Università Ca'Foscari Venezia

Corso di Laurea in Relazioni Internazionali Comparate

Tesi di Laurea Magistrale

The Role of States with Limited Recognition in Contemporary Europe

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Anno Accademico
2018 / 2019

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ABSTRACT

The desire of certain peoples, which are part of a multi-ethnic state, to self-determination and the formation of their own domestic and foreign policies, can be found throughout almost the entire history of the existence of national states. Also nowadays similar trends are common. At the same time, new aspects appear in them.

That is, after the end of the Second World War, the emergence of new states was accompanied either by the relevant decisions of all interested parties, supported by UN resolutions (as, say, during the decolonization process), or was clearly not welcomed by the countries of the world (cases of Northern Cyprus, Nagorno-Karabakh, etc. .). But already at the beginning of the 21st century, the fact that a number of Western states recognized Kosovo's independence and the corresponding decision of the Hague court created a precedent in which the secession territory could receive the status of an "exceptional case". Also, these territories are capable of gaining international recognition even from those countries which have enough problems with their internal territories (such as Great Britain or France).

Moreover, decisions or lack of decisions of the United Nations, which in its status and general purpose should primarily deal with such problems, today noticeably lose their significance for consolidating different positions of the separated territory. In other cases (as, for example, in the situation with Northern Cyprus or Transnistria), which are in many respects similar in form and content to the previous ones, the previous mechanisms for determining the sufficiency of the grounds for realizing the right of a nation to self-determination, recognition or non-recognition of separated territories as independent states retain their strength.

In the course of the study (in particular in the first chapter), the author referred to the authors of scientific sources, scientists, journalists and members of non-governmental organizations on both sides of the conflicts (Georgia, Ukraine, Spain, Serbia, etc.).

The paper considers the problems of political entities known as unrecognized states, their place in the modern world and prospects of development. The existence itself of "places which do not exist" in the 20th and early 21st centuries goes in contrary with the traditional concept of a world consisting of sovereign states. In my opinion, unrecognized states are not an anomaly, but one of the obligatory components of the "gray zone" of world politics - the space between sovereign states and non-state political entities.

Unrecognized states are adjoined, on the one hand, by failed states (states which failed to keep their territorial integrity), and on the other, by pseudo-national entities. The first chapter discusses several historical periods that were especially favorable for the formation of unrecognized states - the period of the Second World War, the relatively long era of decolonization with the support of the UN and the period of struggle for the Soviet and Yugoslav

inheritance.

Thus, in the first chapter, special cases of the emergence of unrecognized states and their sovereignization are mentioned (Turkey, USSR, Latin America countries). Based on the historical experience of unrecognized states, the study proposes three basic rules for their transformation into sovereign states. At the same time, it is assumed that the “gray zone” will continue in the short term, possibly with a tendency to expand according to the “unwritten rules of non-recognized states”.

The second chapter of the thesis deals with phenomenon of self-proclaimed states in the post-Soviet area and gives common characteristic to them.

Utterly significant remains the fact that territorial disputes over the ex-union republics of the former USSR are still unresolved.

Georgia, Moldova, Ukraine and other republics of the former USSR, are plunged into a condition of military confrontation by the latter-day revolutions, economic chaos and political instability.

Self-proclaimed republics cannot receive international legal recognition, results of which are unceasing hostilities, economic disruption, outflow of people from conflict zones, etc. Recognition problems of new republics are attracting the attention of scientists, diplomats and politicians from all over the world.

The history of modern unrecognized states has its own characteristics; those are analyzed in chapter two in order to understand the characteristic features of the sovereignty of young states.

The following countries were selected as objects for analysis: the Republic of Kosovo, the Transdniestrian Moldavian Republic, the Republic of South Ossetia, the Republic of Abkhazia, as well as the Lugansk People Republic and the Donezk People Republic. The choice of these republics was dictated by the fact that nowadays more and more states appear as a result of interethnic or other military conflicts, while they remain “hot spots” on the world political map for a long time and in most cases are not recognized by the world community.

After the collapse of the USSR, several ethnic conflicts were discovered, as a result of which self-proclaimed states arose. Of particular interest is the process of sovereignty of the Pridnestrovian Moldavian Republic, the Republics of South Ossetia and Abkhazia, as well as the republics of New Russia (Novorossiya).

The chapter 3 by the number of examples proves that the peaceful suppression of separation attempts is possible. Among examples are such territories as Canton Jura in Switzerland, South Tyrol in Italy, Catalonia in Spain, Scotland and Northern Ireland in the United Kingdom. The disputes upon above mentioned territories are described from the

historical, economic and political points of view.

This choice of states is due to the fact that nowadays a number of European states face the intensification of the activities of regional separatist organizations. There are radical movements that advocate the complete independence of their region and the creation of their own national state among them. Others require additional empowerment of cultural, economic and political rights. The most active separatist movements are in Spain, the UK, France, Belgium and Germany (however the current research describes the issue only in first two countries mentioned). Chapter three raises the question of the history of the problem of separatism in Europe. Separatism is seen as the practice of separating and creating on it an independent national-state formation.

Chapter Three analyzes the path to autonomy of South Tyrol. In this region of Italy, the separatist movement was not completely suppressed and at any moment might erupt with renewed vigor. A similar situation is developing in the United Kingdom, in Scotland, where referendums on granting the region autonomy status are held with prominent frequency. Another troubled region of England is Northern Ireland, where tensions reached a hot spot and even cases of military clashes were recorded.

To a large extent, the situation is different in the Canton of Jura, in Switzerland, where the government managed to use political and economic leverage to suppress separatism.

In chapter three also the comparative analysis of Catalonia with (separated) regions of Ukraine is given, the analysis draws an analogy between Ukraine and Spain and shows, using Ukraine as an example, what could happen to Spain if Catalonia became independent.

The chapter four highlights insoluble contradictions which are present today and associated with the recognition of states in modern international legal theory. Despite the different ways of the emergence of new states, almost all of them face the same problem - non-recognition and related to it impossibility of being full- fledged subjects of international relations while exercising their rights.

There is a list of problems associated with the recognition of states, among which the main ones are: opposition to the principles of territorial integrity and the right of peoples to self-determination, the definition of criteria for statehood and mechanisms for the recognition of states.

The main legal principle contributing to the emergence of new states was the right of peoples to self-determination, which arose as a result of the collapse of the colonial system after the Second World War. This principle has been applied in exceptional cases, when a certain nation or nationality within a federation is subjected to extreme discrimination, and the problem can be resolved only by withdrawing from the federation.

The problem of recognition of states is tangled by the fact that there is no specific recognition algorithm, as well as principles and criteria. Each state decides for itself whether to establish relations with other states or not. Other states or international organizations are not permitted to exert any pressure on it.

Because of the fact that the institution of recognition has not yet been codified, the possibility of emergence of double standards toward new states arises. The institution of international legal recognition is mainly governed by customs, which are dispositive and therefore not binding.

The absence of codified international legal norms regulating the institution of recognition gives reason to the emergence of international legal conflicts. Young states continue to be in a state of limbo, which does not allow them to defend their rights in international organizations and international courts (Likhachev, 2010:76).

Chapter number four of the research suggests ways of improving states recognition institutes.

According to the theory of international law, the foundations for the emergence of a state are two international legal principles: the principle of equality and self-determination of peoples (UN General Assembly, 1970). The foundations are widely represented in a number of international regulatory acts. The importance of the principle of self-determination of peoples is enshrined in several UN documents.

In the fourth chapter, the institution of public associations and international non-governmental organizations is considered in a comparative analysis of a number of states through the prism of ensuring the right to association within the framework of constitutional law. The study reveals the normative content of the right to association not only from the standpoint of the legal status of a person and a citizen, but also as an institutional means of forming a civil society within the state and global civil society beyond its borders. This, in turn, made it possible in a new way, from the constitutional domestic and supranational legal positions, to consider a mechanism for ensuring the right to association, which includes both legal and social aspects, as well as a system of legal restrictions on the right to association, their admissibility and expediency in the conditions of development modern society.

Taking into consideration all the above mentioned it is reasonable to say that Conflicts of the Post-Soviet space and Kosovo have become synonymous with ongoing conflicts, attempts to resolve which are unsuccessful. The unsatisfactoryness of the solutions and approaches proposed so far requires a radical revision of the existing mechanisms of political response, but for this, as an initial step, an understanding of the conflict itself and a critical analysis of the existing experience in resolving it are necessary. To develop non-trivial approaches, the author in the

chapter four tries to understand why the previously proposed ones were inadequate. This study covers the situation right up to nowadays, and suggests some solutions to problems of the recognition in Chapter 4 of this study.

The section on LPR and DPR contains links to articles devoted to the most acute problem of modern Europe - the armed conflict in the east of Ukraine. The section considers the issues of the prerequisites for its occurrence, development, features and consequences. The section presents the full range of views on the essence and genesis of the conflict. The main principle of material selection was its compliance with the general scientific criterion of objectivity and validity.

INTRODUCTION

Changes on the political map of the world taking place nowadays, such as appearance of new states and their recognition, attract much attention of scholars from all over the world to this problem. Heated debates and controversial conclusions are always raised when it comes to international recognition issues.

The first problem which appears while studding unrecognized states can be described as a problem of ‘disappearing object’. Not surprisingly that states with no recognition are compared with black holes in the Universe or called ‘places which do not exist’. But still, such places exist, even with considerable population living on its territories.

Active existence and development of such states and even the fact of their proclamation impacts development of another states, international (intrastate) relations and world political system.

Military conflicts finish and transform into frozen condition, but unrecognized states (on territories of which military conflicts usually occur) do not vanish, which means the conflicts have to be studied not only in connection to military actions.

The author of the thesis elaborates in detail upon the phenomenon of self-claimed states in the Post-Soviet space, as well as expands upon recognition problems of Kosovo, with coming to conclusion that often, interests of big superpowers encounter on the territories of conflicts.

The research also talks about a number of countries where secession attempts were suppressed. Such attempts as separation of Canton Jura (Switzerland), Scotland and Northern Island in the UK, the province of South Tyrol in Italy and region of Catalonia in Spain.

It is important to understand what circumstances affect separation of certain regions. The factors can vary from economic or socio-cultural to complete disagreements with the center, “mother state”. Of a particular importance are consequences which can be caused to state sovereignty and statehood itself.

The research reveals such term as “economic separatism” and illustrates it on the numerous examples in form of tables and pie charts. The research draws a common line between Nationalistic Separatism (Abkhazia, Nagorno-Karabakh, South Ossetia) and Economic Separatism (Scotland, South Tyrol, Catalonia etc.).Economically speaking, what would be Spain look like without Catalonia, what is Moldova without Transnistria and Ukraine without Donbass?

The thesis deals with the relatively recent examples of separatism (Catalonia, Scotland, South Tyrol) as well as it deals with frozen and sluggish conflicts from the previous century (Transnistria, Nagorno-Karabach, Abchasia etc.)

In certain cases (for example Ukraine or Moldova) federalization could be an optimal solution; however, as time shows us it was not implemented in any ways. World practice proves that states with federal system of government exist in various parts of the world. In some, federalism is taken to the extreme; in others it is only superficial.

