ Ibid, p.65.

Former Yugoslav countries by the EC. Different from Hannum, Caplan gives more details concerning the position of the EC members towards recognition of the two former republics of Slovenia and Croatia, and the way the EC extended recognition of the two other republics. Caplan indicates Germany as one of the first European member states who advocated the recognition of Slovenia and Croatia, which changed the position of the other states as well from being against to pro recognition.

It is interesting to see the position of Germany after the independence of Slovenia and Croatia. Germany was against the unilateral declaration and pro the 'unity and territorial integrity of Yugoslavia,' a statement which came from the Western European Countries in June 27, 1991, including Germany.³² According to Caplan, after two days Germany changed its position regarding Slovenian and Croatian independence, because of the eruption of hostilities that occurred after the declaration of the Western European Community which opposed the unilateral declaration. The German Chancellor, Helmut Kohl, on 29 June at the EC summit held in Luxemburg surprisingly said that 'the unity of Yugoslavia cannot be maintained with the force of arms,' the same statement in the same day was issued by the UK as well, which supported recognition of Slovenia and Croatia.³³

Other countries, namely France, Italy, Belgium and Denmark had announced that they would also recognize Slovenia and Croatia. Talking about the strategic logic of recognition, Caplan points out that recognition was seen as a useful tool of 'conflict management' for three reasons: first, recognizing Slovenia and Croatia, might have discouraged Serbia's leadership to pursue a violent campaign against secession of the republics; second, recognition would change 'the fundamental nature of the conflict, it would transform an internal dispute into an inter-state war,'; and finally, the most

³²Richard Caplan 'Nations and Nationalism,' Chapter: Conditional recognition as an instrument of ethnic conflict regulation: the European Community, 2002, p.159.

³³ The German Chancellor Helmut Kohl cited in Caplan's chapter, Ibid, p.159.

important aspect, recognition would make states adopt policies concerning ‘the status of minorities’ as well as reducing the causes of the conflict.³⁴ In other words, violence and the use of force by Serbia changed the position of the EC members from being against to pro recognition of Yugoslav republics.

1.5 The Case of Macedonia and its Disputes with Greece

A.V. Lowe and Collin Warbrick provide broader explanations regarding Macedonia’s recognition in the Journal, *International and Comparative Law Quarterly, Recognition of States Part 2*. These authors provide the reason why Greece prevented the ‘Community States’ from recognizing Macedonia even though the Badinter report issued in 1992 did not see any obstacles concerning the recognition of Macedonia. The Greek’s objection prevented ‘the Community States’ or the EC states from recognizing Macedonia because of the name Macedonia, which, according to Greece, ‘implied territorial ambitions over area of the same name in Greece.’³⁵ Even in the present time Macedonia continues to be in dispute with Greece because of the name, which prevented its NATO membership.³⁶

The prevention of Macedonia from international recognition created difficulties for the international community to introduce sanctions against Serbia and Montenegro, despite the fact of ‘the Minister’s statement to the Commons that Macedonia had amended its Constitution to meet the Greek concern and had made internationally binding statements that Macedonia had no designs against Greece,’ but this did not change the Greek position.³⁷

³⁴ Ibid, p. 163.

³⁵ A.V. Lowe and Collin Warbrick, ‘*The international and Comparative Law Quarterly*,’ Current Developments: Public International Law, Recognition of States Part 2, Vol 42, No.2, 1993, p.437.

³⁶ Albania Croatia officially join NATO, 05.04.2009.

http://www.setimes.com/cocoon/setimes/xhtml/en_GB/features/setimes/newsbriefs/2009/04/05/nb-01

³⁷ Ibid. p.438.

Nicoloas Zahariadis has written an article on '*the Greek Response to the Macedonia Issue*,' which gives some of the reasons why Greece objected to the declaration of Macedonia's independence in 1992. He points out that Greece opposed recognition of Macedonia not only because of the name, but also because the Macedonian Government adopted 'provocative nationalistic symbols.'³⁸ For instance, the star of the Vergina on the Macedonian flag, which was used in the ancient times of the 'Macedonian royal Dynasty and was found in King Philip's tomb in Greece.'³⁹ Moreover, Macedonia adopted the symbol of the 'White Tower' in Skopje, which is the symbol of the Greek city of Thessaloniki, as well as many names of streets and public places which were changed from Slavic to Greek city names.⁴⁰

The EC supported Macedonia in terms of technical and humanitarian assistance at that time, especially in disputes with Greece, while the UN also decided to send observers to Macedonia with the Agreement of the Government in FYROM because the EC failed to reach an agreement between Greece and Macedonia.⁴¹ Finally, Greece agreed with FYROM's membership of the UN, but 'under the temporary designation of FYROM, and also agreed to negotiate the resolution to the dispute with FYROM under the UN auspices.'⁴² In 1993, Macedonia was internationally recognized and became a member of the UN.

³⁸ Nikolaos Zahariadis, '*Nationalism and Small State Foreign Policy: The Greek Response to the Macedonian Issue*' *Political Science Quarterly*, vol. 109, No.4, p. 662.

³⁹ *Ibid*, p. 663.

⁴⁰ *Ibid*, p.663.

⁴¹ *Ibid*. p.438.

⁴² Nikolaos Zahariadis, '*Nationalism and Small State Foreign Policy: The Greek Response to the Macedonian Issue*' *Political Science Quarterly*, vol.109, No.4, p. 664

1.6 The Case of Kosovo and the Reasons for Non-recognition in 1990

Enver Hasani in his book *'Self-Determination, Territorial Integrity and International Stability: the Case of Yugoslavia,'* talks about the disintegration of Yugoslavia and the declaration of independence of Kosovo in the 90's, recognition of which was denied by the international community. During the time when Yugoslavia started to disintegrate, namely when Slovenia and Croatia declared their independence, on July 2, 1990, Kosovo also declared its independence as a Republic within Yugoslavia, then in 1991 Kosovo declared its independence from both Serbia and Yugoslavia.⁴³ The referendum for independence held on September 26-30, 1991, in which 87 percent of overall population of Kosovo participated, excluding the small number of Serbians and Montenegrins, demonstrates the fact that desire for independence was expressed as the will of the majority of Albanians, in which 99.87 per cent of the population voted in favour of independence from Yugoslavia.⁴⁴

Furthermore, Hassani points out that during the time of the break-up of Yugoslavia, the EC was only dealing with the applications of the Yugoslav republics, while applications submitted by other entities that did not have the status of republic including Kosovo were not taken into the account. As he says that entities that 'either did not have a clear territorial base at the time of application (the Serb entities in Croatia and Bosnia and Herzegovina) or did not effectively control their territory and population (the case of Kosovo) would not be taken into consideration'⁴⁵

⁴³ Enver Hasani, *Self-Determination, Territorial Integrity and International Stability: the Case of Yugoslavia*, National Defence Academy Institute for Peace Support and Conflict Management Viennain co-operation with PfP-Consortium of Defence Academies and Security Studies Institutes, Vienna, 2003 pp.236-7.

⁴⁴ Ibid, p.237.

⁴⁵

According to Hasani, the rejection of Kosovo's application in regard to international recognition was because of the parallel Albanian institutions, the 'self-styled' Government and President of Kosovo, who were unable to exercise efficient control above Kosovo territory, because of the lack of coercive power, which led to the establishment of the Kosovo Liberation Army in 1998-99.⁴⁶

Similar to Hasani, Richard Caplan in his book, *'Europe and the Recognition of New States in Yugoslavia'* in regard to non-recognition of Kosovo argues that only republics were eligible for recognition according to the Badinter Commission. In this way, a line was created between 'entities whose independence would be legitimately recognized and those whose independence would not be' as was the case of Kosovo, which suited very well the international community, the EC in particular.⁴⁷

According to Caplan, the reason why the EC did not recognize Kosovo was a consequence of the following EC decision:

'The EC was clearly innovating; there was no precedent for determining statehood on this basis. Nor was it obvious that the republic/province distinction was the most relevant one for the purpose of making such an important determination, particularly since a county's administrative boundaries might be subject to almost arbitrary change.'⁴⁸

Moreover Caplan argues that, the International Community did not want Kosovo to become an independent state, and did not sustain secession of Kosovo because by doing so, it would have to redraw the international borders which might have awakened historical claims in the whole region.⁴⁹

⁴⁶ Ibid, p. 257.

⁴⁷ Richard Caplan, *'Europe and the Recognition of New States in Yugoslavia'*, Cambridge University Press. New York, 2005, pp, 138-9.

⁴⁸ Richard Caplan, p, 139.

⁴⁹ Ibid, p, 139.

Blerim Reka, in his book *‘UNMIK as an international governance,’* regarding the Badinter Commission and non-recognition of Kosovo’s independence, argues that the reason for the EC Arbitration Commission regarding recognition of the former Yugoslav republics, which left Kosovo and Vojvodina out of its opinions, was rather political than purely legal.⁵⁰ According to Reka, the Badinter Commission should have taken into considerations two significant factors:

the provisions of the constitution of SFRY of 1974, which guaranteed that the borders of the Republics and Autonomous Provinces could not be changed without their consent; as well as justification of Decisions of the Constitutional Court of SFRY during the period 1990-91, regarding the constitutionality of the Declaration of Independence of the republics and provinces, which also reconfirmed the same status of the boundaries of Republics and Provinces within the former of SFRY.⁵¹

In other words, Reka claims that the Arbitration of the Badinter Commission paid no attention to the decisions of the Constitutional Court of 1990 and 1991, which had recognized without any difference borders of provinces (Kosovo and Vojvodina) with the borders of republics. Moreover, Badinter in the case of Kosovo could apply *‘utti possidetis’*, an international law Doctrine which is considered as a ‘general principle that has to do with cases of gaining independence... or as the International Court of Justice considered the *‘utti possidetis’* doctrine as a rule of international law in frontier disputes’⁵² in this way Kosovo’s case could perfectly be applied but it was not.

From the literature review illustrated above, we can clearly see different perceptions concerning the recognition and non-recognition concept. Authors have interpreted the issue of recognition and non-recognition in different ways, especially recognition of the former Yugoslav Republics, when Slovenia and Croatia declared

⁵⁰ Blerim Reka, *‘UNMIK as an international governance in post-war Kosovo: NATO’s Intervention, UN administration and Kosovar Administrations,’* Logos-A, Skopje, 2003, p. 63.

⁵¹ Ibid, p, 61

⁵² Ibid, p, 62.

their independence from SFRY, the world reaction was against their unilaterally independence because they wanted to maintain sovereignty and territorial integrity of Yugoslavia.

Due to some political reasons, the international community changed its position from being against to pro independent of Yugoslav Republics. Especially when hostilities erupted in the Yugoslav territory, the international community had shift from being against to pro. But one thing should bear in mind why then the international community did not apply the same consideration for Kosovo Albanians, who were always the target of violence since the establishment of Yugoslavia.⁵³

Especially from 1981 until 1999, not only the autonomy of Kosovo was abolished when Milosevic came into power but Albanians were facing ethnic cleansing, a campaign launched by the regime of Milosevic. Moreover, Kosovo became a Serbian military camp, after the demonstration of students,⁵⁴ which was followed with the creation of the state of emergency by SFRY Presidency. In this way, the international community was aware of Serbian repression against Kosovo/Albanians, but never mentioned that it was going to recognize the independence of Kosovo, while recognizing other republics of the Yugoslavia. More details will be given in the second chapter of this thesis; we will discuss more about the history of Kosovo under the former Yugoslavia in which Kosovo Albanians were living under the Yugoslav and Serbia repression especially from the 80's to 1999.

The fact that the international community changed its position towards recognition of the former Yugoslav republics proves that recognition is a very complex topic, when politics appears. Thus, the international community's shift from

⁵³ See: Zamir Shtylla, 'The Forced Deportations of Albanians from Kosova and other Territories Between the Two World Wars(1918-1941),' text provided from The Kosova Issue- A Historic and Current Problem, (Symposium held in Tirana on April 15-16 1993), Tirana, 1993, p, 97.

⁵⁴ Alexander Papkovic & Peter Radan, '*Creating New States*,' Theory and Practice of Secession, Ashgate Published, Ltd, England, 2007, p, 154.

non-recognition to recognition of the former Yugoslav republics which resulted with the establishment of the Arbitration of Badinter Commission who came over with decision that recognition will be granted only to Yugoslav republics, while recognition of other entities that did not have status of the republics was rejected. However, according to the Guidelines on the recognition of new states explicitly stated that the right to self-determination of Serbs outside Serbia is limited for instance (Serb entities in Croatia and Bosnia and Herzegovina),⁵⁵ in other words it referred to all entities that did not have territorial claim and did not control their population and territory in which Kosovo took place in this category. This is the reason why the EC did not recognize Kosovo in 1991.

Therefore, the authors who discussed about the recognition of the Yugoslav republics, especially the authors who talked about the non-recognition of Kosovo such as Hasani, Caplan, and Reka failed to predict that the violent disintegration of Yugoslavia would not be closed issue unless Kosovo's status remains unsettled (as the British Prime Minister stated while recognizing Kosovo in 2008). The very fact that the international community changed its position from being against to pro Yugoslav republics, demonstrates that the international community can change its position towards Kosovo's recognition.

⁵⁵ HURST HANNUM, 'Documents on Autonomy and Minority Rights,' Martinus Nijhoff, the Netherlands, 1993, p, 84.

Chapter 2: A HISTORICAL OVERVIEW OF KOSOVO IN THE 20TH CENTURY AND DENIAL OF THE RIGHT TO SELF-DETERMINATION OF KOSOVO ALBANIANS

2.1 Kosovo's status within the SFRY Constitutions of 1946; 1963 and 1974

In order to accomplish a serious study concerning the current situation and the status of Kosovo it is essential to provide a historical overview of the past, which explicitly explains the secession of Kosovo from the former Yugoslavia and Serbia. The former Yugoslavia, known as a South Slavic land, was established from three independent kingdoms, namely the state of Serbs, Croats and Slovenes in December 1918, which was destroyed by the Axis powers in 1941.⁵⁶ The Axis Powers occupied Yugoslavia, divided it among themselves and created a puppet state of Croatia under a pro-fascist Croat Ustasha Regime.⁵⁷ The Ustasha regime carried out genocide and massacres of thousands of people from different Yugoslav nationalities.⁵⁸

At the end of the Second World War the Communist Partisans defeated the Ustasha regime and re-established Yugoslavia, (known as Marshall Tito's Yugoslavia until his death in 1980), in which finally the two 'Autonomous Provinces of Vojvodina and the Autonomous Territory of Kosovo and Metohija' were established.⁵⁹ Both of these were abolished after Tito's death, namely in 1989, when Slobodan Milosevic came to power. According to Miranda Wickers, that it was the will of Kosovo Albanian delegates to join Serbia, namely the new state of socialist

⁵⁶ Alexandar Papkovic & Peter Radar, 'Creating New States,' Theory and Practice of Secession, Ashgate Published, Ltd, England, 2007, p. 143.

⁵⁷ Ibid, p. 143.

⁵⁸ See: Leslie Benson's book : Yugoslavia a Concise History, War, Civil War and Revolution, PALGRAVE, New York, 2001, pp, 76-77.

⁵⁹ See Miranda Wickers 'Between Serb and Albanian,' A history of Kosovo, C. Hurst & Co Ltd., England, 1998, p, 145.

Yugoslavia with the Resolution of Prizren in July 1945.⁶⁰ This raises indeed an interesting question whether the Kosovo Albanian wished to join Yugoslavia or Albania. If we only look at the Kosovo Albanian history and their major dreams about unification with Albania and self-determination demands, which dates back to 1878 with the first League of Prizren⁶¹ and the second in 1943, we can doubt the argument that it was Albanian will to join Yugoslavia. For instance, Blerim Reka argues:

Kosova did not enter the Yugoslav federation with the will of its majority population, although formally in circumstances of military pressure, whereas it was forced to vote for its federalization in Yugoslavia-Serbia (in Prizren, 1945), we nevertheless consider that the case of Kosova is more a case of legitimacy of self-determination due to annexation, rather than a case of Pact Model, which perhaps deals more with the former Yugoslav republic that entered it by their own will.⁶²

According to Serbian historians, some of the key reasons for establishing the ‘Autonomous Territory of Kosovo and Metohija on 7 August 1945’ were: to resolve the status of Albanians in Kosovo; to involve Albania into a Yugoslav communist federation through incorporation; and ‘to create balance between the Serbs and the other nations of the country based on the Leninist doctrine.’⁶³

Considering that Yugoslavia was composed of six republics, Serbia, Montenegro, Slovenia, Croatia, Macedonia and Bosnia and Herzegovina, while Vojvodina and Kosovo enjoyed the status of autonomous. Despite the fact that

⁶⁰ Ibid, p.144.

⁶¹ See: 1878 The Resolution of the League of Prizren or Lidhja e Prizerenit in Albanian, on 10 June 1878 a common political platform of all Albanians delegates in Prizren against the Treaty of San Stefano and Resolution of the Congress of Berlin, which had ignored the Albanian will for self-determination. On 13 June the League of Prizren submitted a memorandum to the Congress of Berlin, namely to the British representative, Benjamin Disraeli, announcing the following ‘Just as we are not and do not want to be Turks, so we shall oppose all our might anyone who would like to turn us into Slavs, or Austrians or Greeks. We want to be Albanians.’
http://www.albanianhistory.net/texts19/AH1878_2.html

⁶² Blerim Reka, (By the Pact Model he refers to the international legal doctrine and comparative practice of similar cases in the world’s recognition of federal units, the right to self-determination) ‘UNMIK As an International Governance in post-war Kosovo: NATO’s Intervention, UN administration and Kosovar Administrations,’ Logos-A, Skopje, 2003, p, 50.

⁶³ Miranda Vickers, p, 145.

Kosovo was denied the status of the republic, according to the 1946 constitution of Yugoslavia, Kosovo was not even granted full autonomy. Moreover, Kosovo and Metohija had lower status than Vojvodina; Kosovo was categorized as an Autonomous Region without any independent decision making of its 'local and administrative units'. While Vojvodina was 'proclaimed as an Autonomous Province with government structure similar to that of republic,' which had a supreme court and the right to independent decision making.⁶⁴ In other words, the Constitution of the Republics of Serbia was unable to explain in detail the position and status of the two units of Serbia, but the only explanation of the Constitution was that 'The Peoples Republic of Serbia includes within its structure the Autonomous Province of Vojvodina and Autonomous Region of Kosovo and Metohija.'⁶⁵

In regard to Kosovo's status, the justification why Kosovo Albanians had lower status compared to Vojvodina, according to the Serbian Constitution, was because Albanians wanted to join the Yugoslav federation,⁶⁶ as I mentioned above this is not true due to the fact that Albanians always wanted to join Albania not the Yugoslav federation. According to the Constitution of Yugoslavia, only Serbs, Croats, Slovenes, Montenegrins, and Macedonians were recognized and considered as nation states, except five Republics plus Bosnians, while Kosovo and Vojvodina had no right to self-determination due to the fact that they were not considered nation states. Kosovo Albanians were considered as a national minority within Serbia, with very limited rights. Even though after the Second World War according to S. Juka:

it was agreed that the Albanians of Yugoslavia should be able to choose their destiny with the right to self-determination, including secession...the Kosovars had fought the

⁶⁴ Ibid, See: The 1946 constitution of Yugoslavia regarding the status of the two Autonomous Province and Regional of Vojvodina and Kosovo, p, 146

⁶⁵ Ibid, p.147.

⁶⁶ Ibid, p,147.

Nazis and the Fascist hoping that Kosova would become one with the motherland only to realize that the Yugoslavs did not intend to keep their promise.⁶⁷

But the Albanian demands for a broader autonomy and Republic within Yugoslavia had never ended. Kosovo Albanians were one of the most persecuted people in the first Yugoslavia, but during the second or new SFR Yugoslavia led by Marshall Tito, Albanians achieved broader rights and broader autonomy but the status of republic was never granted.

The first step forward regarding improvement of Kosovo Albanian rights started within the new Yugoslavia, namely under Titio's regime. 'Yugoslav authorities opened Albanian-language schools, and encouraged the printing of a bi-weekly Albanian Newspaper,'⁶⁸ as a result thousands of Albanians children registered in school for the first time. Considering that previous Yugoslavia regimes had not allowed Albanians to be educated in their mother tongue, this change was considered a 'national victory.' In this way the Communist Party of Yugoslavia created good relations between all Yugoslav nations based on 'brotherhood and unity' in order to encourage 'Yugoslavness'⁶⁹ patriotism, and which for Kosovo was a bridge between Yugoslavia and Albania.⁷⁰

The second step forward for Kosovo Albanians was the Yugoslav Constitution of 1963, in which the status of autonomy for Kosovo slightly changed; Kosovo was

⁶⁷ See the study on Kosova which was presented at the International Conference on Kosova in November 6, 1982 at the Graduate Centre of the City University of New York by, S. S Juka, 'Kosova: The Albanians in Yugoslavia in Light of Historical Documents (an essay)' Waldon Press, United States, 1984, p, 49.

⁶⁸ Ibid, p.152.

⁶⁹ The term 'Yugoslavness' referred to the nationality of all people of the republics and autonomous areas of the former Yugoslavia.