However, all of federal system states share a number of fundamental common features without which a state cannot exist: foreign policy, defense policy, currency, etc.'[1]

A great majority of unrecognized states has no chances to leave 'grey zone' of world politics and be transformed into sovereign states. Today it becomes clear, that for a new state to be internationally recognized even a big desire (for example through a referendum) of citizens of separated territory in not enough. To proclaim independence is not enough (to be considered as a sovereign state), moreover under contemporary conditions it is easily achievable in virtual variant.

[1] Mr. Ferrarini *"What is Transnistria?"*

Chapter 1. Theoretical basis for the international legal recognition of states.

1.1 ***The history and the basic rules of internationally legal states-recognition-principles.***

The institute of international legal recognition has a long history. It first appeared in the oldest known monument of international law - the so-called "beautiful treaty" between the Hittite king Hattushil and the Egyptian pharaoh Ramses II in 1278 BC. e. According to this treaty, the parties were considered as equal allies (Tyschik, 1999:24).

There is also a mention of the institution of recognition in the ancient Indian law of Manu. It refers to the reception of ambassadors from other states, which implies their recognition (Mitina, 2005:4).

There was no institution of a permanent embassy representative office in Ancient Greece; the institution was created only for some purposes (Mitina, 2005:5).

The echoes of the ancient Greek representations can be observed in the modern recognition of "ad hoc" (recognition for a specific case).

Since the main form of government was empire and despite the existence of the institution of recognition in ancient times, recognition itself was not widely spread. Therefore, the institute received further development recognition only from the 16th century onwards.

In this way, in 1648 Spain recognized the United Netherlands, which in 1581 declared its independence (Buromenskogo, 2008:130).

The United States was not immediately recognized: in 1778, the 13 states of the United States separated from England and declared themselves independent (Todorov, 2005:279). Only a few years later, in 1783, the Paris Peace was signed between Great Britain and the United States, according to which Great Britain recognized the independence of 13 US states (Fursenko, 1978:26).

At the same time, the Jefferson doctrine was formulated, which testified that the government created by the will of the people should be recognized as a legitimate one (Hyde, 1950:11).

The doctrine stated that the will of the people is the only significant factor to be reckoned with (Todorov, 2005:294-295). This doctrine was not compatible to the practice of international legal recognition.

In the XIX century many new states appeared in South America. However, in 1822, after studying the situation prevailing in Latin America by a special commission, some states that declared their independence and managed to ensure it gained international legal recognition (Hyde, 1950:122).

Latin American countries after years of war with the metropolis nevertheless gained independence and were recognized by England in 1825, despite the fact that at the Verona

Congress, the United Kingdom declared that they were recognized only de facto, which was associated with trade and economic necessity (Todorov, 2005:279).

Large states at the Paris Congress in 1856 recognized Turkey, which was the implementation of the constitutional theory of recognition. This theory enshrines the recognition of states depending on the will of the major powers (Hyde, 1950:14).

In the XIX century in Europe, by separating from other states and implementing the “principle of nationality”, new states appeared. Thus in 1830, by separation from the Netherlands and recognition by major powers, the state of Belgium appeared. Greece, Romania, Bulgaria. Serbia and Montenegro seceded from Turkey and were also recognized by large states.

As for the recognition of the USSR, it was delayed for several years. In 1921 it was recognized de jure by Afghanistan, Iran, Turkey, Poland and Mongolia (Feldman, 1975:152).

The process of the emergence of new states is connected with changes in international relations: new states appear; existing ones are being reformed or disappear from the political map of the world. After World War II, as a result of national liberation revolutions, more than 50 sovereign states in Asia and Africa emerged, this process overthrew colonial domination. The Declaration on the Granting of Independence to the Colonial Powers and Peoples, adopted at the XV session of the UN General Assembly on March 14, 1960, affirmed that “new independent states resulting from the implementation of the provisions of the Declaration have the right to be recognized” (UN Resolution, 1960).

After the collapse of the USSR and Yugoslavia, new states appeared, some of which are unrecognized or only partially recognized to this day: Kosovo, the Transdniestrian Moldavian Republic, the Nagorno-Karabakh Republic, the Republic of Abkhazia and South Ossetia.

Currently, the institution of international legal recognition is a major factor in international relations, but its development is hampered by the geopolitical goals of world powers. Their double standards prevent the emergence of new states, which, because of their non-recognition, cannot become full-fledged subjects of international law and international relations and enter the international community on a par with other states.

Before proceeding with the study of the institution of international legal recognition, it is necessary to determine the notion of state recognition. I.I. Lukashuk gives the following definition: “the recognition of states is a unilateral act by which the state recognizes the fact of the formation of a new state and thereby its international legal personality” (Lukashuk, 2005:347-348).

The English scholar T. Grant affirms that international legal recognition is “a procedure by which the governments of existing states respond to certain changes in the world community” (Grant, 2007:130).

According to J. Dugard and D. Raya (2007:180), “determining whether the entity that has declared that it is a state meets certain requirements is, in fact, recognition”.

J. Dugard and D. Rye (2007:94) regard that recognition is “the conformity of the subject which declared that it is a state to certain requirements”.

So, based on the above, a more concise definition of state recognition can be given: it is an official act that expresses the desire and readiness of the recognizing state to establish diplomatic and other relations with the recognized state. International legal recognition is a right, and not an obligation of a state to recognize another state, therefore there are no rules restricting this right or hindering its realization. At the same time, interference in the process of self-determination of the “new” state is a gross violation of the norms of international law (Dugard & Rye, 2007:90).

There is no case of world recognition in world history, in other words, the recognition of a new state by all existing states. It is the will of a single state to establish diplomatic relations with a new state, not a duty. There was no case that this will was universal.

There are three forms of recognition: legal (de jure), de facto (de facto) and “on the occasion” (ad hoc). The recognition de jure (Latin de jure "by right") is a full legal recognition. It is expressed in an official act, most often in an official statement. Diplomatic relations are established between states, states exchange diplomatic notes to open diplomatic missions.

De facto recognition (lat. De facto - “in practice”) is a limited form of recognition. This form of recognition is used when a state is forced to establish trade and economic relations with a new state or when a state doubts the stability of the new political formation (Alexandrova, 2009:10-15). The actual form of recognition entails the establishment of consular relations with the new state, but is not its official recognition. It is realized in the form of participation in international conferences, international treaties, and can also be expressed in concluding bilateral trade and economic treaties, holding conferences, etc.

De facto recognition can be a transitional form to de jure recognition. So, the United Kingdom recognized the de facto Bolshevik government in 1921 and de jure only three years later. Another example was the 1970 treaty between Germany and the Polish People's Republic on mutual relations; in the treaty, countries secured the transition from de facto to de jure relations, including the exchange of diplomatic missions (Alexandrova, 2009:10-15).

Based on international legal theory and practice, the de facto recognition form is temporary in nature and can be withdrawn at any time, unlike de jure recognition, which is a permanent form of recognition and cannot be withdrawn. According to D.M. Feldman, “de facto recognition has always been a transitional form to full recognition” (Feldman, 1975:134).

Recognition ad hoc (lat. Ad hoc - "especially for this", "on a special occasion") is a one-time recognition. It is accompanied by the reservation that it cannot be regarded as an act of recognition.

Equally important is the question of the consequences of the forms of recognition. G. Lauterpacht (1947:41) considers diplomatic communication as possible only after de jure recognition.

However, there are cases of establishing diplomatic relations after de facto recognition. In such a manner, in 1920, Germany and Latvia signed a de facto recognition agreement, which provided for the exchange of diplomatic missions.

The third form of recognition is ad hoc recognition, which is translated as “in this case”. D.I. Feldman (1975:111) argues that “ad hoc recognition is a de facto relationship with a recognized state in case of official non-recognition”.

Ad hoc recognition is a one-time recognition, “in this case,” which means entering into a relationship with a state on a specific issue or problem. This form of recognition may be accompanied by a clause that entering into legal relations with a new state entity does not mean its recognition. However, such a reservation cannot hide the establishment of full legal relations between states.

D.I. Feldman (1975:23) reckons that ad hoc recognition is a de facto relationship with a recognition recipient with official non-recognition. The application of ad hoc recognition indicates that there is no legal basis for non-recognition of a new state.

An example of ad hoc recognition is the negotiations between the United States and the three Vietnamese parties to end the war in Vietnam, as a result of which the Paris Agreements were signed in 1973. At the same time, some parties to the negotiations did not recognize each other.

There are also various forms of expression of recognition: written, oral, etc. Thus, de jure recognition can be expressed both explicitly and implicitly; de facto is always explicitly expressed. Thus, tacit forms of de jure recognition are usually expressed in the form of actions: concluding a treaty with a new state, continuing relations with a new government that arose as a result of revolutionary actions, etc. However, the recognition of new states is usually expressed in an explicit form: in a special message, a note to the telegram or a statement. This is the way the USSR recognized African countries: Somalia, Uganda, Togo, Cameroon, Tunisia, Morocco, Ghana, Guinea, Mali, and Congo.

There is no generally accepted recognition procedure. Each country has its own.

In the USA, the setting of an official American delegation for the celebration "on the occasion of the declaration of independence and granting embassy status to the consulate general" has been experienced (Feldman, 1975:86).

Along with the official recognition of the state, there can be declarations of de jure government recognition. This is how the USSR expressed recognition of the Algerian Republic: in the telegram of the Chairman of the USSR Council of Ministers, together with the recognition of the new state, recognition of the provisional government was also expressed (SSSR i strani Afriki, 1963:242-243).

In addition to written, there may be an oral form of expression of recognition. That is, if the head of state during a press conference or other event officially declares recognition of the new state, then this should be considered as a full-fledged act of recognition.

There have been cases of collective recognition in addition to individual recognition of the state in the world legal practice. The recognition started to be applicable while implementing the Berlin Treaty of 1878 between Turkey, Russia, Great Britain, Germany, Austria, France and Italy, in which collective recognition of Romania, Serbia and Montenegro was declared. England, France and other states collectively recognized Czechoslovakia and Poland at the Paris Peace Conference of 1919 (Kazarovets, 1958:10).

At the conference in Belgrade in 1961, the Algerian Republic and the GDR were collectively recognized (Feldman, 1975:156).

The concept of the international legal personality of states is practically not used in international legal acts; it has been developed only in the doctrine of international law. In such a way, Margiev V.I. (2005:135) supposes that “The general international legal personality of a state in the theory of international law means the ability of actors to be subjects of international law. Only sovereign states possess the personality.”

International legal capacity is a “characteristic of the subject of international law, reflecting the potential scope of rights and obligations, the carrier of which may be subject of international law” (Likhachev, 2010:76).

According to the general definition, capacity is the accomplishment by subjects of international law their actions and their rights.

1.1.1 League of Nations and United Nations membership

Since the membership in the United Nations (in the past League of Nations) is a peculiar feature or even a benchmark of a State to be recognized, the importance of this sub-chapter arises.