⁷⁰ See Miranda Vickers, p, 156.

given similar status to the Province of Vojvodina, and this time the Supreme Court was established in Pristina as well.⁷¹

Because of the discrimination and pressure applied to Albanians from time to time, and because of the great dream of Kosovo to become a Republic, which would give them the right to self-determination and secession, Albanians were one of the most discriminated, vulnerable and poorest in Yugoslavia. After the discriminatory policy of Rankovic who attempted to centralise Serbia by excluding Albanians from the political life, namely from participating in the League of Communists Yugoslavia, the vice President of Yugoslavia. Kosovo Albanian demands regarding a Republic within Yugoslavia during Tito's regime remained unresolved, according to Marshall Tito the reason why Kosovo could not be granted a Republic was: 'republican status alone would not solve Kosovo's problems,' but he promised to them some political and social changes.⁷² In other words, Tito rather preferred to improve the economy of Kosovo and integrate it into Yugoslavia, by taking careful and gradual steps, like giving them broad autonomy.⁷³

The third and final step forward for Kosovo Albanians was in 1974, when Yugoslavia adopted the third Constitution which brought some reforms to the Federation. Reforms of the new Constitution narrowed the powers of the Federation but enlarged the powers of Republics and the two Autonomous Provinces. After the adoption of the 1974 Constitution, the two Autonomous Provinces had a veto for all matters of Serbia and Yugoslavia which directly resulted in the decline of Serbia's authority above the Autonomous Province of Vojvodina and Kosovo. According to 1974 Constitution, Belgrade was no longer allowed to interfere in Pristina's affairs.

⁷¹ Ibid, p.160, see The 1963 Constitution of SFRY, some small changes concerning the statute of Kosovo and Metohija from 'Regional Council' to the 'Provincial Assembly,' an upgrading to the status enjoyed by Vojvodina.

⁷² Ibid, p.164.

⁷³ Enver Hasani, p. 161.

Moreover, this Constitution brought many changes in favour of Kosovo Albanians, and made some positive actions concerning Albanians rights for the first time in Yugoslav history. For instance, ‘bilingualism became a condition for employment in public services; four-fifths of the available posts were reserved for Albanians on a party basis; and national quotas were strictly applied when nominations were made for public functions.’⁷⁴ Therefore Kosovo was recognized as an autonomous province by Yugoslavia and was given a status of self-government.⁷⁵

But the dream of Albanians to have a Republic within Yugoslavia did not become true; Albanians were defined as a nationality but not as a nation, which prevented them from having the status of Republic.⁷⁶ In this way the status of Kosovo had remained an Autonomous Province, though broader autonomy at self-management level was granted to them. If we go back and see the two previous Constitutions of SFRY 1946 and 1963 discussed in this part of the chapter we can clearly see that Yugoslavia had launched a discriminatory policy towards Kosovo’s status, not only did it deny Kosovo the status of the Republic but also as an autonomy compared to Vojvodina, Kosovo had very limited autonomy. In this respect, the Constitution of 1974 gave Kosovo equal status with the status of Vojvodina, which it enjoyed until 1980. Despite the fact of the difference in terms of size of the territory, in which Kosovo is comparing to Vojvodina is bigger, also in terms of the population Kosovo was populated by majority Albanians 90 %, while, Vojvodina’s population is composed by 50%, of Serbs and 50% by other minorities such as Hungarians,

⁷⁴ Ibid, p. 180.

⁷⁵ See also: BBC News, Timeline: Kosovo, A chronology of key events, 12, May 2009, http://news.bbc.co.uk/2/hi/europe/country_profiles/3550401.stm

⁷⁶ Miranda, Vickers, p.178.

Slovaks, Rumanians⁷⁷ etc. In this regard Kosovo's status which was given within the first SFRY constitution of 1946 without doubts was discriminatory.

2.2 Events in Kosovo during (1980 - 1989) and Abolition of Kosovo's Autonomy by the Milosevic regime

It could be argued that the situation of Kosovo Albanians started to improve with the regime change of the Communist Party which established the new Yugoslavia, after the Second World War, namely the Socialist Federal Republic of Yugoslavia under Marshall Tito's regime. After Tito's death in 1980, not only Yugoslavia started to break up due to economic reasons and debts to the US and European Banks,⁷⁸ but the situation of Kosovo Albanians started to worsens in all spheres of their life, in economic, political and social spheres. Together with Tito's death 'went the notion of national liberation, self-management, brotherhood and unity.'⁷⁹ For this reason, it is necessarily to demonstrate the events between 1981 and 1989 in Kosovo in order to see how the situation evolved from peaceful to violence, which resulted in the abolition of 1974 autonomy, and annexation of Kosovo under Serbia's rule.

Kosovo was one of the poorest provinces in the Federal Yugoslavia, with a high rate of unemployment of approximately 30 percent and with the highest population growth in Europe, which led the country in 1981 to large scale Albanian demonstrations.⁸⁰ The high birth-rate of the Kosovo Albanian population made many Serbs fear that Albanians would become the largest population in the former

⁷⁷See: Final Results of Yugoslavia's 1971 Results, 9 January, 1973.

<http://files.osa.ceu.hu/holdings/300/8/3/text/81-1-352.shtml>

⁷⁸ Alexander Papkovic and Peter Radan, p, 144.

⁷⁹ Miranda Vickers, p, 194.

⁸⁰ Alexander Papkovic & Peter Radan, p, 144.

Yugoslavia,⁸¹ which negatively affected the educational system and worsened conditions for students and teachers because of the poor economy of Kosovo. For instance, teachers were the lowest paid and the student's conditions at the University of Pristina were extremely poor, there were not enough dormitories and sometimes two students had to sleep in one bed.⁸² Unable to fulfil people's demands, to build schools and to raise the salaries for teachers, most of whom were quitting their jobs, the only choice left for Kosovars to express their demands was through demonstrations.

On 11 March 1981, Kosovar Albanian students of Pristina University⁸³ started to demonstrate about their poor conditions of living in the dormitories, and poor food at the cafeteria of Pristina University.⁸⁴ The large scale of the demonstration started from Pristina, the capital of Kosovo, in which 20.000 Albanians took part in the demonstrations and then spread to other parts of Kosovo, soon they turned to violence especially when people were calling for a 'unified Albania' and 'Kosovo Republic.'⁸⁵ It is interesting to see how the situation escalated into violence in Kosovo, considering that demands of Albanian students were about the improvement of their educational conditions in particular Universities, suddenly they were demanding 'Kosovo Republic,' and secession from Serbia. In this regard the students protest established a crucial political moment for Kosovo.

Despite the fact of the use of force as a response by police and federal military army, which resulted in many Albanian deaths, including here injured people and imprisoned, Albanian secessionist groups continuously carried out large scale

⁸¹ Mirand, Vickers, p, 219.

⁸² Miranda, Vickers, p, 197.

⁸³ See: Andrew Gardiner, 'Recognising victim mentality': A Lesson from Kosovo, p, 70, <http://devnet.anu.edu.au/online%20versions%20pdfs/53/19Gardiner53.pdf>

⁸⁴ Miranda, Vickers, p.197.

⁸⁵ Alexander Papkovic and Peter Radan, p. 144.

demonstrations demanding ‘full and formal republican status for Kosova.’⁸⁶ In order to stop Albanian secessionist riots a state of emergency by the SFRY Presidency on 1st April 1981 was announced.⁸⁷ The military and police forces of the former Yugoslavia started to carry out several forms of discrimination and violence against Albanians not only in Kosovo but beyond, namely in the territories inhabited by ethnic Albanians such as in Montenegro and Macedonia.

For instance, in Macedonia the authorities in Skopje undertook the following discriminatory measures: Albanian language was abolished in secondary education, the usage of Albanian was very much limited even in public life, traditional walls surrounding Albanian houses were ‘demolished, and the authorities tried to limit by administrative means the high birth rate among ethnic Albanians.’⁸⁸ All these discriminatory actions against Albanians were being executed under the name of ‘defending constitutionalism of the Yugoslav Federation.’⁸⁹ The only pretext for announcing the state of emergency was to create a Great Serbia, namely, ‘the creation of a unique Serbia by reducing the autonomy of Kosova and Vojvodina and redefining the Serb position in the other Republics of former Yugoslavia.’⁹⁰ Serbia was one of the biggest Yugoslav Republics, and after the post-Tito period, Serbia was dominated the federation. In this respect, violence and repression addressed to Kosovo Albanians continued for seven years until the abolition of autonomy and six more years after the abolition of autonomy which resulted in NATO intervention as a response to the Milosevic regime.

⁸⁶ See, Blerim Reka, UNMIK, p.51.

⁸⁷ Pajazit Nushi, ‘THE KOSOVA ISSUE A HISTORICAL AND CURRENT PROBLEM,’ THE PHENOMENON OF MILITARY-POLICE VIOLENCE IN KOSOVA 1981-1992, (Symposium held in Tirana on April 15 – 16 1993), Tirana 1996, p.147.

⁸⁸ Elez Biberaj, ‘The Kosova Issue a Historical and Current Problem; Kosova: The Balkan Powder Keg,’ (Symposium held in Tirana on April 15 – 16 1993, Tirana, p, 162.

⁸⁹ Pajazit Nushi, p, 147.

⁹⁰ Ibid, p, 147.

Despite the Albanian students' demonstrations about improving their living and studies conditions, Yugoslav authorities issued an order to close all universities as a response to the student's demonstration, pretty much for the well known reason which Albanians were demanding about the republic of Kosovo. Moreover, all secondary schools and Pristina University buildings became hotels of the military and police forces.⁹¹ Furthermore, Serbian repression against Albanians in Kosovo from day to day was enlarging the physical treatment and the number of sentences of Albanian population.

For instance, 'according to official figures, 7.000 Kosovar Albanians were sentenced to short prison, and over 1.750 were sentenced to longer sentences, up to 15 years, regarding their national activity.'⁹² The courts which were sentencing Kosovo Albanians, were giving highly unjust trials to Albanians, in other words they became deeply political courts which were helping Serbia to commit crimes and ethnic cleansing against Albanians. For instance, Pajazit Nushi states that 'there were staged artificial courts sitting against Albanian soldiers,' the Albanian soldiers during the SFRY were being killed, from 1982-1991 66 Albanian soldiers were killed, namely in Serbia's army, while the explanations from the courts for the deaths of the Albanian soldiers was the same for all of them 'they committed suicide.'⁹³ For this reason all Albanians were refusing to go to the Yugoslav Army, and the only way to escape the Army was through emigration to foreign countries without a definite status.⁹⁴

In this way, Serbian nationalism became very strong, 'in 1985 the anti-secessionist movement of Kosovo Serbs started a campaign of public protests and

⁹¹ Ibid, p, 151.

⁹² Belrim Reka, p, 52, Source taken by: OSCE "Kosovo? Kosova as seen as told," ODIHR, Warsaw, 1999, p, 3-4; see also another source Ukshin Hoti 'Filozofia Politike Qeshtjes Shqiptare,' Prishtinë, 1996, p, 103.

⁹³ Pajazit Nushi, p,184.

⁹⁴ Ibid, p,152.

demonstrations in Belgrade, the capital of Yugoslavia and Serbia, demanding protection from the violence by Albanians and, later, the reestablishment of Serb rule over Kosovo.⁹⁵

Only one year later, in 1986, the main leader of the ruling Serbian Communist Party became Slobodan Milosevic, who accused Albanians of genocide against the local Serbs and Montenegrins and attempting to join Albania.⁹⁶ When a famous leader of the Serbian Communist Party, Slobodan Milosevic came in Fushë Kosovo on 24 April 1987, declared that local Serbs living in Kosovo will be safe by saying ‘no one should dare to beat you,’⁹⁷ in this way Serbian nationalism reached the culmination. In the same year on February 11, 1987, the Proposal for Constitutional changes of SFRY Presidency were announced, in which the autonomy of Kosovo and Vojvodina did not figure.⁹⁸ As a result of the Milosevic regime and Serbia’ domination of Yugoslavia, on March 23, 1989 the autonomy of Kosova was abolished by the regime of Milosevic, which also resulted in the loss of Kosovo’s federal status.⁹⁹

2.3 Declaration of the ‘Kosova Republic’ in 1990 and Kosova Independence in 1991

After the abolition of the Kosovo’s autonomy in the end of 1989, the first political movements anti Milosevic regime were established; among them the Kosova Democratic League (LDK) as one of the biggest party with the largest number of members, under the chairmanship and the President of Dr. Ibrahim Rugova.¹⁰⁰ On July 2, 1990, ‘114 Albanian deputies of the Socialist Autonomous Province of Kosovo’s

⁹⁵ Alexander Papkovic & Peter Radan, p, 144.

⁹⁶ Elez Biberaj, ‘The Kosova Issue a Historical and Current Problem; Kosova: The Balkan Powder Keg,’ (Symposium held in Tirana on April 15 – 16 1993, Tirana, p, 163.

⁹⁷ Blerim Reka, p, 52.

⁹⁸ Esat Stavileci, p, 155.

⁹⁹ Blerim Reka, p, 52.

¹⁰⁰ Elez Biberaj, p, 165.

Assembly declared Kosovo's independence from Serbia, as a full Republic within the SFRY.¹⁰¹

Three days later as a response of Serbia towards the declaration of independence, Kosovo's government and Assembly was dissolved, and 'Serbia's National Assembly took administrative and executive control of the province, renamed Kosovo-Metohija.'¹⁰² Moreover, the Serbia's decision was sustained by the Presidency of SFRY, in which resulted in abolition of Kosovo's autonomy, granted with the constitution of 1974.¹⁰³ But nothing could prevent Albanians from expressing their will to self-determination; on September 7, 1990 even though Kosovo's parliament was dissolved Kosovo Albanian deputies secretly in a small town of Kachanic adopted Constitution of the 'Republic of Kosova' known as 'Kachanic Constitution'.¹⁰⁴

¹⁰¹ Blerim Reka, p. 53, see the whole document of The Declaration of Kosova's Independence: Constitutional Declaration of the Assembly of Kosova, on July 2, 1990 signed by 114 delegates declares Kosova as an independent and equal entity within the framework of the Yugoslav federation (confederation) and as an equal subject with its counterparts in Yugoslavia, in the meaning of Republics.

1. This declaration expresses and proclaims the original constitutional stand of the people of Kosova and of this Assembly as an act of political self-determination within the framework of Yugoslavia.
 2. Proclaiming Kosova an equal entity in Yugoslavia on the basis of the principles of authentic democracy, respect of the will of the people and human and national groupings, this Assembly is waiting for the confirmation of this constitutional act in the Constitution of Yugoslavia with the full support of democratic Yugoslav and world opinion.
 3. This Assembly confirms Kosova as a political-constitution community and its new constitutional-political position as a common constitutional-political position of all citizens and equal nationalities in Kosova, where the Albanians, as the majority of the population and one of the most numerous people of Yugoslavia, as well as the Serbs and others living in Kosova, are considered a nation people and not a nationality (national minority).

4. In the meantime until the final juridical implementation of this Constitutional Declaration, the assembly and the organs of power of Kosova base their relations with the constitutional order of Yugoslavia in the Yugoslav Constitution in force and in the amendments to the Constitution of the SR of Serbia of 1989, which annul the decision of the Assembly of Kosovo of March 23, 1989, on approval of this amendments.

5. Until the proclamation of the new Constitution of Kosova, the Assembly of Kosova is to use this nomination for public communication, naming itself the organ of socio-political community, which is Kosova. Doc, provided by: The Academy of Sciences of the Republic of Albania, Institute of History, 'The Truth of Kosova,' Encyclopaedia Publishing House, Tirana, (taken from the newspaper 'Rilindja', Prishtina, July 3, 1990 p. 3.) 1993, p. 329.

¹⁰² Miranda Vickers, p. 245.

¹⁰³ Ibid, p. 245.

¹⁰⁴ See: Constitutional Law on the Implementation of the Constitution of the Republic of Kosova, Doc, provided by: The Academy of Sciences of the Republic of Albania, Institute of History, 'The Truth of

Considering the situation created elsewhere in Yugoslavia, especially the referendum held in Slovenia and Croatia which resulted with their declaration of Slovenia and Croatia's independence, each republic of Yugoslavia except Montenegro was going toward secession from SFRY. In this regard, declaration of Slovenia and Croatia's independence had a spill over effect not only for republics of Bosnia and Herzegovina and Macedonia, but also for Autonomous Province of Kosovo. However, on 22 September 1991 the parliament which proclaimed the 'Republic of Kosovo' in 1990 approved the Resolution of the Assembly of Kosova- a Sovereign and Independent State,'¹⁰⁵ this time Kosovo Albanians declared its independence from both Serbia and Yugoslavia. According to the text of the resolution:

'This Resolution informs the other Republics of Yugoslavia, European parliaments and governments, the parliamentarians and governments of the permanent member countries of the Security Council of the United Nations, the public opinion of the country and the world, that the Assembly of the Republic of Kosova, on the basis of its constitutional rights, decided to hold a pan-popular referendum, in which, through their own free and direct will, the people of Kosova will declare the Republic of Kosova a sovereign and independent state with the constitutional right of participation of the league of sovereign state- republics of Yugoslavia.'¹⁰⁶

Thus, from September 26 to 30 the referendum was held in Kosovo, in which 87.01 percent of overall population of Kosovo participated (excluding Serbians and Montenegrins) in which 99.87 percent of the majority Albanian population voted in favour of Kosovo's independence from Yugoslavia.¹⁰⁷ Therefore, on 19 October 1991 Kosovo declared its independence from Yugoslavia, while 'the Serbia authorities called the referendum illegal, unconstitutional and Province's first step towards secession and unification with neighbouring Albania.'¹⁰⁸ The independence of Kosovo was recognized only by the Republic of Albania, while the European

Kosova,' Encyclopaedia Publishing House, Tirana, (taken from the newspaper 'Rilindja', Prishtina, July 3,1990 p, 3.) 1993, p, 331.

¹⁰⁵ See The Republic of Kosova – A Sovereign and Independent State, *ibid*, p, 335.

¹⁰⁶ *Ibid*, p, 335.

¹⁰⁷ Alexander Papkovic & Peter Radan, p, 152.

¹⁰⁸ Miranda Vickers, p, 252.

Community and United States did not recognize Kosovo's independence. In the following section of this chapter, the non-recognition of Kosovo will be discussed in order to see the reasons why the International Community did not recognize Kosovo in 1991, while it did recognize other Yugoslav republics of Slovenia, Croatia, Bosnia and Herzegovina, and Macedonia.

2.4 Non-Recognition of Kosovo's declaration of independence (1991) from the former Yugoslavia

It could be argued that declaration of Kosovo's independence in 1991 was internationally unrecognized except the Republic of Albania which recognized the Republic of Kosovo as an independent and sovereign state, and it called the international community to recognize and support the expressed will of Kosovo Albanians.¹⁰⁹

The process of disintegration of the former Yugoslavia started with events of secessionist movements of Slovenia, Croatia, followed by Kosovo then Bosnia and Herzegovina, and Macedonia, which self proclaimed their independence from Yugoslavia through the referendums as expression of the will of people. In this way, the SFRY went towards dissolution. The first reaction of the world towards the declaration of independence of the former Yugoslav republics was against independence but pro 'unity and territorial integrity of Yugoslavia.'¹¹⁰ For instance, the U.S, the EC and CSCE had issued the same statements that they would not recognize Slovenia and Croatia's unilateral declaration of independence and that there

¹⁰⁹ See: 'The Republic of Kosovo is Recognized as a Sovereign and Independent State,' Declaration of the People's Assembly of the Republic of Albania 22, October 1991, The Academy of Sciences of the Republic of Albania, Institute of History, 'The Truth of Kosovo,' Encyclopaedia Publishing House, Tirana, 1993, p, 340.

¹¹⁰ Richard Caplan, p,159.

should be a way how to sustain 'territorial integrity of Yugoslavia,' unless there is consent of all republics.¹¹¹

This raises a question whether or not the international community could manage to maintain the territorial integrity of Yugoslavia? Of course not, they failed because Yugoslavia since Tito's death started to disintegrate; not only because of the economic crisis, but also because of Serbia's aim of domination in SFRY, in which nevertheless there would never be a peaceful agreement between six Republics concerning the decomposition of Yugoslavia because of Serbia's intention. Moreover, when Milosevic came into power and centralised Yugoslavia in order to finalise his major dream of Greater Serbia¹¹², which never became true, even though he abolished the Autonomy of Kosovo and put it under Serbia's rule, nothing could stop secessionist groups in Croatia, Slovenia, and Kosovo, later in Bosnia and Macedonia from seceding from the Federation of Yugoslavia, which resulted with the bloody conflicts.

Only Germany and Austria¹¹³ realised that Yugoslavia's territorial integrity could not be maintained, after they issued statements against the unilateral declaration of independence in the beginning as discussed in the literature review, Germany and Austria changed their position and put pressure on EC to recognize the new states of Slovenia and Croatia. One can argue that the reason why Germany and Austria wanted to recognize these countries was, because they thought that unilateral recognition of these countries is the only way to stop the aggressive war in Slovenia and Croatia which was committed by Serbia.¹¹⁴

¹¹¹ Hurst Hannum, p, 63.

¹¹² Enver Hasani, p, 249.

¹¹³ Ibid, p, 249, Different from Caplan, Hasani argues that Germany and Austria were pro Croatian and Slovenian independence.

¹¹⁴ Ibid, p, 255.

Considering the idea of Germany and due to the escalation of the conflict in Slovenia, on 27th August 1991 the EC established 'Peace Conference on Yugoslavia,' with the existing authorities of SFRY in order to find a mediated solution.¹¹⁵ Thus, the EC changed its opinion towards recognition of Yugoslav republics, in which on 16 December 1991 the EC set forth the conditions for recognition and adopted a common position regarding the recognition of Yugoslav Republics, namely within 'Guidelines on the Recognition of New States in Eastern Europe and in the Soviet Union.'¹¹⁶

The Recognition of Yugoslav Republics was finalised and legalized by the Arbitration Commission of the Peace Conference on Yugoslavia known as Badinter Commission, which issued 15 opinions starting from 29 November 1991 to 13 August 1993. With the first opinion, Badinter Commission concluded that 'the Socialist Federal Republics of Yugoslavia is in the process of dissolution,'¹¹⁷ and recognized the first two Yugoslav Republics Slovenia, Croatia and Macedonia which was contested by Greece because of the name of Macedonia. While regarding the recognition of Bosnia and Herzegovina the Commission recommended holding a referendum internationally recognized according to the second opinion of Badinter.¹¹⁸

This decision in favour of recognition of the Yugoslav Republics within the Guidelines was taken after the submission of the applications of the Yugoslav Republics, including here Kosovo,¹¹⁹ which application was rejected by the EC. The

¹¹⁵ Blerim Reka, p, 54.