General considerations

The word 'State' arises thirty-four times in the United Nations Charter.[2] To be admitted to the United Nations a candidate must be a 'State' (ICJ, 1948:57, 62).[3] To come up with a question concerning international peace and security (or any other disagreement) before the United Nations, it is obligatory to be a 'State' (ICJ)[4]. To be permitted to participate without voting in the Security Council's deliberation of any dispute, a party to the dispute must be a 'State' (ICJ)[5]. For becoming a party to the Statute of the International Court an applicant must be a 'State' (ICJ)[6]. There are a lot of opportunities for disagreement about and development of the notion of statehood in United Nations organs.

Undoubtedly the meaning of legal terms depends on a context, and the contexts of some of these practices of the term 'State' in the Charter varies. For example, Article 35 (2) licenses a State that is not a member of the UN to 'bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of the pacific settlement provided in the… Charter.' Under Article 35 (2) the Security Council could be justified in permitting an entity to participate in its considerations, even though it might well hesitate to endorse admission of the same entity on the grounds that its legal status was fleeting or uncertain.

Therefore, quite apart from the flexibility inherent in the general criteria discussed in the preceding chapters, contextual interpretation of the term 'State' may be justified where a claim to status is made for specific purposes.[7] But care is necessary in determining which contexts warrant a more reduced meaning. Higgins proposes that 'entities which would not be considered states for the purposes of a claim for comprehensive participation in the United Nations might nevertheless satisfy the requirements of statehood where the claim is for limited participation.'[8] But the proposal that an object which is not a 'State' for the purposes of United Nations

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[2] There is nothing inevitable about the use of the word 'State' as a criterion for membership of international organizations: Morgenstern, Legal Problems of International Organizations, 50-1. In the constitutive instruments of the IMF and World Bank, the word 'country' is used; in the Food and Agriculture Organization, 'nation'; in the WTO, 'State or separate custom territory possessing full autonomy in the conduct of its external commercial relations'.

[4] Articles, 11 (2), 35(2).
[5] Article 32
[6] Article 93(2).
[7] Cf Higgins, Development, 11-14, 42-50.
[8] Higgins, Development, 42-3.

membership may however be a 'State' for the purposes of admission to a regional or functional organization has been undecided:

"not only is it a priori unlikely that the same concept – statehood – should be used in different senses by the same actors (the diplomatic representatives of States) in similar fora (intergovernmental organizations) for the same purposes (participation), but it is also a fact that the instances cited in support of the theory can, without exception, be better explained on other grounds, such as the presence of the veto in the UN and its absence in the Specialized Agencies." (Mendelson, 1972:85-92)

Moreover, it cannot be assumed that United Nations organs have reliably obeyed to a contextual interpretation even in contexts such as Article 35(2). Sates may be reluctant to take sides in political disagreement in cases such as Bangladesh. Where an entity such as Rhodesia is apprehensive, they will be unwilling to accord it any appearance of status. United Nations practice has inclined to emphasize the party-political or honorific element of statehood and to threat issues of status, however arising, in the same way. The following account nevertheless deals with the practice under the different headings.

Membership practice under the League of Nations[9]

Article 1 (1) of the Convenant providing that:

"Any fully self-governing State, Dominion or Colony not named in the Annex may become a Member of the League if its admission is agreed to by two-thirds of the Assembly, provided that it shall give effective guarantees of its sincere intention to observe its international obligations, and shall accept such regulations as may be prescribed… in regard to its military, naval and air forces and armaments.[10]"

The phrase 'fully self-governing State, Dominion or Colony' was used because, in Cecil's words 'some of the Members of the League, such as India and (at least in 1919) the British Dominions, were not "States"' (Crawford, 2007:138). [11] Statehood was thus not a precondition for admission to the League, though actually only States were admitted under Article 1 (2). League practice on admission was not wide-ranging, but the requirements of statehood had a tendency to to be interpreted strictly. Entities such as Ukraine, Georgia, and the

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[9] The League of Nations is an international organization founded as a result of the Versailles-Washington system of the Versailles Agreement in the years 1919-1920. In the period from September 28, 1934 to February 23, 1935, the maximum number of states was included in the League of Nations - 58.

[10] 119 BFSP 1. For exclusion from the Covenant of any reference to recognition see Graham, *The League of Nations*, 43-4.

[11] Hunter Miller, The Drafting of the Covenant, vol I, 284; for the position of the Dominions in 1919 see Chapter 8. Cecil conceded that, even on this formulation, India did not qualify since (like the Philippines) it was not a 'self-governing' Colony (ibid, 164; cf President Wilson, quoted in Miller, *Drafting,* vol I 165-6). Smuts pointed out that India qualified as an original member under Art 1(1), and that Art 1 (2) was irrelevant.

Armenia, which had separated from the Russian Empire, had their requests for membership disallowed on the grounds of lack of stability or permanence (Graham, 1921:26). Others such as Latvia, Lithuania and Estonia had their applications postponed until they could demonstrate some sort of permanence (Piip, 1921:8). Liechtenstein was rejected on the grounds that, even though it was a State, it was too minor to commit its obligations under the Covenant (Gunter, 1974:68). By contrast League practice relating to the extinction of States was not consistent, giving the political variations of the conciliation policies of the major powers during 1935 to 1940, when the numerous issues arose.[12]

The United Nations: original membership

Similar to the League Covenant, and for the same motives, the United Nations Charter differentiates between original and admitted members. Article 3 of the Charter stands:

"The original Members of the United Nations shall be the States which, having participated in the United Nations Conference on International Organisation at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110."

The dissimilarity was highlighted by the Rapporteur (Membership) of the Committee I/2 to Commission I at the San Francisco Conference:

"As regards original members their participation in the Organization is considered as acquired by right, while that of future members is dependent on the fulfilment of certain conditions... [T]he definition adopted would serve to claim the fears of certain nations participating in our deliberations which, properly speaking, are not States and for this reason might be denied the right of membership in the Organization."[13]

1.1.2 The issue of defining the statehood

The subject of recognition of Sates and governments has remained on the ILC[14] agenda since 1949, but little interests has been shown in following the matter.

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[12] See Chapter 17. Cf Green, in Schwarzenberger (ed), *Law Justice and Equity*, 152, 157-8. On League membership practice in general see Graham, *The League of Nations;* Scelle (1921) 28 *RGDIP* 122; Hudson (1924) 18 AJ 436; Feinberg (1952) 80 *HR* 297; Schwarzenberger, *The League of Nations and World Order.*

[13] (1945) 7 *UNCIO* 324, doc 1178; Whiteman, 13 *Digest* 191-2. But Art 3 of the Charter, referring to original Members, does use the term 'State'.

[14] a subsidiary body of the UN General Assembly, consisting of thirty-four international lawyers enjoying recognized authority in the field of international law, who act in their personal capacity, and not as representatives of the respective governments, aimed at promoting the progressive development of international law and its codification.

It might be asked how a conception as vital as statehood_could have gone with no definition, or at least a satisfactory one, for so long. This may be because the question normally arises only in the uncertain cases, where a new entity has arose bearing some but not all characteristics of statehood. The resulting problems classification cannot be resolute except in relation to the precise facts and circumstances. But, it may be asked, are there any lawful consequences that attach to statehood as such, which are not legal cases of other forms of international personality? To put it in different way, is there a legal concept of statehood at all or does the meaning of the term vary indeterminately depending on the context? Some writers[15], by contrast, come to close repudiating of the existence of statehood as a legal notion in the benefits of a thoroughgoing functionalism. Such views may be comprehensible as a reaction against absolutist ideas of statehood and sovereignty[16]. But, nonetheless, statehood is a central concept of international law, even if it is one of open texture.

The following exclusive and general lawful features of States may be exampled:

(1)[17] In principle, States have complete capability to perform acts, make treaties, etc., in the international sphere: this is one meaning of the term 'sovereign' as applied to States.

(2)[18] In theory States are exclusively competent with respect to their internal matters, a principle reproduced by Article 2(7) of the United Nations Charter. Of course, it does not mean that international law imposes no constraints: it does not mean that their dominion over internal matters is apparent both plenary and not subject to the control of other States.

(3) In principle Sates are not subject to obligatory international process, jurisdiction, or settlement without their agreement, given either usually or in the specific circumstance.

(4) In international law Sates are viewed as 'equal', a principle documented by the Charter (Article 2 (1)). This is in part a reaffirmation of the previous principles, but it has other consequences. It is an official, not a moral principle. For example, it does not mean that all Sates

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[15] Lauterpacht H., Wim van Meurs (Radboud University)., Dov Lynch (Royal Institute of International Affairs) and Scott M. Pegg

[16] Sovereignty - the independence of the state in foreign affairs and the supremacy of state power in internal affairs.

[17] *Military and Paramilitary Activities in and against Nicaragua,* ICJ Rep 1986p 14, 133 (para 265): 'Similar considerations apply to the criticisms expressed by the United States of the external policies and alliances of Nicaragua… it is sufficient to say that State sovereignty evidently extends to the area of its foreign policy, and that there is no rule of customary international law to prevent a State from choosing and conducting a foreign policy in co-ordination with that of another State.'

[18] Ibid, 133 (para 263): '… adherence by a State to any particular doctrine does not constitute a violation of customary international law; to hold otherwise would make nonsense of the fundamental principle of State sovereignty, on which the whole of international law rests, and the freedom of choice of the political, social, economic and cultural system of a State.'

are permitted to an equal vote in international administrations: States may consent to unsatisfactory voting rights by becoming members of establishments with weighted voting (the United Nations, the World Bank…). Still less it means that they are entitled to an equal voice or impact. But it does mean that at a rudimentary level, States have equal status and standup: *'A dwarf is as much a man as a giant; a small republic is no less sovereign state than the most powerful kingdom. (Vattel, 1858)'*[19]

(5) Derogations from these doctrines will not be reputed: in case of uncertainty an international court or tribunal will tend to decide in favor of the autonomy of action of States, whether with respect to external[20] or internal affairs,[21] or as not having agreed to a precise exercise of global jurisdiction[22], or to a specific derogation from equality.[23] This assumption – estimable in any case – has weakened in importance, but is still summoned from time to time and is still part of the hidden grammar of international legal language. It will be mentioned to as the Lotus assumption – its classic formulation being the decree of the Permanent Court in *The Lotus.*

These five principles, as it is suggested, establish in legal terms the center of the concept of statehood, the core of the distinct position of States in general international law. As a matter of explanation the term 'State' in any treaty or other tool prima facie refers to States having these characteristics; but again this is a focus to context. The term 'State' should be more strictly taken into consideration where the context specifies abundance of functions – as for example in Article 4 (1) of the United Nations Charter. Contrariwise, if a treaty or decree is concerned with a specific issue, the word 'State' may be constructed freely – that is, to mean 'State for the specific purpose' of the treaty or statute. This is in accordance with the principle that where a legal document uses some technical term, even if it is proficient of a wider meaning, prima facie the technical meaning is the one contemplated.

1.1.3 The major appearance of the new states after the Second World War (Graph)

In the period after the end of the Cold War, the most dubious association issues concerned the States emergent from the dissolution of Yugoslavia, though again – except for Yugoslavia itself – this lead to little discussion in the Security Council or the General Assembly.