¹¹⁶ EC Declaration Concerning the Conditions for Recognition of New States, Adopted at extraordinary EPC Ministerial meeting, Brussels, 16, December, 1991, Doc, provided by Snezana Trifunovska, Yugoslavia Through Documents From its Creation to its Dissolution, Martinus Nijhoff, 1994, pp, 431-432.

¹¹⁷ Thomas D. Grant, 'The Recognition of States: Law and Practice in Debate and Evolution,' Praeger, London, 1999, p, 159.

¹¹⁸ See: Opinion No. 2 of the Arbitration Commission of the Peace Conference on Yugoslavia, , Doc, provided by Snezana Trifunovska, Yugoslavia Through Documents From its Creation to its Dissolution, Martinus Nijhoff, 1994, p, 474.

¹¹⁹ See application of the Republic of Kosova submitted to the European Council for recognition of the new states, 'Letter to the Extraordinary EPC Meeting of Brussels,' Dec, 10, 1991, Doc, provided by:

reason why Kosovo's application was not taken into consideration according to Prof, Hasani was that 'entities who either did not have a clear territorial base at that time of application (the Serb entities in Croatia and Bosnia- Herzegovina) or did not effectively control their territory and population (the case of Kosovo) would not be taken into consideration.'¹²⁰

But was there any other reason for non-recognition of Kosovo in 1991? If we go back and see the status of Kosovo in the first constitution of SFRY 1964, we can clearly see that Kosovo not only did not have the same status as Republics of Croatia, Slovenia Bosnia or Macedonia, but also was not granted fully autonomy. Moreover, as mentioned in the beginning of this chapter according to the constitution of 1946, Albanians were not recognized as a nation, but as a national minority 'nationality' within SFRY because of their homeland in Albania, while republics were reserved only for nations and not nationalities. The EC did not regard Kosovo as a candidate for the guidelines and rejected its application because only the republics were eligible for recognition according to the Badinter¹²¹ in which Kosovo was not the case this is one of the main justifications of the EC regarding not recognition of Kosovo.

The fact that the Badinter Commission recognized the independence of all former Yugoslav Republics, but denied to recognize the independence of Kosovo was not only an unjust decision but created a precedent and left Kosovo under the military occupation of Milosevic regime until 1999, in which resulted with NATO intervention which ended ethnic cleansing and genocide committed by Milosevic regime. The

The Academy of Sciences of the Republic of Albania, Institute of History, 'The Truth of Kosova,' Encyclopaedia Publishing House, Tirana, 1993,p, 341.

¹²⁰ Enver Hasani, pp, 257-258.

¹²¹ Richard Caplan, 'Europe and the Recognition of New States in Yugoslavia,' Cambridge University Press, New York, 2005, p,138.

reason why was unjust decision is that the 1st Opinion of Badinter, it made perfectly clear that Yugoslavia could not exist anymore,¹²² part of which was Kosovo as well.

Furthermore, Kosovo went along the same path as all other Yugoslav republics went through starting from the referendum until submission of its application to the EC. According to Prof, Reka, Badinter in case of Kosova could but did not apply one of the international law doctrines such as '*Uti possidetis*' in which Judges in a decision of The Hague court declared: '*the principle is a general principle that has to do with the case of gaining independence...the International Court of Justice considered uti possedetis doctrine as a rule of international law in the frontier disputes.*'¹²³

In this regard, one can argue that the reason behind why the International Community did not want to recognize Kosovo was to avoid the conflict between Serbia and Kosovo, considering that in that time the conflicts already had erupted in Slovenia and Croatia. In other words the International Community did not want to enlarge the conflict in the former Yugoslav territory. But the international community failed to realise that the eruption of violence was inevitable and then perfectly failed to avoid the bloody conflict in Kosovo because Milosevic regime accepted no peaceful solution.

Therefore, the recognition of new states of the former Yugoslav Republics by the EC, namely Badinter Commission went through legal instruments without any doubts, we nevertheless consider that there were also international norms and rules which could be applied for the case of Kosovo in which Badinter did not apply. The decision of the international community taken in 1991, was not a final one, it left the last chapter of the former Yugoslavia an open issue, which returned the international

¹²² The 1st Opinion of the Badinter Commission,

¹²³ Blerim Reka, p. 62.

community back in the former Yugoslav territory, namely in Kosovo and finalise the last unsolved status of Kosovo.

In the third and last chapter of this thesis we will see that the International Community came back to finalise its mission, by responding to the Milosevic rule and answering the Kosovo question.

CHAPTER 3: RECOGNITION OF KOSOVO

This chapter examines Kosovo's path to independence. It will demonstrate the reasons why and how Kosovo declared its independence from Serbia, and why Kosovo has received international recognition. It explicitly explains the international community's shift from non-recognition to recognition; it identifies the main reasons for the change in the position of the international community since 1991 when Kosovo declared its independence from the SFRY but the international community denied recognizing Kosovo while recognizing the former Yugoslav republics. The chapter traces the political reasons and circumstances on the ground which persuaded the international community to recognize it. Therefore, the recognition of Kosovo brings a new pattern of how a state can be created and recognized seventeen years after the international community had denied recognizing the existence of its entity.

3.1 The last resort - NATO Intervention in Kosovo 1999

In order to end the Serbian repression against ethnic Albanians, especially after the genocide in Recak¹²⁴ in which 45 Albanian civilians were massacred by Serbian police and military forces in January 1999, the Contact Group organized an International Conference in Rambouillet chateau, France (February-March 1999) which aimed to reach an agreement between Serbs and Albanians which would end the war in Kosovo. Moreover, the major aim of the Rambouillet Accords was to 'reach an agreement on the substantial autonomy for Kosovo' within the Federal Republic of Yugoslavia, but under international protection, namely under the

¹²⁴See: The Independent News by Paul Wood, 'Recak Massacre: Serbs fire on grieving villagers', 18 January 1999, <http://www.independent.co.uk/news/racak-massacre-serbs-fire-on-grieving-villagers-1074716.html>

presence of NATO troops.¹²⁵ The agreement proposed by the international mediators concerning the political settlement for Kosovo which took place in the Rambouillet chateau was not reached, because Milosevic refused the international presence of NATO in Kosovo, which were to replace Serbia's forces in Kosovo.¹²⁶ Milosevic's refusal to sign the agreement resulted in a strong response of use of force. Therefore, Humanitarian Intervention of NATO was the last resort to end the humanitarian disaster.

In order to halt Milosevic's dictatorship from carrying out the ethnic cleansing of Albanians, in the wake of 24 March 1999, the Allied Force of NATO, western military powers led by the US, began an air bombing campaign against the Federal Republic of Yugoslavia which lasted 78 days.¹²⁷

3.2 The UN Security Council Resolution 1244 and the establishment of UNMIK

After 78 days of bombing campaign, NATO defeated the Milosevic regime without any loss of life 'in combat operations from its own side'.¹²⁸ NATO bombing ended by reaching an agreement between NATO and the Federal Republic of Yugoslavia and Serbia, known as the 'Military Technical Agreement' in which Serbian military forces were ordered to leave Kosovo,¹²⁹ which resulted in the entry of 50,000 NATO troops, known as Kosovo Force (KFOR) after the UNSC adopted

¹²⁵ See: Contact Group, Rambouillet Accords, 23/2/1999, http://www.ohr.int/other-doc/contact-g/default.asp?content_id=3560

¹²⁶ Alexander Papkov and Peter Radan, p. 63.

¹²⁷ Mark Weller, The Rambouillet Conference on Kosovo, <http://ejcontent.ebsco.com/ContentServer.aspx?target=http%3A%2F%2Fwww3%2Einterscience%2Ewiley%2Ecom%2Fresolve%2Fopenurl%3Fgenre%3Darticle%26svc%2Eformat%3Dtext%2Fpdf%26sid%3Dvendor%3Adatabase%26issn%3D0020%2D5850%26date%3D1999%26volume%3D75%26issue%3D2%26page%3D211>

¹²⁸ Dayya Kishan Thussu, 'Legitimizing Humanitarian Intervention? : CNN, NATO and Kosovo Crisis,' European Journal of Communication, SAGA, 2000, 15, p. 346.

¹²⁹ See NATO's role in Kosovo, http://www.nato.int/cps/en/natolive/topics_48818.htm

the Resolution 1244 on June 10, 1999. NATO peacekeepers who entered Kosovo were considered as the victorious for Kosovo Albanians, while for Kosovo Serbs as a great failure of Yugoslavia and Milosevic. Therefore, the intervention of NATO and the withdrawal of the Serbian police and military forces from Kosovo directly resulted in the freedom of Kosovo Albanians, thus Kosovo became not only a UN protectorate but also *de facto* an independent state, without any interference from Serbia.

The UN Security Council immediately passed Resolution 1244 which stipulated the “establishment of an interim administration for Kosovo as a part of the international civil presence under which the people of Kosovo can enjoy substantial autonomy within the Federal Republic of Yugoslavia, to be decided by the Security Council of the UN. The interim administration was to provide transitional administration while establishing and overseeing the development of provisional democratic self-governing institutions to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo.”¹³⁰

As we can see from the UNSC Resolution 1244, Kosovo’s final status namely, ‘substantial autonomy’ was to be decided on the UN. The same autonomy was foreseen in the Rambouillet Conference, in which the Albanian delegation was convinced by the international community and had signed the agreement by the end of negotiations process. While Serbs also agreed that Kosovo Albanians should be given autonomy, they rejected the international military presence which aimed at guaranteeing the Self-Governed autonomy of Kosovo.¹³¹ In other words, Kosovo after UNMIK administration, from a legal point of view was part of Serbia, but only on paper and never in practice. In this respect, the question arises as to why substantial autonomy as foreseen by resolution 1244 was never decided in the Security Council.

¹³⁰ See: UN Security Council Resolution 1244, Annex 2, point 5.

¹³¹ See: BBC News, Rambouillet talks designed to fail, 19 March 2000, <http://news.bbc.co.uk/2/hi/europe/682877.stm>

In order to answer this question, we have to analyse the role and the way UNMIK was designed in the post conflict area. With the establishment of UNMIK administration in 1999, namely the international civil presence led by a Special Representative of the Secretary General, as well as the international security presence of NATO troops, Kosovo became an international protectorate of the UN with unlimited powers in legislative, executive and judicial fields.¹³² Moreover, even though UN resolution 1244 recognized Serbia's sovereignty and territorial integrity, Serbia never exercised its authority on Kosovo once UNMIK established its administration in 1999; the resolution left 'no role for the Yugoslav and Serbia governments.'¹³³

Taking into consideration that the UN protectorate left no room for Serbia to exercise its authority in Kosovo, and the genocide exercised by the regime of Slobodan Milosevic, the only acceptable solution for Kosovo Albanians was an independent Kosovo, we will see in the following section the reason why Kosovo declared its independence and why the international community decided to recognize it.

3.3 Final status of Kosovo and Marti Ahtisaari Plan

On November 10, 2005, the former Secretary General, Kofi Annan, gave the green light for opening discussions due to determining the Kosovo's final status and appointed as his Special Envoy, Marti Ahtissari (the former President of Finland and the 2009 Nobel Prize Winner) to lead the negotiations process on the future status of

¹³² Ray Murphy, 'UN peacekeeping in Lebanon, Somalia and Kosovo: operational and legal issues in practice,' Cambridge University Press, 2007, p. 80.

¹³³ Ibid, p. 80.

Kosovo in the context of resolution 1244.¹³⁴ In order to determine the future status of Kosovo, Marti Ahtissari 2006 began with the negotiation process between Serbs and Albanians which lasted 14 months. At a high level meeting in Vienna on March 10, 2007 at the last meeting he concluded:

Today's meeting has concluded the negotiations held over the last 14 months, during which my team, with strong support from the international community, has engaged both parties in 17 rounds of direct talks and 26 expert missions to Belgrade and Pristina... I regret to say that at the end of the day, there was no will from the parties to move away from their previously stated positions", adding: "I had hoped, and very much preferred, that this process would lead to a negotiated agreement. But it has left me with no doubt that the parties' respective positions on Kosovo's status do not contain any common ground to achieve such an agreement. No amount of additional negotiation will change that. It is my firm conclusion that the potential of negotiations is exhausted."¹³⁵

Having failed to reach an agreement with diplomatic means between Serbs and Albanians of Kosovo, diplomat Ahtissari, in order to determine the final status of Kosovo, came up with a Comprehensive Proposal for the Kosovo Status Settlement which granted Kosovo independence as the only solution. In the report of the Special Envoy of the Secretary General on Kosovo's future status, Ahtissari among other things recommended:

The time has come to resolve Kosovo's status. Upon careful consideration of Kosovo's recent history, the realities of Kosovo today and taking into account the negotiations with the parties, I have come to the conclusion that the only viable option for Kosovo is independence, to be supervised for an initial period by the international community. My Comprehensive Proposal for the Kosovo's status Settlement, which sets forth these international supervisory structures, provides the foundations for a future independent Kosovo that is viable, sustainable and stable, and in which all communities and their members can live a peaceful and dignified existence.¹³⁶

¹³⁴ See: United Nations Secretary General, SG/A/ 955; BIO/3714, 15/11/2005, <http://www.un.org/News/Press/docs/2005/sga955.doc.htm>

¹³⁵ See: Vienna High-level meeting concludes 14 months of talks on the future status process for Kosovo, UNOSEK/PR/19, March 10 2007, <http://www.unosek.org/unosek/en/press.html>

¹³⁶ See: United Nations Security Council 'Letter dated 26 March 2007 from the Secretary General addressed to the President of the Security Council,' S/2007/168, 26 March 2007, p. 2.

Diplomat Ahtissari insightfully explains why Kosovo should be granted independence, and why reintegration into Serbia was not a viable option, or why continued international administration was unsustainable. This, according to Ahtissari, was due to the relationship between Kosovo Serbs and Albanians, their hostility for a long period of time, especially from Milosevic's repression in the 1990s and the discrimination against the majority Albanians including here abolition of Kosovo's autonomy. Moreover, the war in Kosovo in which Belgrade, through its brutal repression committed crimes against civilians, and ethnic cleansing in which resulted with NATO bombing Yugoslavia in 1999, as a response to dictatorship regime on Milosevic. Thus it was created a new reality in Kosovo, Albanians would never accept to get back under the Serbian authority. Ahtissari argues that since the UN established its administration in Kosovo in 1999 with resolution 1244, Serbia has never played any authority over Kosovo, he says by adding:

This is a reality one cannot deny; it is irreversible. A return of Serbian rule over Kosovo would not be acceptable to the overwhelming majority of the people of Kosovo. Belgrade could not regain its authority without provoking violent opposition. Autonomy of Kosovo within the borders of Serbia – however notional such autonomy may be – is simply not tenable.¹³⁷

The proposal of the Special Envoy Ahtissari has been entirely endorsed by Pristina's authorities; moreover the United States and the European Union have also supported the recommended proposal of diplomat Ahtissari by claiming that proposal is the best solution for solving the Kosovo's final status and 'there is no viable alternative to the Ahtissari plan.'¹³⁸ Belgrade responded with rejection and accusing Ahtissari's plan that has violated Serbia's sovereignty and territorial integrity and

¹³⁷ Ibid, p. 3.

¹³⁸ See: Vince Crawley, United States Supports UN Report Endorsing Independent Kosovo, <http://usinfo.state.gov>

violates the UN charter (says the Prime Minister of Serbia Mr. Kostunica).¹³⁹ The Contact Group has extended the negotiation process until December, the US, EU and Russia known as troika had taken the leading role after Ahtissari's proposal, but no agreement could be reached especially after Ahtissari's plan for Kosovo independence. Albanians accepted nothing less than independence while Serbs claim to give Kosovo nothing more than 'substantial autonomy,' foreseen by the 1244 Resolution.

Despite the fact that the Comprehensive Proposal of the Special Envoy Ahtissari which recommends Kosovo's independence, was strongly supported by the Secretary General Ban Ki Moon who addressed it to the President of the Security Council to be adopted¹⁴⁰, Ahtissari's plan could not be passed in the SC because Russia opposed the plan by threatening that will veto any resolution on Kosovo's independence in the Security Council unless there is Serbian consent.

What we have to bear in mind is that not merely the Ahtissari plan was admitted by the international community, but the main reason why it was internationally admitted was because it provided the general principles set forth by 15 articles as well as 12 annexes which explicitly elaborate upon them, it provided all the necessary instruments for building a new entity and state.¹⁴¹ For instance, the key principles of the Ahtissari plan were as following: multi-ethnic democracy- Kosovo's future will be its multi-ethnic society which will govern itself democratically in accordance 'with rule of law through its legislative, executive and judicial institutions'; Constitution, which will be in accordance with multi-ethnic society; human rights protection, with a special attention to minority rights and their members

¹³⁹ See: BBC NEWS, 'UN Debates Kosovo's independence,' 3 April 2007, <http://news.bbc.co.uk/2/hi/europe/6519565.stm>

¹⁴⁰ See: United Nations Security Council 'Letter dated 26 March 2007 from the Secretary General addressed to the President of the Security Council,' S/2007/168, 26 March 2007.

¹⁴¹ UN Security Council, S/2007/168/Add.8, 26 March 2007, http://www.unosek.org/docref/Comprehensive_proposal-english.pdf

as a crucial principle of the plan, which aims to protect and promote the rights of all people of Kosovo; decentralisation; Justice system; Kosovo's security sector and the international presence composed by an International Civilian Representative, ESDP mission and NATO presence in order to supervise and support Kosovo as an independent country.

Therefore, the justification for recognizing the unilateral declaration of Kosovo's independence on 17 February 2008 by the Assembly of Kosovo was a result of Ahtissari plan and its general principles.

This raises the most important question of this thesis, why the international community did not recognize Kosovo's independence in 1991 while recognizing Yugoslav republics, but recognized it in 2008. As we have seen from the beginning of this chapter many things have been changed in Kosovo, nevertheless the Ahtissari plan was the best straight forward document, legitimizing Kosovo's independence which insightfully explains the reasons that the international community should change their position, face the reality and recognize Kosovo.

3.4 Ahtissari plan versus Badinter

Seventeen years ago, the EC, namely the Arbitration of the Badinter Commission, rejected Kosovo's independence and excluded it from its decision, with the reason that entities that had no legal status as a republic, had no claim to the territory; and did not control their territory and population, for instance the Serb entity in Croatia and Bosnia, and Albanians in Kosovo. Moreover, according to the Guidelines on Recognition, the Badinter Commission made clear to Serbs outside Serbia that 'the right to self-determination is limited to the protection of the

internationally recognized human rights,¹⁴² while for Kosovo Albanians as a majority people in the province, Badinter not only refused to recognize Kosovo but also failed to protect their rights. This is the reason why the international community had to go back and deal again with the Federal Republic of Yugoslavia in 1999.

As opposed to Badinter 1991, Ahtissari in 2007 views the Kosovo issue and the Albanian entity from a different perspective, and he introduces the Comprehensive Proposal which recommends to the UNSC that independence with supervision is the only viable and practical option, and ‘is the best safeguard against the risk.’¹⁴³

If we analyse Badinter’s reason for non-recognizing Kosovo in 1991, which was mentioned above, entities that had no legal status of the republic, had no claim to the territory. It referred also to entities that did not control their territories and population and were therefore not eligible for recognition. If we compare the status of Kosovo between 1991- 2008 according to UN resolution 1244 it was the same, Serbia’s province but Marti Ahtissari recommended Kosovo to become an independent. In this way, the questions arises why Ahtissari recommended Kosovo’s independence while the International Community recognized Serbia’s sovereignty and territorial integrity over Kosovo, either in 1991 or after 1999; why the international community, namely the EC, which in 1991 rejected Kosovo’s independence in 2007 then supported Ahtissari’s plan.

Two things should be taken into consideration in regard to settlement of Kosovo’s final status. Firstly, the fact that the international community, namely after NATO’s intervention, established the UN administration in Kosovo in which the main objection was to settle the final political and legal status of Kosovo. Even though according to the 1244 resolution the final status to be decided was ‘substantial

¹⁴² Hurst Hunnum, ‘Documents on Autonomy and Minority Rights,’ p, 84.

¹⁴³ UNSC, S/2007/168/Add.8, 26 March 2007, p, 4.

autonomy' but due to the political circumstances created on the ground, especially after the war in Kosovo, nevertheless the only option for settling the Kosovo's status was to grant Kosovo independence. In other words the reasons why the international community recognized Kosovo in 2008, it was its duty to settle Kosovo's status, and if the international community would not accept such a solution proposed by Ahtissari, of course not only the status of Kosovo would have been unsolved but also the peace and stability in the region of Kosovo would be threatened.