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[19] Vattel, *Le droit des gens,* Introduction, §18, quoted in *Claimants of the Brig General Armstrong v United States,* 5 US Cong Rep CC 149 (US Court of Claims, 1858, Gilchrist, CJ).

[20] The Lotus, PCIJ ser A no 10 (1927) 18; in external affairs the presumption is less significant, since it must be weighed against the equal rights of other States.

[21] Polish War Vessels in the Port of Danzig PCIJ ser A/B no 43 (1931) 142.

[22] Eastern Carelia Opinion ser B no 5 (1923) 27-9.

[23] *Interpretation of Peace Treaties (Second Phase)*, ICJ Rep 1950 p 221, 228-9.

Not unexpectedly, the times of highest stress in terms of United Nations admittance were those in which the pace of the formation of new States were at their highest – namely, the period of extensive decolonization from the late 1950s over the early 1970s and the period of the downfall of the socialist federations in Central and Eastern Europe in the 1990s. The earlier period has been seen as one in which political tensions – connected to the 'Cold War' – made it difficult to separate inessential political factors from the considerations permitted by Article 4. Even so, admissions practice in that period still could be labelled with reference to legal rules, if, as Higgins recommended in 1963, the suitable method of lawful analysis had sufficient regard to context and process. That the next period of difficulty in admissions practice came after US-Soviet competition had waned suggests that the difficulty relates not so much to political as to the details of the legal question of the legal questions inherent in the sudden reorganization of peoples and territories into new or at least transformed states.

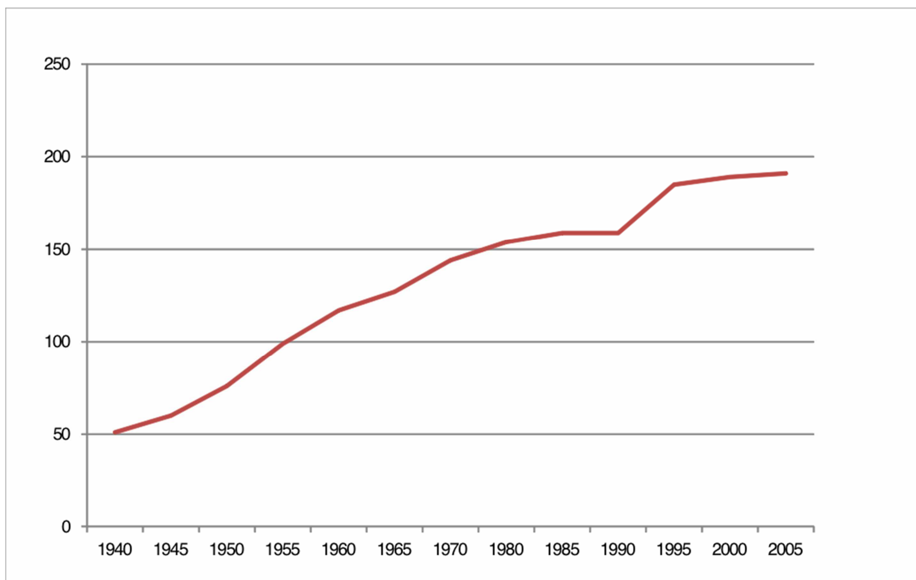
I am illustrating the changes in geopolitics on the following table and graph.

Creation of States and UN admission, 1945 - 2005[24]

	Number of UN Member States	Approximate % of total number of States
Original Members (1945)	51	68.0%
December 1950	60	71.4%
December 1955	76	87.4%
December 1960	99	89.2%
December 1965	117	91.4%
December 1970	127	91.4%
December 1975	144	93.5%
December 1980	154	93.9%
December 1985	159	94.6%

[24] (Crawford, 2007:187)

December 1990	159	91.9%
December 1995	185	96.9%
December 2000	189	99.0%
December 2005	191	99.5%



1.2. Criteria for the recognition of states

Not every new territorial formation can be recognized as a full-value subject of international law. A new state must meet certain requirements to enter into international relations as a full-acting entity. There is no unity of opinions in international theories and practice, about

the criteria that the new state must correspond to. According to international legal practice, this criterion can be the criterion of the statehood of the young state.

There is no single approach to the definition of statehood in the doctrine of international law. There is no clear definition nor in theoretical literature, neither in international law. Only in the works of some scientists a certain set of items is given, for example the availability of institutions of power, state symbols, state control over the territory, the availability of the armed forces.

G. Lauterpacht (1947:35) considers that "recognizing political formation as a state is to declare that it satisfies the conditions of statehood which are required by international law. To the main criteria, he refers the following points: an independent government, effective power, the presence of a certain territory (Lauterpacht, 1947:36).

As the secondary criteria Lauterpacht (1947:36) considers the degree of civilization of the state, the legality of origin, religion, political system.

D.I. Feldman (1975:127) highlights peacefulness and correspondence to the principle of self-determination of the nation as the main criteria of statehood.

Also, as the signs of statehood, the following features are adduced: the availability of institutions of power, armed forces, control over the territory, the opportunity to establish international relations with other states, etc.

There is no code of laws of statehood standards that is significantly hampers the process of recognizing of new states. Only the Montevideo Convention[25] gives an obscure list of those. Thus, Article 1 of the Montevideo Convention states that "the state as an entity of international law should have the following signs: a permanent population; a certain territory; the government and the ability to enter into relations with other states (Montevideo Convention, 1933).

However, neither in this convention, nor in other international legal acts it is written a clear indication of what should be the area of the territory of the new state, what should be the population inhabiting this territory and how the ability to enter into relations with other states can be determined.

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[25] Convention on the Rights and Duties of States, Montevideo, 26 December 1933, 165 LNTS 19. The convention was ratified by the United States and certain States in Latin America; the convention is still relevant. Despite its regional character and low participation, the Convention definition is referred to reflexively, irrespective of its actual language or of the context: Grant (1999) 37 *Col JTL* 403, 415 n 51. Its drafters no doubt had in mind standard definitions of the State: cf Carne, *The State in Constitutional and International Law*, 65 ('government, independence, territory and people'); Kelsen (1929) 4 *RDI* 613, 614: 'un État est formé lorsqu'un ordre de contrainte relativement souverain, c'està-dire dependant exclusivement du dorit des gens, se créé et deviant efficace sur un territorire donné et vis-á-vis d'une population donnée'. On the historical antecedents of the Montevideo criteria, see Grant, 414-18

At the same time, in Art. 3 of the Montevideo Convention 1933, it is also said "The political existence of the state is independent of recognition by the other states. Even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts." (Montevideo Convention, 1933)

The theory of law refers to the internal characteristics of a state: the organization of power, the population, the state's right to collect taxes and to issue money, the sovereign and public nature of power, etc. From the point of view of international law, power is characterized by the following features: the ability to enter into international relations with other countries, to fulfill international obligations, to defend their international legal status, etc. However, we should not forget that a number of states are included in international economic and cultural relations, but have nothing to do with this international legal recognition. These include, in particular, Taiwan, which is represented in China by international organizations. (Taiwanski vopros i obedinenie Kitaya, 1993)

So, after analyzing the opinions of theorists of international law, it can be concluded that the main criteria for recognition are: territory, independent government, effectiveness of legitimate political power, sovereignty, government support by the population, ability to enter into relations with other states and fulfill international obligations.

The difference between the forms of recognition lies in the legal nature of not only their occurrence, but also in the legal consequences. The choice of the form of recognition depends on the political situation and the political and legal will of the world powers.

1.2.1 ***The main components of the Criteria***

<u>a) Permanent Population</u>

If States are seen as land entities, they are also masses of individuals. Thus, a permanent population is compulsory for statehood, however, as in the case of territory, no minimum limit is prearranged. The ten smallest States by population are set out in Table 2. (Crawford, 2007:52)

Table 2. Population of some small States (World Gazetteer, 2005)

Vatican City	768
Tuvalu	9,743
Nauru	11,218

Palau	21,092
San Marino	30,472
Monaco	33,084
Liechtenstein	34,927
St Kitts & Nevis	39,601
Marshall Island	54,313
Andorra	68,584

Only the Vatican City raises any question on this ground among States with very small populations, and this more because of the ecclesiastical character of its population than its size.[26] The criterion which is discussed obliges States to have a permanent population. It turns out that the grant of nationality is a matter that only States by their municipal law (or by way of treaty) can perform.[27] Nationality is dependent upon statehood, not vice versa. Whether the creation of a new State on the territory of another results in statelessness of the nationals of the previous State there resident.[28]

b)A defined territory

Unmistakably, States are territorial entities. 'Territorial sovereignty… involves the exclusive right to display the activities of a State'.[29] Contrariwise, the right to be a State is reliant on at least in the first instance upon the exercise of full governmental powers with respect to some area of territory. But, although a State must possess some territory, there appears to be no rule prescribing the minimum area of that territory.[30] States might occupy an utterly small area,

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[26] For the Vatican see Duursma, *Microstates*, 374, 411-12; and below Chapter 5

[27] *Nottebohm Case (Second Phase),* ICJ Rep 1955 p 4, 23.

[28] Cf the Israeli cases in the period (1948-52) when there was no Israeli nationality law: 17 ILR 100-12. See also *Naqara v Minister of the Interior* (1953) 20 ILR 49.

[29] *Island of Palms Case* (1928) 1 RIAA 829, 839 (Arbitrator Huber) 4 ILR 3, 103, 108, 110, 111, 113, 114, 418, 479, 482, 487, 492

[30] Frank and Hoffman (1967) 8 *NYUJIL* 331, 383-4 ('infinitesimal smallness has never been seen a reason to deny self-determination to a population'). See also Mendelson (1972) 21 *ICLQ*609, 610-17; Verhoeven, Reconnaissance, 54; Orlow (1995) 9 *Temple ICLJ* 115, 115-40; Schachter in Beyerlin (ed), *Recht zwischen Umbruch und Bewahrung* (1995) 179.

providing they are independent in the sense to be explained. The ten smallest States of nowadays are as set out in Table 1.

Table 1. Areas of some small States (World Gazetteer, 2005)

Vatican City	0.4 sq km
Monaco	1.5
Nauru	21
Tuvalu	26
San Marino	61
Liechtenstein	160
Marshall Islands	181
St. Kitts & Nevis	267
Maldives	298
Malta	315

There is no rule requiring contiguity of the territory of the State. Little bits of States can be enclaved within other States[31] (ICJ, 1959:209). Sovereignty comes in all sizes and shapes.

Undoubtedly, independence is difficult to be achieved and maintained because of small size and fragmentation. Fragmentation sometimes may be an indicator of some other incapacity, but it is not in itself formative against a proclamation of statehood.

c) <u>Government</u>

The requirement that a supposed State have an actual government might be considered as central to its claim statehood. 'Government' or 'effective government' is clearly a basis for the other central criterion of independence.

It is clear that 'government' and 'independence' are closely related as criteria – in fact they may be regarded as different aspects of the requirement of effective separate control. For

[31] Case Concerning Sovereignty over Certain Frontier Land (Belgium/Netherlands), ICJ Rep 1959 p 209, 212-13, 229; Case Concerning Right of Passage over Indian Territory (Portugal v India), ICJ Rep 1960 p 6, 27

present purposes, government is treated as the exercise of authority with respect to persons and property within the territory of the State; whereas independence is treated as the exercise, or the right to exercise, such authority with respect to other States. Other writers draw a similar distinction but in different terms: e.g., Wheaton ('internal' and 'external' sovereignty); Kamanda ('sovereignty' (internal) and 'independence' (external))[32].

d) Capacity to enter into relations with the other states

Capability to enter into relations with States at the international level is no longer (however, if it ever was) an exclusive State prerogative.[33] True, States predominantly possess that capability, but this is a consequence of statehood, not a criterion for it-and it is not constant but depends on the situation of particular State.[34] It might still be said that *capacity* to enter into the full range of international relations is a useful criterion, since such capacity is independent of its recognition by other States and of its exercise by the entity concerned.[35]

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[32] Legal Status of Protectorates, 175-82

[33] Cf Opinion 1/94, Community Competence to Conclude Certain International Agreements, 1994 ECR I-5276.

[34] Some writers nonetheless suggest this as a distinct criterion of statehood: e.g., Hillgruber (1998) 9 *EJIL* 491, 499-502. See also Hillgruber, *Aufnahme neuer Staaten,* 42: 'Die Fähigkeit und die... Bereitschaft, die Staaten nach allgemeinen Völkerrecht obliegenden Pflichten zu erfüllen, wird zu so zum entscheidenden Kriterium für die Anerkennung eines Neustaates als Völkerrechtssubjekt.' Vukas takes the better view, i.e., that capacity is more a consequence than a criterion of statehood. Vukas (1991/VI) 231 *HR263,* 282.

[35] Montevideo Convention, Art 1 (d); Restatement 2nd, Foreign Relations Law of the US, ss 4, 100 (c); Restatement 3rd, s 201, comment e.

1.3. The main doctrines of state recognition

There are two concepts of international legal recognition in the theory of international law: constitutive and declarative.

Supporters of constitutive theory consider that a new state can be a subject of international law only as a result of its recognition by other states. In their opinion, the emergence of a state depends on the will of the recognizing states, i.e. a new state cannot be a full-fledged subject of international legal relations until it is recognized by other states. (Anzilotti, 1961:136-137; Oppenheim, 1948:164-165).

Declarative theory asserts that a state has international legal personality from the very fact of existence. The recognition does not give legal personality, but only contributes to the entry into the system of international legal relations (Martens, 1994:184).

Both theories were used as a theory of justifying the recognition of states. Thus, the declarative theory was applied in 1789, when, thanks to the adoption of an act of independence by the government of Napoleon Bonaparte as a result of the Great French Revolution, when the French Republic was proclaimed (Korovin, 1946:37).

Constitutional theory, originating from the Prague Congress in 1856, establishes that a newly created state can be a subject of international law only if it is recognized by other powers. The adherents of the theory are H.Kelsen (1953), G. Lauterpacht (1947), L. Oppenheim (1948), D. Ancylotti (1929), and others.

According to G. Lauterpacht (1947:152), “it is impossible to become a subject of international law automatically, and due to the absence of an international decision-making body on this issue, existing countries should assume this role”.

L. Oppenheim (1948:136) considers that “a state becomes an international entity and a subject of international law only through recognition, which is constitutive in nature”.

D. Anzilotti (1961:49) contends that “international legal personality becomes real and concrete along with recognition, and there can be no legal relations with a state that has not been recognized”.

According to P. Kazan (1901:27), “recognition is vesting of a de facto relationship with legal properties, this is the creation of an international legal entity or the international legal birth of a state”.

However, N.A. Ushakov (1963:86) concludes that “constitutionalism falsifies the real nature of legal relations. Generated by an act of international recognition, it is directed against the peaceful coexistence of states. Antidemocratic and reactionary theory is directed against the sovereignty of new states that arise in the international arena”.

It is obvious that the constitutional theory is contrary to international law, since it does not take into account that the state has sovereignty before the act of recognition by other states. This concept establishes the rights and obligations of the "new" state depending on the will of the "old" states. According to J. Brownlie (1977:150), "this concept is legally unjustified, since there is a clear provision that states cannot, by their own decision, establish the competence of another state, which is defined by international law regardless of their consent or disagreement".

The declarative concept of recognition of states is based on the acquisition of the legal personality of the newly created state, regardless of its recognition by other states. This theory arose as a counterweight to the constitutive theory and became widespread during the collapse of the colonial system.

According to the declarative theory, the act of recognition does not create a new subject of international law. It is the declaration of the state itself that is an act of recognition, and the state is a subject of international law due to the fact of its existence, and not an act of recognition by other powers. This concept is confirmed in paragraph 2 of Art. 1 of the UN Charter "On the Right of Nations to Self-Determination", in which the goal of the UN is "striving to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" (UN Charter).

The Declaration of Principles of International Law of 1970 regarding Friendly Relations and Co-operation among States in accordance with the Charter of United Nations. It was adopted by the UN GA on 24 of October by resolution 26/25 (XXV), during a solemn session to commemorate the twenty-fifth anniversary of the United Nations.

This declaration is important because it provides that "every state must respect the legal personality of other states. Consequently, the emergence of a new state should not depend on the will of the recognizing states, since the states are equal among themselves, according to the principle of the sovereign equality of states" (UN Resolution, 1970).

Art. 1 of the Montevideo Convention reads that "any state has sovereignty since its inception," consequently, its legal personality does not depend on the will of other states. It stops only with the cessation of the existence of this state. It is stated in Art. 3 of this convention that "the political existence of the state is independent of recognition by the other states. (Montevideo Convention, 1933)The Montevideo Convention also stresses that "even before recognition the state has the right to defend its integrity and independence, to provide for its conservation and prosperity, and consequently to organize itself as it sees fit, to legislate upon its interests, administer its services, and to define the jurisdiction and competence of its courts." (Montevideo Convention, 1933)

Many scholars are committed to a declarative concept. For example, F.F. Martens (1994:184) argues that "the state exists and arises independently; the recognition only states its birth. In turn, E.A. Korovin (1946:26) emphasizes that "the state is a social and legal subject of international rights and obligations and remains so regardless of whether another state similar to it recognized it as such" .S.B. Krylov (1951:212) expresses the opinion that "recognition is declarative, declarative, and not constitutive, constitutive meaning".

Another supporter of the declarative theory is A.A. Modjoryan - supposes that recognition does not create a new subject of international law: "A viable state resulting from the realization of the nation's right to self-determination, as well as a viable government that came to power as a result of the free will of the people, will exist regardless of whether it is recognized or not" (2005:83).

British scientist J. Brownlie (1977:148) affirms that "according to the declarative theory, the legal consequences of recognition are limited, since recognition is only a declaration or confirmation of the existing legal and factual position of the state, since legal personality arises earlier because of the law itself".

The declarative theory is confirmed by international practice. Thus, the German-Polish arbitration tribunal states that "the recognition of states is not constitutive, but declarative" (Deutsche Continental Gas-Gesellschaft v. Polish State, 1929)[36].

Also, the Arbitration Commission of the Peace Conference on Yugoslavia establishes that "the recognition of states is of an exclusively declarative character" (1992:182).

But the provisions of the declarative theory are not applied in practice, since there are no practical mechanisms for its implementation: the states that declared themselves independent remain unrecognized, which means that they cannot protect their rights in international law instances and be members of international organizations. As a result, there is the phenomenon of "unrecognized states." The reason for this phenomenon lies in the "double standards" of superpowers, which do not seek after recognition of new states for political reasons.

The declarative theory is based on the principle of equality of states as subjects of international law. So, Russian scientists - supporters of declarative theory - such as V.N. Durdenevsky, E.A. Korovin, S.B. Krylov, - uphold the principles of the right of nations to self-

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[36] There was a case in 1929 between Deutsche Continental Gas-Gesellschaft and Polish State. The dispute was concluded in following: in accordance with the Versailles Treaty on the liquidation of property of German citizens, Poland ordered the liquidation of the property owned by the claimant company in Warsaw (the former Russian territory acquired by Poland). The company claimed that Poland could not be considered to have a de jure territory designated as the Congress of Poland (formerly Russian), since the boundaries of this territory were not established, so the territory belonged to Russia by law.

determination and the equality of states, both “old” and newly created (Durdenevsky, 1959:36-38).

The recognition of states is an institution of international law, which is a combination of international legal principles and customary norms. The main principles of international law are the right of peoples to self-determination and the territorial integrity of states. The act of recognition of states should not contradict these principles (Lynch, 2002:802).

The principles of self-determination and territorial integrity originate from various theories of the nature of sovereignty: the principle of territorial integrity served as the basis for the substantiation of the aesthetic theory of the origin of sovereignty in modern times, and the principle of self-determination of peoples for the legitimation of new states resulting from decolonization after World War II. Subsequently, on the basis of these principles, constitutive and declarative theories of state recognition arose, which were then settled in international legal acts.

The principle of self-determination of peoples is considered as the right of a nation to independently determine the form of existence. The 1966 Convention on Social, Cultural and Economic Rights states that “all nations have the right to freely determine their political status without external interference, and to exercise their economic, social and cultural development (UN, 1967).

Ways to implement this principle might be different: the creation of a sovereign state, joining an independent state, integration with another state, separation of states and the establishment of another status (International Covenant, 1966).

The constitutive concept of recognition of states appeared earlier than the declarative one. However, the latter is currently more in demand due to the emergence of new unrecognized states that awaiting to be recognized. However, the leading powers of the world are not hastening to recognize the "young" state, which creates significant obstacles to their sovereignty and empowerment. The non-recognition of “new” states contributes to the heightening of tension between states and the continuation of military conflicts. Currently there are about 120 unrecognized states in the world.

1.3.1 The positivist doctrine

If the consequence of positivist doctrine in international law was to render the emphasis in matters of statehood on the question of recognition, the impact of modern doctrine and practice has been to return the attention to subject of statehood and status independent of recognition. Nonetheless generally accepted and satisfactory legal definition of statehood did not exist for a long time.

Efforts to declare rules about recognition within the framework of international systematisation have always been disallowed[37]. For instance throughout the ILC's work on the proposed Declaration on the Rights and Duties of States, Panama pushed forward the following articles:

"2. Every state is entitled to have its existence recognized. The recognition of the existence of a State merely signifies that the State recognizing is accepts the persons of the State recognized, together with all rights and duties which arise out of international law. Recognition is unconditional and irrevocable."