The second interpretation or reason is the fact as the international community did not recognize Kosovo in 1991; it left Kosovo's status unsolved because Milosevic's regime took away the autonomy of Kosovo. The dissolution of Yugoslavia was not a closed issue because of Kosovo's unsettled status, which obliged the international community to return and finalise the dissolution of Yugoslavia. In this regard, in order to close the unresolved status issue of Kosovo and to finalise the break up of the Yugoslavia's unresolved chapter, Kosovo's independence and international recognition was inevitable. According to the British Prime Minister, Blair one day after Kosovo declared its independence on 18 February 2008, said the reason why Britain recognized Kosovo is:

*'I want to close the chapter that has followed the break-up of Yugoslavia. Kosovo has been and is the last unresolved status issue. There are sensitive issues that we understand in Serbia but we believe that Serbia is committed to and we are committed to Serbia's European future.'*¹⁴⁴ As many other countries which formally recognized Kosovo have claimed almost the same, the violent break-up of Yugoslavia as an unclosed issue is one of the reasons why independence of Kosovo should be granted.

¹⁴⁴ See: PM News, UK to recognise independent Kosovo – PM, 18 February 2008, <http://www.number10.gov.uk/Page14594>

3.5 Recognition of Kosovo and the legal and political effects

From the illustration above concerning Kosovo's issue on recognition and non-recognition from the general concept explained by the international law literature, we can clearly see that the concept of recognition as well as non-recognition, is not only a difficult concept, and complicated but a also significantly interesting.

However, the recognition of Kosovo is the best explained by the political and legal effects. It can be argued that the recognition of Kosovo is in accordance with legal instruments, starting from the humanitarian intervention of NATO which stopped the ethnic cleansing and genocide carried out by the Serbian regime of Milosevic against Kosovo Albanians; the adoption of UN resolution 1244, which established UNMIK administration which left no room for Serbia to exercise any authority over Kosovo; and Ahtissari's plan, a diplomat which was appointed by the Security General of the Security Council. From this point of view, recognition of Kosovo went through legal instruments. Moreover, the UN Secretary General and the US and EU welcomed the Ahtissari plan which recommended Kosovo's independence as a *sui generis* case under international law.¹⁴⁵ Therefore, from a legal point of view, a part of the world recognized Kosovo, the most democratic and powerful countries which believed that Recognition of Kosovo is in accordance with the legal system.

If we see the recognition concept from the political point of view, in the case of Kosovo we will see that politics has a negative effect on recognition. For instance, when Ahtissari recommended the Security Council endorse the Settlement proposal¹⁴⁶ which would grant Kosovo independence through the resolution of the Security Council, Russia declared they would veto any resolution which would grant Kosovo independence unless there were Serbian consent. Therefore, considering that the Security Council 'had been blocked on adopting a resolution endorsing the Ahtissari plan',¹⁴⁷ because of Russia, Kosovo has not been collectively recognized, which resulted in non-recognition of Kosovo by a part of the world, and denied the plan and principals set forth by Ahtissari.

¹⁴⁵ UNSC Doc. S/2007/168, 26 March 2007, p. 2.

¹⁴⁶ UNSC Doc. S/2007/168, 26 March 2007, p. 5.

¹⁴⁷ UN Doc. S/PV 5829, p. 10.

Then what does the case of Kosovo say about recognition? One can argue that Kosovo's case is different from other cases in terms of recognition of states. As we have seen in the literature review concerning the recognition of the USSR and Czechoslovakia, which were easily admitted to the UN because there was consent within the USSR as well as for Czechoslovakia. Apart from the USSR and Czechoslovakia, recognition of the Yugoslav republics was more problematic because there was no consent within the Yugoslav republics, and the first reaction of the international community was against recognition of Slovakia and Croatia. The international Community changed its position, when hostilities escalated in Slovakia and Croatia, and changed its position by claiming that the sovereignty and territorial integrity of Yugoslavia could not be maintained. It realized that Yugoslavia was in the process of disintegration, which resulted in the Arbitration Commission of Badinter deciding to recognize the Yugoslav republics.

Recognition of Kosovo is more or less similar to the recognition of the former Yugoslav republics; the only difference is that Kosovo was not a republic and that Kosovo Albanians suffered more and faced ethnic cleansing while the former Yugoslav republics did not, except Bosnia and Herzegovina. But the case of Bosnia was different because the ethnic violence erupted after recognition. Considering the circumstances created on the ground in the former Yugoslavia, the decision taken pro recognition of the republics was because Yugoslavia's sovereignty and territorial integrity could not be maintained. The same with Kosovo but the circumstances and the situation created after the war in Kosovo, Serbia lost its sovereignty and territorial integrity over Kosovo. As diplomat Ahtissari said, 'A return of Serbian rule over Kosovo would not be acceptable to the overwhelming majority of the people of Kosovo.'¹⁴⁸ As mentioned above, after the regime of Milosevic carried out ethnic cleansing in Kosovo, Serbia lost its control over Kosovo. Therefore, from the demonstration of the recognition of the Yugoslav republics and the Kosovo case, we can conclude that recognition as well as non-recognition of a state from both legal and political points of view depends on a state choosing between legal and political reasons for so doing. Therefore, the case of Kosovo illustrates that something in particular makes states decide whether or not to recognize a state, for instance countries which decided to recognize Kosovo did so because they took into account

¹⁴⁸ UNSC Doc. S/2007/168, 26 March 2007, p. 2.

the reality created on the ground, while countries which did not recognize Kosovo, such as Russia ,did not because of their friendship with Serbia.

Conclusion

This thesis has traced the general concept of recognition, explained by different assumptions of international law and international relations perspectives, namely from legal to political aspects. It has briefly explained the recognition of the USSR, and Czechoslovakia, while more attention was paid to the recognition of the former Yugoslav republics of Slovenia, Croatia, Bosnia and Herzegovina, Macedonia and non-recognition of Kosovo in 1991. The aim of this thesis was to explain the reason why the international community did not recognize Kosovo in 1991, but recognized it in 2008.

The thesis dealt with the recognition concept, which explicitly is explained by the international law literature as a complex concept composed of legal and political elements. Moreover, it examined the way how the international community recognized the Yugoslav republics and rejected recognition of Kosovo.

Moreover, the thesis provided the historical background of Kosovo under the Socialist Federal Republic of Yugoslavia. It explained the status of Kosovo under the former Yugoslavia, from the first constitution of Yugoslavia in 1946, to the 1974 Constitution which granted Kosovo full autonomy on the level of self-governing, which the people of Kosovo enjoyed until 1989. When Milosevic came to power the autonomy which was given to Kosovo Albanians with the constitution of 1974 was abolished in 1989, moreover it explains the enlarged repression by the regime of Milosevic towards Kosovo Albanians which resulted in the creation of the parallel institution and declaration of Kosovo independence in 1991, an independent state which remained internationally unrecognized.

The war in Kosovo in 1999 showed the largest scale of human rights violation ever in Europe. Slobodan Milosevic carried out crimes against Albanian civilians, genocide, and ethnic cleansing, which resulted in the humanitarian intervention of NATO, which ended the war and brought peace and freedom in Kosovo. Kosovo then started a new life under the United Nations protectorate without any interference from the Serbian authority over Kosovo; the UN left Serbian authority out of Kosovo, and decided to make Kosovo an independent state. From this respect, the Albanian dream for an independent state became true with Ahtissari's plan, who recommended the UNSC make Kosovo an independent state, a plan supported by the US and the majority of EU members.

Thus, the reason why the international community shifted from non-recognizing Kosovo in 1991 to recognition in 2008 is because of the break-up of Yugoslavia which was not a closed issue because of the unsolved status of Kosovo. With the independence of Kosovo which seceded from Serbia in 2008, not only the last unsolved issue is resolved but also the break-up of Yugoslavia is finalised.

Further research is desirable, especially in the form of interviews since recognition of Kosovo is a current and ongoing issue. Therefore non-recognition and especially recognition of Kosovo can be interpreted in different ways which leaves room for further research.

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Appendix:












Table 1 Countries which formally recognized Kosovo, their democracy index, date of recognition and the Status of reciprocal diplomatic relations with Kosovo.

No.	Country	Index	Category	Date of recognition	Status of reciprocal diplomatic relations
1.	 Afghanistan	3.02	Authoritarian regime	18 February 2008	
2.	 Costa Rica	8.04	Full democracy	18 February 2008	
3.	 Albania	5.91	Hybrid regime	18 February 2008	Embassy of Albania in Pristina from 19 February 2008 Embassy of Kosovo in Tirana
4.	 France	8.07	Full democracy	18 February 2008	Embassy of France in Pristina Embassy of Kosovo in Paris
5.	 Turkey	5.69	Hybrid regime	18 February 2008	Embassy of Turkey in Pristina Embassy of Kosovo in Ankara
6.	 United States	8.22	Full democracy	18 February 2008	Embassy of United States in Pristina Embassy of Kosovo in Washington, D.C.
7.	 United Kingdom	8.15	Full democracy	18 February 2008	British Embassy in Pristina from 5 March 2008 Embassy of Kosovo in London
8.	 Australia	9.09	Full democracy	19 February 2008	Diplomatic relations established on 21 May 2008 Ambassador of Australia to Kosovo, subordinate to the Embassy in Vienna
9.	 Senegal	5.37	Hybrid regime	19 February 2008	
10.	 Latvia	7.23	Flawed democracy	20 February 2008	Latvia and the Kosovan government

					established diplomatic relations on 10 June 2008
11.	 Germany	8.82	Full democracy	20 February 2008	Embassy of Germany in Pristina from 27 February 2008 Embassy of Kosovo in Berlin
12.	 Estonia	7.68	Flawed democracy	21 February 2008	Estonia and the Kosovan government established diplomatic relations in Tallinn on 24 April 2008 ^[44] Ambassador of Estonia to Kosovo, residing in Brussels
13.	 Italy	7.98	Full democracy	21 February 2008	Embassy of Italy in Pristina from 15 May 2008 Embassy of Kosovo in Rome
14.	 Denmark	9.52	Full democracy	21 February 2008	Ambassador of Denmark to Kosovo, subordinate to the Embassy in Vienna from 6 March 2008
15.	 Luxembourg	9.10	Full democracy	21 February 2008	Liaison Office of Luxembourg in Pristin
16.	 Peru	6.31	Flawed democracy	22 February 2008	
17.	 Belgium	8.16	Full democracy	24 February 2008	Liaison Office of Belgium in Pristina Embassy of Kosovo in Brussels
18.	 Poland	7.30	Flawed democracy	26 February 2008	
19.	 Switzerland	9.15	Full democracy	27 February 2008	Embassy of Switzerland in Pristina from 28 March 2008 Embassy of Kosovo in Bern
20.	 Austria	8.49	Full democracy	28 February 2008	Embassy of Austria in Pristina from 20 March 2008 Embassy of Kosovo