"3. The political existence of the State is independent of its recognition by other States. Even before it has been recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and, consequently, to organize itself as it sees fit, to legislate in regard to its interests, to administer its services and to determine the jurisdiction and competence of its courts of justice".[38]

To this over-ambitious suggestions India proposed an alternative: 'Every State has the right to recognize another State. The recognition of the existence of a State signifies that a State recognizing it accepts the person of the State recognised together with all the rights and duties which arise out of international law.[39]' During debate on these proposals Brierly again argued that 'the definition [of 'State'] would be difficult to establish and highly controversial', though he added that 'the word was commonly used in documents and speech, and its meaning had been understood without definition.' Georges Scelle was more categorical: he 'had been active in international law for more than fifty years and still did not know what a State was and he felt

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[37] The Committee of Experts on the progressive codification of the League of Nations international law rejected Saures's proposal to formulate a "test by which the form of government recognition could be regulated". This suggestion was disallowed by Brierley, Fromagio and de Wischer and was rejected. For instance, Brierly stated: 'that the Committee should refuse to discuss this question of all others, since the regulation of it by means of international conventions was neither realizable nor desirable. The difficulties arising from it and the delicacy of the question were well known, and, from a purely legal point of view, it was a subject which neither could nor ought to be treated juridically. To take an analogy: it was as though a State passed a law regulating the choice of friends to be adopted by its citizens. Such a law, if passed, would be null and void at the outset, and the same was true of a regulation of international relations .' *League of Nations Committee of Experts for the Progressive Codification of International Law* (1925-8), vol 1, Minutes, Rosenne (ed) (1972) 38-9.

[38] ILC, *Preparatory Study Concerning a Draft Declaration on the Rights and Duties of States* (Memorandum submitted by the Secretary-General) A/CN. 4/2, 15 December 1948, 35-8, 55-6.

[39] Ibid, 52

sure that he would not find out before he died. He was convinced that the Commission could not let him'. Neither article was included in the Draft Declaration. The ILC concluded that: 'the proposed article [2] would go beyond generally accepted international law in so far it applied to new-born States… [T]he whole matter of recognition was too delicate and too fraught with political implications to be included… in this draft Declaration'.

A similar problem appeared during the drafting process leading to the Vienna Convention on the Law of Treaties, article 6 of which reads: 'Every State possesses capacity to conclude treaties.' A previous draft, prepared by Fitzmaurice, included the following 'related definition':

"For the purposes of the present Code (a) In addition to the case of entities recognized as being Sates on special grounds, the term 'State' (i) means an entity consisting of a people inhabiting a defined territory, under an organized system of government, and having the capacity to enter into international relations binding the entity as such, either directly or through some other Sate; but this is without prejudice to the question of the methods by, or channel through which a treaty on behalf of any given State must be negotiated – depending on its status and international affiliations; (ii) includes the government of the State."

But even this inconspicuous attempt was deleted. The ILC's comment on the Draft Articles accounts, with fine circularity, that the 'term "State"' is used with the same sense as in the Charter of the UN, the Statue of the Court, the Geneva Convention on the Law of the Sea and the Vienna Convention on Diplomatic Relations : that is, it means a State for the purposes of international law'. Later drafts prepared by the ILC likewise fail to define the term, even those dealing with the connected issues such as State succession.

Nor was any effort made to describe the term for the purposes of the General Assembly's '*Definition of Aggression'*, Article 1 of which reads:

"Aggression is the use of armed force by a Sate against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition. Explanatory Note; In this definition the term 'State' (a) is used without prejudice to questions of recognition or to whether a State is a Member of the UN, and (b) includes the concept of a 'group of States' where appropriate."

1.4 "Unrecognized", "self-proclaimed" and other "quasi-states": problems of terminology

Some scientists (political scientists, historians, lawyers, geographers) and politicians consider post-Soviet Nagorno-Karabakh, Transnistria, South Ossetia and Abkhazia, as well as Somaliland, Taiwan, Kosovo and other similar entities as "quasi-state / quasi-state entities" or "self-proclaimed states / territories". The term "quasi-state" is sometimes applied to the republics within sovereign states, for example Dagestan, the Russian Federation (Kovalev, 2003:89).

Foreign, mainly English-language, literature contains even more diverse definitions, often borrowed by numerous scientists and politicians. The term "unrecognized states" is likely to be preferred in international studies. The definition of "unrecognized states" is used in works by Kimitak Matsuzato and Nina Kaspersen (one of the editors of the recently published book 'Unrecognized States in the International System') (Caspersen & Stansfield, 2010). In the description of the project N. Kaspersen devoted to unrecognized states ("The Politics of Unrecognized States: Democratisation, Self-Determination and Contested Identities"), the following definition of such "anomalies" is given: "Unrecognized states are places that do not exist in international relations; they have achieved independence by de facto - often by military means - but failed to achieve international recognition, or only a few states recognize them. They insist on their right to self-determination, but they face a stronger principle of territorial integrity[40].

The description of the project with respect to unrecognized states also used the expressions "state-like entities", "states without sovereignty", "virtual states" (including Kosovo before it was recognized by most EU countries) and "stateless". The same definitions are found in the works of other authors[41].

As Nina Kaspersen reckons, in a more detailed analysis, unrecognized states should meet the following criteria: "They achieved de facto independence, including control over the territory, and managed to maintain it for at least two years. They did not achieve international recognition, or they were recognized by a maximum of several states. They demonstrated a desire for full (de jure) independence, either through a formal declaration of independence or

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[40] The Politics of De Facto/Unrecognised States. Research Statement for the Politics of De Facto/Unrecognised States (http://www.lancs.ac.uk/fass/projects/unrecognisedstates/unrecognised_state.php).

[41] See for example: van Meurs W. Frozen Conflicts. What Is to Become of the Virtual States? // Osteuropa. November 2007. Vol. 57, N 11. P. 111–120.

through a referendum on the issue of independence. This distinguishes them from other anomalies in the international system, such as ungoverned territories and states-within-states[42].

Less commonly, the definition of ‘a self-proclaimed state’ is also found in the literature. At first glance, this characteristic of political formation might seem strange. As a rule, new independent states declared their independence without intermediaries. However, in essence, these are those states that declared themselves independent without the consent from the “parent” state (Matsuzato, 2009:101).

For some politicians and political scientists, above all representing or supporting the country on which a territory of unrecognized state was proclaimed, the use of definitions emphasizing the illegal nature of such entities is more typical. In relation to them, the definitions are “separatist states” (secessionist states), “breakaway states” (Lynch, 2002:831).

The desire itself to create a state can be rejected by means of terminology. In such cases, instead of the word “state” or “republic” in relation to rejected political entities, such words as following are applied: secessionist region, breakaway territory, separatist territory, illegal entity, self-proclaimed entity, etc. (Coppieters, 2007:61). Another variant of defining unrecognized states includes their description as “artificial states” or “non-state entities”. With a more radical approach, the connection between the unrecognized state and the territory is also denied; in this case, the definitions of ‘separatist regime’, ‘secessionist authorities’, etc. can be used (Lazik, 2008:202).

The rejection of the state status (albeit unrecognized) of political entities that call themselves states is directly or implicitly based on the criteria of legality and legitimacy, although these criteria are not mentioned in the Montevideo Convention, which is usually relied upon to confirm the state status of modern political entities.

As an example of a radical “denying” approach, one can cite the works of Nicu Popescu, in which “secessionist regimes”, ‘legitimate states’, ‘secessionist entities’ and ‘metropolitan states’ opposed to each other. Probably, by analogy with the Soviet period, when the Union and autonomous republics existed as subnational political entities, N. Popescu argues the use of the defenition “self-proclaimed republics”, but not “states” (Popescu, 2007:32).

In the works of European and American authors who claim objectivity and relative exclusion from conflicts related to unrecognized states, more neutral definitions are used to describe the states. Most often this is the title “de facto state” (“state, existing de facto”, “actual

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[42] The Politics of De Facto/Unrecognised States. Research Statement for the Politics of De Facto/Unrecognised States (http://www.lancs.ac.uk/fass/projects/unrecognisedstates/unrecognised_state.php).

state”)[43]. According to Scott Pegg, “the de facto state exists where organized political leaders are, who came to power through some degree of indigenous capacity, who are supported and reached sufficient strength to provide government services to a certain territory, which it effectively controls for a considerable period of time. "[44] With this approach, it does not matter whether the entity received recognition from any sovereign state. ~~In my opinion~~ the description proposed by S. Pegg does not seem precise, since it can in principle be applied to many recognized states.

E. Berg and R. Toomla (2009:29) point out that there are different levels of recognition (non-recognition) of such political entities: “... it would be wrong to regard all“ actual ”states as“ internationally unrecognized territories ”, because recognition is different”.

There are other definitions that are sometimes of historical interest in the English-language sources in addition to the title “de facto state”, such as “state-within-states” and “incipient political entities” (Kingston & Spears, 2004:12).

In order to distinguish a recognized, but ineffective sovereign state from political entities that have not achieved recognition of their sovereignty, P. Kolstø suggests that only the latter be called quasi-states. It uses the rather cumbersome expression “unrecognized quasi-states” (Kolstø, 2006:730). Such a definition seems redundant, since unrecognized states cannot in principle fulfil all the functions of a recognized sovereign state. Rather, the lack of international recognition turns just such entities into true quasi-states. Among the exotic definitions of unrecognized states, one can also find the fantastic expression “nonstate states” (King, 2001).

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[43] See for example: Pegg S. International Society and the De Facto State. Aldershot: Ashgate, 1998; De Facto States: The Quest for Sovereignty / Ed. by T. Bahcheli, B. Bartmann ,and H. Srebrnik. London: Routledge, 2004.
[44] Pegg S. Op. cit. P. 26.

1.5. Classification of unrecognized states

There is no generally accepted or widely accepted classification of unrecognized states today.

Within the framework of the American Mapping Global Threat Mapping Program (“Mapping Global Insecurity”), a more strict classification of unrecognized states and other territories was proposed according to the degree of territory control (yes / no) and level of recognition (recognized / unrecognized). The most dangerous areas were identified as “black spots”. By B. Stanislavsky’s definition, “black spots represent territories in which and from which both transnational organized crime and terrorists operate, often criminal-terrorist formations.” [45] Other potentially dangerous territories are “as if states ”,“ entities that are recognized as states by the international community and have external signs of states, but in fact do not have effective internal control over the territory ”, as well as “almost states”. ‘Almost states’ are formations, which are not recognized as a state, but de facto act as a state and have an effective internal control over the territory"(Stanislawski & Levitsky, 2008).

Thus, within the framework of one classification (obviously practically oriented), unrecognized and failed states, as well as criminal / terrorist "black spots", which are of particular interest to researchers, are combined in **table 1**.

Table 1. The degree of control of the territory and the level of recognition of states

		International Recognition	
Predominant Territorial Control by Authorities		Present	Absent
	Present	States	Almost States
	Absent	As-if States	Black Spots

A more convenient and specific classification was offered by E. Berg and R. Toomla. Using the normalization index proposed byEstonian scientists place unrecognized states on the scale according to their level of openness and integration into the international community:

[45] Para-States, Quasi-States, and Black Spots. P. 366

negation, boycott, toleration or quasi-recognition. According to researchers, Kosovo is at the level of “quasi-recognition”, all other cases considered (Abkhazia, Transnistria, Nagorno-Karabakh) are at the level of “boycott” and none of the considered unrecognized states is at the level of “negated”, from the point international community (Berg & Toomla, 2009:4

Unrecognized states are formed differently, but they all equally face the problem of non-recognition by the world community or a significant part of its members. Under these conditions, the desire to be united is quite reasonable. In the post-Soviet space, the most stable formations of this type created a military-political bloc, known under the unofficial names of the CIS-2 (“Commonwealth of Unrecognized States”) and NATO-2, i.e. Nagorno-Karabakh, Abkhazia, Transnistria and (South) Ossetia. Members of the block coordinate activities in the foreign policy and defence fields. Most of the CIS-2 summit meetings are held in Moscow (Markedonov, 2005:118).

The interaction between sovereign and unrecognized states implies the appeal of those and others to third countries - the vital “senior” allies and patrons (hence the well-known definition of some unrecognized states of the first half of the 20th century as “puppet”). Third-party support (tutor state, patron state, external patron / sponsor, kin-state) opens up two ways for an unrecognized state: either fighting for sovereignty and full membership in the global community, or irredentism - the desire to join the state patron. The latter is easier to implement if the patroning state is located next to this unrecognized state, and it is especially tempting if representatives of the same ethnic group are compactly settled in a neighboring country (Caspersen, 2007:630).

On a special role of the patron state draws attention, in particular, Nicu Popescu. He describes the "outsourcing" of state functions (defence, security), typical for unrecognized political entities. Having considered the specific role of Russia in maintaining the actual statehood of Transnistria, Abkhazia and South Ossetia, he comes to the following conclusion: “Thus, the paradox is that in the struggle for independence, the secessionist entities are quickly transferring " this independence to another state.[46] In fact, without external support, the chances of an unrecognized state to exit the “grey zone” close to zero. Without the help of any sovereign state, “separatist formation” can function for many years, but it has no prospects for transformation into a “legitimate” member of the world community. One patroning state can be

replaced by another, but the rejection of support threatens the very existence of the unrecognized states (Popescu, 2006:8).

Speaking about unrecognized states on post-soviet area, according to N. Popescu, the "authorities' policy of strengthening separatist regimes and weakening legitimate states pursued by the Russian authorities creates serious obstacles to the resolution of conflicts."

According to Nina Kaspersen, "the image of the marionettes is exaggerated; external patrons often play a decisive role in the creation and long-term survival of such entities, but relations are not one-sided and subject to considerable fluctuations and at times conflicts ... The vacuum formed by international isolation is likely to be filled by an external patron such as Russia in the case of Abkhazia and South Ossetia "[47].

1.6. Economy of places which do not exist

The politicization of economic research allows us to call unrecognized states, such as Transnistria, for example, "pathological states" (Sherr, 2003:4). It is assumed that such formations exist like parasites at the expense of a weak sovereign state.

Undoubtedly, the lack of international recognition allows acting of various kinds of criminal structures (including international ones) in unrecognized states. Smuggling, especially with the instability of unrecognized borders, can feed the population and government structures of unrecognized political formations and damages neighbouring sovereign states. (The military threat from the unrecognized state also sometimes forces the sovereign neighbour to pay tribute for non-aggression, which resembles the practice that existed on the borders of Byzantium or British India.) (Sherr, 2003:8)

At the same time, it is not always possible to agree with the statement about the parasitism of the unrecognized state on a weak state - the "rightful owner" of this territory. The special role of patron states in maintaining the viability of unrecognized states was already mentioned above. "Outsourcing" the functions of an unrecognized state, with their transfer to the patron state, speaks of a tendency towards existence at the expense of such a guardian. The "parent" state may incur losses from the costs of fighting the "separatist regimes", but it is not always inclined to directly finance them (Caspersen, 2007:637).

One can speak of full-scale parasitization who said this. You cannot write something without citing correctly in cases where the declaration of independence is postponed, i.e. when a

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[47]See The Politics of De Facto/Unrecognised States. Recommendations (http://www.lancs.ac.uk/fass/projects/unrecognised-states/unrecognised_state.php).

pseudo-subnational entity claims for "legitimate" funding from the national budget, for "friendly" assistance from the budget of the patron state and, moreover, it independently manages its quasi-national budget.

In contrary, scepticism about the effectiveness of unrecognized states as a whole is widespread. According to P. Kolstø, weak economies and weak state structures are typical for them. Such states receive "internal support from the local population through the promotion and building of identity; they disproportionately direct most of their scarce resources to military defence; enjoy the support of a strong patron; and, in most cases, separated from the state, which itself is very weak. "(Kolstø, 2006:723).

Relatively strong states, such as India, Turkey, China, the countries of the "old Europe" within the European Union, often or even constantly oppose serious separatist movements and attempts to create new states, including the declaration of independence of such entities. In some cases, state sovereignty is protected by military force. In Europe, the police are more commonly used or political bargaining appropriate here. Finally, in some countries (USA, Australia), the existing political system is able to painlessly digest the already mentioned "joke states" that are unthinkable in weak states, including for economic reasons (Sherr, 2003:10).

1.7. After Montevideo: states which violated the convention in the first half of 20th century.

Even before the formation of the UN, which today unites an absolute majority of the states of the world, the formal signs of a sovereign state were set in the Montevideo Convention, adopted in 1933 at a meeting of heads of American states. According to the convention, a state must have "a) a permanent population, b) a defined territory, c) a government, and d) the capacity to enter into relations with the other states"[48].

The Montevideo Convention has become a generally accepted[49] tool for determining sovereignty and recognizing new states of the world. Since 1933, when this convention came into being, the world has experienced World War II, many local conflicts and the collapse of the bipolar political system. Among the countries participating in the Second World War, a special place belonged to state formations known in the scientific and political literature of the 20th

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[48] See: Convention on Rights and Duties of States. Art.1. Montevideo, 26 December, 1933 (http://www.oas.org/juridico/english/sigs/a-40.html).

[49] In 1933 the Convention was ratified by the United States, Argentina, Brazil, Chile, Colombia, Cuba, the Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Uruguay, and Venezuela. Bolivia was the only country attending the conference that refused to sign the agreement.

century under the name of "satellites" of Germany, Italy and Japan, "puppet" or "so-called" states. Similar states existed before the war. Among characteristic features were the complete absence of international recognition and at the same time almost complete political, economic and military dependence on a particular foreign guardian and ally state (Japan, the Soviet Union, and Germany). During the Second World War, such "puppet" states became commonplace in Europe and Asia. The example of Slovakia and Croatia shows that at least some of the "satellites" participating in the Second World War were not accidental or completely artificial state entities. With a change in the political situation, they were revived, albeit within several other borders, and with a different political system at the turn of the 20th – 21st centuries (Caspersen, 2007:642).

1.8. Unrecognized States in Decolonization and New unrecognized states: "illegal" fruits of the struggle for the Soviet and Yugoslav inheritance.

The collapse of the Soviet and Yugoslav statehood in the late 1980s – early 1990s led to the emergence of a large number of new independent states. Under the title ("New Independent States", NIS) that in the American foreign policy discourse almost all the states that were formed after the collapse of the Soviet Union were originally mentioned. The only exceptions were Estonia, Latvia and Lithuania, since the United States had not previously recognized their accession to the USSR. In the same period, after the peaceful division of Czechoslovakia, two more independent states were formed - the Czech Republic and the Republic of Slovakia (Feldman, 1975:104).

In the process of weakening and disintegration of the USSR and Yugoslavia, new dividing lines mainly passed along the borders of the member states of these two federations, but there were exceptions. Even before the collapse of the Soviet Union, not only 15 Soviet Socialist Republics (SSR), but also many autonomous republics (Autonomous Soviet Socialist Republics), formerly part of the Union republics, as well as some autonomous regions and other subnational units, declared their sovereignty. Adherents, as a rule, called ethnic conflicts as a basis for sovereignty what is the meaning of that?. However, in fact, the contradictions were not only ethnic in nature. For example, in Moldova, the autonomization of Gagauzia could be explained by considerations of an ethnic plan. At the same time, the branch of the Pridnestrovskaia Moldavskaia Respublika was argued above all by its unwillingness to become part of Romania in the event that the main territory of Moldova joins it. The new border of Transnistria (mainly along the Dniester River) almost everywhere coincided with the actual border between the Soviet Union (the Moldavian Autonomous Republic within the Soviet Ukraine) and Romania until 1940 (Margiev, 2005:138).

In the process of the collapse of the USSR, new unrecognized states that controlled a certain territory emerged on the territory of four former Union republics - the RSFSR (the Chechen Republic of Ichkeria in most of the former Chechen-Ingush ASSR), the Georgian SSR (the Republic of Abkhazia, the former Abkhaz ASSR, and the Republic of South Ossetia, former South Ossetian Autonomous Region), Azerbaijan SSR (Nagorno-Karabakh Republic, former Nagorno-Karabakh Autonomous Region) and Moldavian SSR (Transnistria, which had no special status after 1940) (Alexandrova, 2009:13).

After a series of military conflicts with the authorities of Moldova and Azerbaijan, Transnistria and Nagorno-Karabakh (Artsakh) retained the status of states that did not receive international recognition. Transnistria, Abkhazia and South Ossetia recognize each other as sovereign states. Abkhazia and South Ossetia partially changed their status as a result of the Russian-Georgian conflict in 2008. They were recognized by Russia, Venezuela, Nicaragua and Nauru, which formally made it possible to consider Abkhazia and South Ossetia to be partially recognized states. However, in both cases, there was no recognition by Georgia, which from the point of view of most states of the world remains the sovereign "owner" of the separated territories (Alexandrova, 2009:17).

Abkhazia and South Ossetia can exist as partially recognized states, but without normalizing relations with Georgia, they have little chance of recognition from the world community and full membership in international organizations, including the UN.

Even less likely is international recognition of Transnistria, which remains a buffer zone between Moldova and Ukraine and at the same time enjoys the support of Russia; None of these countries recognize Transnistria as a sovereign state. Nagorno-Karabakh also remains in the “gray zone”. Azerbaijan considers this region as a territory occupied by Armenia. Armenia actually supports Nagorno-Karabakh, but has not officially recognized it as an independent state (Alexandrova, 2009:20).

New states that emerged in the 1990s in the process of the struggle for the Yugoslav inheritance have been developed in a more complicated situation than the states of the post-Soviet space. The breakup of Yugoslavia was not peaceful. The first separated from Yugoslavia were Slovenia and Croatia. Slovenia was able to defend its independence in a transient conflict with the Yugoslav People's Army, but remained an unrecognized state until those who had not recognized the new political entity Germany and other European countries. The secession of Croatia occurred according to a similar scenario, complicated by the resistance of the Serbian population (Likhachev, 2010:80).

1.9. Rules of sovereignty for unrecognized states

Most of the unrecognized states have no chance to leave the "gray zone" of world politics and to be transformed into sovereign states. Today it becomes clear that for the international recognition of the new state, even a clearly expressed desire (for example, through a referendum) of the majority of residents of the separated territory is not enough. It is not enough to declare independence, especially since in modern conditions it is easily achievable in the virtual version and can be used for purely commercial purposes, like other advertised products.

In the conditions of armed struggle for at least actual independence, unrecognized states always risk switching from real or even imitative democracy to openly authoritarian management methods. Compare to the liberal approach, the authoritarian turns out to be more understandable in a military environment. Democracy can be attractive to world public opinion, but destructive for the most unrecognized state. About this back in the XIX century wrote the participant of the ten-year war for independence of Cuba (1868–1878) E. Collazo, assessing the reasons for the defeat of the first Cuban Republic: "A republic was created and a constitution was drafted, while we didn't even have an inch of land over which we could hoist our flag; made every effort to prevent the emergence of a dictatorship, forgetting about the enemy who was advancing; hoping to gain freedom, not realizing that we still do not have a homeland; proclaimed themselves citizens at a time when soldiers were needed, and in the end gave the just-born child the features of an already mature person" (Ivakina, 2007:15).