					in Vienna
21.	 Ireland	9.01	Full democracy	29 February 2008	Ambassador of Ireland to Kosovo, subordinate to the Embassy in Budapest from 11 November 2008
22.	 Sweden	9.88	Full democracy	4 March 2008	Liaison Office of Sweden in Pristina, subordinate to the Embassy in Skopje Embassy of Kosovo in Stockholm, to open
23.	 Netherlands	9.53	Full democracy	4 March 2008	Embassy of the Netherlands in Pristina from 27 June 2008 Embassy of Kosovo in The Hague, to open
24.	 Iceland	9.65	Full democracy	5 March 2008	
25.	 Slovenia	7.96	Full democracy	5 March 2008	Embassy of Slovenia in Pristina from 15 May 2008 Embassy of Kosovo in Ljubljana, to open
26.	 Finland	9.25	Full democracy	7 March 2008	Embassy of Finland in Pristina
27.	 Japan	8.25	Full democracy	18 March 2008	Diplomatic relations established 25 February 2009 Liaison Office of Japan in Pristina Embassy of Kosovo in Tokyo, to open.
28.	 Canada	9.07	Full democracy	18 March 2008	Ambassador of Canada to Kosovo, subordinate to the Embassy in Zagreb
29.	 Monaco	N/A	N/A	19 March 2008	
30.	 Hungary	7.44	Flawed democracy	19 March 2008	Embassy of Hungary in Pristina
31.	 Croatia	7.04	Flawed democracy	19 March 2008	Embassy of Croatia in Pristina from 6 November 2008 Embassy of Kosovo

					in Zagreb, to open.
32.	 Bulgaria	7.02	Flawed democracy	20 March 2008	Embassy of Bulgaria in Pristina
33.	 Liechtenstein	N/A	N/A	25 March 2008	Liechtenstein's interests are represented by the Swiss embassy
34.	 South Korea	8.01	Full democracy	28 March 2008	
35.	 Norway	9.68	Full democracy	28 March 2008	Embassy of Norway in Pristina
36.	 Marshall Islands	N/A	N/A	17 April 2008	
37.	 Nauru	N/A	N/A	23 April 2008	
38.	 Burkina Faso	3.60	Authoritarian regime	24 April 2008	
39.	 Lithuania	7.36	Flawed democracy	6 May 2008	Diplomatic relations with Kosovo established on 1 September 2008.
40.	 San Marino	N/A	N/A	11 May 2008	
41.	 Czech Republic	8.19	Full democracy	21 May 2008	Embassy of the Czech Republic in Pristina from 16 July 2008 Embassy of Kosovo in Prague, to open. For details see: Czech Republic–Kosovo relations
42.	 Liberia	5.25	Hybrid regime	30 May 2008	
43.	 Sierra Leone	4.11	Hybrid regime	13 June 2008	
44.	 Colombia	6.54	Flawed democracy	6 August 2008	
45.	 Belize	N/A	N/A	7 August 2008	
46.	 Malta	8.39	Full democracy	21 August 2008	
47.	 Samoa	N/A	N/A	15 September 2008	
48.	 Portugal	8.05	Full democracy	7 October 2008	Embassy of Kosovo in Lisbon, to open
49.	 Montenegro	6.43	Flawed democracy	9 October 2008	Embassy of Kosovo in Podgorica, to open




















50.	 Republic of Macedonia	6.21	Flawed democracy	9 October 2008	Liaison Office of Macedonia in Pristina. Embassy of Kosovo in Skopje, to open.
51.	 United Arab Emirates	2.60	Authoritarian regime	14 October 2008	Embassy of Kosovo in Abu Dhabi, to open
52.	 Malaysia	6.36	Flawed democracy	30 October 2008	Liaison Office of Malaysia in Pristina
53.	 Federated States of Micronesia	N/A	N/A	5 December 2008	
54.	 Panama	7.35	Flawed democracy	16 January 2009	
55.	 Maldives	N/A	N/A	19 February 2009	Diplomatic relations established on April 16, 2009
56.	 Palau	N/A	N/A	6 March 2009	
57.	 Gambia	4.19	Hybrid regime	7 April 2009	
58.	 Saudi Arabia	1.90	Authoritarian regime	20 April 2009	Embassy of Kosovo in Riyadh, to open. Liaison office of Saudi Arabia in Pristina
59.	 Comoros	3.58	Authoritarian regime	14 May 2009	
60.	 Bahrain	3.38	Authoritarian regime	19 May 2009	































Non UN member state

61.	Republic of China (Taiwan)	N/A	N/A	18 February 2008	Has official diplomatic relations with 23 states. Kosovo has not reciprocated, courting recognition from People's Republic of China
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Note: The sources concerning the countries which formally recognized Kosovo, is taken from (International Recognition of Kosovo Wikipedia) and the democracy index of the countries which recognized Kosovo is taken from (Democracy Index Wikipedia).







Table 2 Countries which have not recognized Kosovo, and the ranking of their democracy index.

No.	Country	Index	Category
1.	 New Zealand	9.19	Full democracy
2.	 Spain	8.45	Full democracy
3.	 Greece	8.13	Full democracy
4.	 Uruguay	8.08	Full democracy
5.	 Mauritius	8.04	Full democracy
7.	 South Africa	7.91	Flawed democracy
8.	 Chile	7.89	Flawed democracy
9.	 Taiwan	7.82	Flawed democracy
10.	 Cape Verde	7.81	Flawed democracy
11.	 India	7.80	Flawed democracy
12.	 Cyprus	7.70	Flawed democracy
13.	 Israel	7.48	Flawed democracy
14.	 Botswana	7.47	Flawed democracy
15.	 Brazil	7.38	Flawed democracy
16.	 Slovakia	7.33	Flawed democracy
17.	 Timor-Leste	7.22	Flawed democracy
18.	 Trinidad and Tobago	7.21	Flawed democracy
19.	 Jamaica	7.21	Flawed democracy
20.	 Romania	7.06	Flawed democracy
21.	 Ukraine	6.94	Flawed democracy
22.	 Thailand	6.81	Flawed democracy
23.	 Mexico	6.78	Flawed democracy
24.	 Argentina	6.63	Flawed democracy
25.	 Sri Lanka	6.61	Flawed

			democracy
26.	 Mongolia	6.60	Flawed democracy
27.	 Suriname	6.58	Flawed democracy
28.	 Papua New Guinea	6.54	Flawed democracy
29.	 Moldova	6.50	Flawed democracy
30.	 Serbia	6.49	Flawed democracy
31.	 Namibia	6.48	Flawed democracy
32.	 Paraguay	6.40	Flawed democracy
33.	 El Salvador	6.40	Flawed democracy
34.	 Indonesia	6.34	Flawed democracy
35.	 Lesotho	6.29	Flawed democracy
36.	 Dominican Republic	6.20	Flawed democracy
37.	 Honduras	6.18	Flawed democracy
38.	 Bolivia	6.15	Flawed democracy
39.	 Guyana	6.12	Flawed democracy
40.	 Philippines	6.12	Flawed democracy
41.	 Nicaragua	6.07	Flawed democracy
42.	 Guatemala	6.07	Flawed democracy
43.	 Benin	6.06	Flawed democracy
44.	 Singapore	5.89	Hybrid regime
45.	 Mali	5.87	Hybrid regime
46.	 Hong Kong	5.85	Hybrid regime
47.	 Palestinian Authority	5.83	Hybrid regime
48.	 Bosnia and Herzegovina	5.70	Hybrid regime
49.	 Ecuador	5.64	Hybrid regime
50.	 Lebanon	5.62	Hybrid regime
51.	 Madagascar	5.57	Hybrid regime
52.	 Bangladesh	5.52	Hybrid regime
53.	 Mozambique	5.49	Hybrid regime
54.	 Ghana	5.35	Hybrid regime
55.	 Venezuela	5.34	Hybrid regime

56.	 Tanzania	5.28	Hybrid regime
57.	 Zambia	5.25	Hybrid regime
58.	 Malawi	5.13	Hybrid regime
59.	 Fiji	5.11	Hybrid regime
60.	 Uganda	5.03	Hybrid regime
61.	 Cambodia	4.87	Hybrid regime
62.	 Kenya	4.79	Hybrid regime
63.	 Georgia	4.62	Hybrid regime
64.	 Ethiopia	4.52	Hybrid regime
65.	 Burundi	4.51	Hybrid regime
66.	 Armenia	4.48	Hybrid regime
67.	 Russia	4.46	Hybrid regime
68.	 Pakistan	4.30	Hybrid regime
69.	 Haiti	4.19	Hybrid regime
70.	 Bhutan	4.09	Hybrid regime
71.	 Kyrgyzstan	4.05	Hybrid regime
72.	 Nepal	4.05	Hybrid regime
73.	 Iraq	4.00	Hybrid regime
74.	 Jordan	3.93	Authoritarian regime
75.	 Mauritania	3.91	Authoritarian regime
76.	 Egypt	3.89	Authoritarian regime
77.	 Morocco	3.88	Authoritarian regime
78.	 Rwanda	3.71	Authoritarian regime
79.			
80.			
81.	 Nigeria	3.53	Authoritarian regime
82.	 Cuba	3.52	Authoritarian regime
83.	 Cameroon	3.46	Authoritarian regime
84.	 Kazakhstan	3.45	Authoritarian regime
85.	 Niger	3.41	Authoritarian regime
86.	 Kuwait	3.39	Authoritarian regime
87.	 Angola	3.35	Authoritarian regime
88.	 Belarus	3.34	Authoritarian regime
89.	 Algeria	3.32	Authoritarian regime

90.	 Côte d'Ivoire	3.27	Authoritarian regime
91.	 Azerbaijan	3.19	Authoritarian regime
92.	 China	3.04	Authoritarian regime
93.	 Swaziland	3.04	Authoritarian regime
94.	 Gabon	3.00	Authoritarian regime
95.	 Oman	2.98	Authoritarian regime
96.	 Tunisia	2.96	Authoritarian regime
97.	 Yemen	2.95	Authoritarian regime
98.	 Republic of the Congo	2.94	Authoritarian regime
99.	 Qatar	2.92	Authoritarian regime
100.	 Iran	2.83	Authoritarian regime
101.	 Sudan	2.81	Authoritarian regime
102.	 Zimbabwe	2.53	Authoritarian regime
103.	 Vietnam	2.53	Authoritarian regime
104.	 Tajikistan	2.45	Authoritarian regime
105.	 Togo	2.43	Authoritarian regime
106.	 Djibouti	2.37	Authoritarian regime
107.	 Eritrea	2.31	Authoritarian regime
108.	 Democratic Republic of the Congo	2.28	Authoritarian regime
109.	 Equatorial Guinea	2.19	Authoritarian regime
110.	 Syria	2.18	Authoritarian regime
111.	 Laos	2.10	Authoritarian regime
112.	 Guinea	2.09	Authoritarian regime
113.	 Libya	2.00	Authoritarian regime
114.	 Guinea-Bissau	1.99	Authoritarian

			regime
115.	 Central African Republic	1.86	Authoritarian regime
116.	 Myanmar	1.77	Authoritarian regime
117.	 Uzbekistan	1.74	Authoritarian regime
118.	 Turkmenistan	1.72	Authoritarian regime
119.	 Chad	1.52	Authoritarian regime
120.	 North Korea	0.86	Authoritarian regime

Note: The sources concerning the countries which did not recognize Kosovo, is taken from (International Recognition of Kosovo Wikipedia) and the democracy index of the countries which did not recognize Kosovo is taken from (Democracy Index Wikipedia).