CONCLUSIONS TO THE PART

The institute of international legal recognition is one of the most ancient and complex in international law. The first mention of it dates back to the 2nd millennium BC. In the new (A.D.) history, it was developed after the end of the Second World War, when the world colonial system collapsed. In recent history, it received its further development after the collapse of the USSR and Yugoslavia.

There are three forms of recognition: legal (de jure), actual (de facto) and "on the occasion" (ad hoc).

The recognition of states is connected with their legal personality, which includes: legal capacity and delictual capacity. The legal personality of a young state is incomplete: it has delictual capacity based on the fact of its existence, but it has no legal capacity, which does not

allow it to have the rights and fulfil them in practice. It is the lack of legal capacity that does not give the right to the “new” state to be a full-fledged subject of international legal relations.

There are two doctrines of state recognition in the theory of international law: constitutive and declarative. Constitutive theory is based on the need to recognize the new state by other powers. The declarative concept for the basis of recognition takes the presence of signs of statehood and the act of declaring the independence of the new state. As a criterion for recognition, scientists propose to adopt a sign of statehood, the components of which are: territory, independent government, the effectiveness of legitimate political power, sovereignty, government support by the population, the ability to enter into relations with other states and fulfil international obligations.

An unrecognized state that does not follow the rules listed above is not at all doomed to ruin. In the “gray zone” between sovereign states and non-state political entities or organizations, one can survive and not prosper. In extreme cases, the unrecognized state and its government can be literally archived on a single computer. One cannot disagree with A.G. Bolshakov when he writes: “Globalization has created additional opportunities for the long existence of unrecognized states, without their formal recognition by other countries. This is gradually becoming the norm”.

Chapter 2. State practice in states recognition.

2.1 Phenomenon of self-claimed states in the post - Soviet area: common characteristic (with historical background)

The international legal recognition of states acts as a mechanism for the realization of political, cultural, trade, economic and other ties of the newly created states and is associated with international and domestic political relations.

Recognition is of great importance for a young state, because it gives many opportunities for them. For example cooperation with other states in various fields, defending rights in international organizations (which is important, having in mind that some self-proclaimed republics experience hostilities) (Kolstø, 2006:723).

At the same time, the actions of the world's greatest powers in the recognition of new states are highly unpredictable and depend on their geopolitical interests. In most cases, it is impossible to predict for sure whether the young state will be recognized by the world community or will remain an outcast. In each case, decisions by the strongest powers are taken on the basis of the political situation and their interests (Lauterpacht, 2001:850).

At the same time, after analyzing the process of sovereignization of young states and their subsequent international legal status, it is possible to find certain patterns in the actions of the leaders of the strongest world powers that decide the fate of young states and draw appropriate conclusions about the objectivity and expediency of their decisions (Kolstø, 2006:723).

The following countries were selected as objects for analysis: the Republic of Kosovo, the Transdniestrian Moldavian Republic, the Republic of South Ossetia, the Republic of Abkhazia, as well as the LPR and the DPR. The choice of these republics was dictated by the fact that nowadays more and more states appear that as a result of interethnic or other military conflicts, while they remain "hot spots" on the world political map for a long time and in most cases are not recognized by the world community.

The phenomenon of unrecognized states attracts the attention of political scientists, diplomats, scientists and journalists all over the world. Territorial disputes over the ex-union republics of the former USSR are still unresolved.

Georgia, Moldova, Ukraine and other republics of the former USSR, are plunged into a condition of military confrontation by the latter-day revolutions, economic chaos and political instability.

Self-proclaimed republics, which include: Transnistria, the Republic of Abkhazia, the Republic of South Ossetia, the LPR, the DPR, cannot receive international legal recognition, results of which are unceasing hostilities, economic disruption, outflow of people from conflict

zones, etc. Recognition problems of new republics are attracting the attention of scientists, diplomats and politicians.

The history of modern unrecognized states has its own characteristics; those must be analyzed in order to understand the characteristic features of the sovereignty of young states.

After the collapse of the USSR, several ethnic conflicts were discovered, as a result of which self-proclaimed states arose. Of particular interest is the process of sovereignty of the Pridnestrovian Moldavian Republic, the Republics of South Ossetia and Abkhazia, as well as the republics of New Russia (Novorossiya) (Lynch, 2002:831).

2.2. Nagorno-Karabakh and Transnistria

2.2.1 Transnistria

The process of struggle for the independence of the Pridnestrovskaia Moldavskaia Respublika has a long history, originating from ancient times. However, the most interesting is the modern period of the struggle of Transnistria for sovereignty, which numbers more than 25 years.

It should be noted that, historically, Transdniestria was part of Moldova only during 1940–1991. Until this period, it led to the Russian Empire, and even earlier - to Kievan Rus, the Grand Duchy of Lithuania and the Kaushansky horde (Shmulevich, 2006).

In connection with these historical facts, there was no subordination of Transnistria to Moldova. It arose only after the October Revolution.

There are several factors that influence the course of events in the Transnistrian conflict. One of them was the linguistic factor: on August 31, 1989, in the Moldavian SSR, the law “On official language” was adopted, which prohibited the use of Russian as an official language, which caused a storm of indignation of the Russian-speaking population, most of which lived in Transnistria.

The second factor was historical. From 1924 to 1940, Transnistria existed as the Moldavian Autonomous Socialist Republic. Prior to that, it was part of the Russian Empire, which had a significant impact on the formation of the political consciousness of the population.

The third factor was the political one, which included the problem of the mechanism for the implementation of autonomy by Transdniestria in the Moldavian SSR. The draft Union Treaty of 1991 provided for not only the republic, but also autonomy as subjects of the Union. In connection with the adoption of this document, the Resolution of the Republic of Transnistria

“On the participation of Transnistria in the preparation and signing of the Union Treaty” was issued (Shiryaev & Drobysheva, 2016:30).

On April 10, 1991, an appeal was sent to Moscow “about the need to create a unified system of law enforcement agencies of Transnistria, according to which the Transdniestrian forces should not submit to Chisinau. This appeal gave rise to an armed conflict between Moldova and Transnistria.

The fourth factor was economic, since the PMR economy accounted for 40% of Moldova’s economic potential, and its leadership wanted to see Transdniestria economically independent ” (Shmulevich, 2006).

The conflict between Moldova and PMR took place in several stages. At the first stage - 1989-1990. - Political elites have realized that their economic interests are opposite. The law on giving the Moldovan language the status of the state language also aggravated the conflict.

The second stage - 1990-1991. - consisted of a series of legislative acts that legally reinforced the political opposition of the parties. On June 23, 1990, the Popular Front came to power in Moldova, after which a declaration on the sovereignty of Moldova was adopted. In response, on September 2, 1990, the Transdniestrian Moldavian Republic was proclaimed and the Law on the Language was adopted, the law established three languages as the national ones: Russian, Ukrainian and Moldovan. On August 27, 1991, on the basis of the decision of the Grand National Assembly held in Chisinau, the Moldovan Parliament adopted the Declaration of Independence of the Republic of Moldova (Declaration of Independence of Moldova, 1991), after which, on December 1, 1991, a referendum on state sovereignty passed in Transdniestria, which resulted in the creation of Pridnestrovian Moldavian Republic. On August 25, 1991, the Declaration of Independence of the Pridnestrovian Moldavian SSR was adopted, and on November 5, 1991, it was renamed to the Pridnestrovskaia Moldavskaia Respublika (Galinsky, 2001: 46).

In June 1991, in Moldova, the law “On Citizenship of the Republic of Moldova” was passed, according to which it was forbidden to have dual citizenship. The law also provided for a ban on the employment of public, state, and military positions of persons who have Russian citizenship. After the adoption of this law, the 14th Russian Army of Moldova went over to the side of Transnistria (Galinsky, 2001: 52).

The third stage was the formation of the armed forces of both sides and the latent struggle of the parties. In the same period, the formation of the armed forces of the Pridnestrovskaia Moldavskaia Respublika (Pridnestrovskaia Moldavskaia Respublika) (PMR), consisting of the republican Transnistrian militia, detachment of the National Guard and the 14th Russian army, took place. The creation of the armed forces of Transnistria led to an armed conflict with the

Moldovan side, which on December 13, 1991 resulted in the first armed conflict between the parties.

The fourth stage of the conflict took place from September to March 1991, when the Transnistrian army launched an offensive against the Moldovan armed forces. On March 28, Chisinau declared a state of emergency, after which the conflict moved from the latent phase to the open one.

The fifth stage consisted in an armed conflict, during which the Moldovan side sought to defeat the Transdniestrian army. As a result of causing significant casualties among the civilian population, a decision was made to end the hostilities and the need for negotiations, as a result of which on June 9, 1991, the parties agreed on a cease-fire.

On June 11, 1992, the Parliament of Moldova adopted a Decree on the establishment of a mixed commission consisting of the people's deputies of Moldova and representatives of the armed forces to work out a mechanism for disengaging the parties and implementing the cease-fire agreement (Vataman, 2017:165).

The sixth stage was the culmination of a military conflict between the parties. It began with the fact that the Armed Forces of Transnistria blocked the Moldovan police station in the city of Bender, after which the Moldovan authorities decided to attack. For three days, from June 19 to June 21, 1992, the battle was fought, as a result of which Chisinau, having suffered significant losses, began to look for allies to sign a peace agreement with Transnistria. Following this, on July 21, 1992, a meeting took place between the Presidents of Russia and Moldova, as a result of which an agreement was signed on the principles for resolving the conflict in Transdniestria. The military conflict has entered a peaceful phase, during which negotiations were conducted without the involvement of the armed forces. The negotiation process continues to the present. Along with the parties to the conflict, external actors of world politics also take part in them (Shmulevich, 2006).

It should be noted that, unlike Kosovo, recognized by more than 100 countries, including the UN member countries, the Transnistria is not recognized by any of the UN member states. It was recognized only by the Republic of South Ossetia and Abkhazia, as well as the Nagorno-Karabakh Republic, which are not members of the UN.

In 2005, a special commission on Transnistria was established, it was established by the New York City Bar Association (NYCAL) to study the Transnistrian-Moldavian conflict and determine whether Transnistria can obtain international legal status (Plavinsky, 2016).

In July 2006, the Commission made a report "Defrosting a Frozen Conflict: Legal Aspects of the Separatist Crisis in Moldova," in which it claims that the PMR has no legal grounds to claim separation from Moldova and obtain de jure status. According to the

Commission, Transdniestria can claim only the actual status, under which the commission implies the creation of conditions for the safe existence of the population living in the territory and bringing it to international legal responsibility in case of non-compliance with international law (Borgen, 2006:58).

In its report, the Commission refers to the decision of the Badinter Arbitration Committee on Yugoslavia. The Commission, in its decision on Yugoslavia, proceeded from three criteria of sovereignty: 1) the population of the separating territory must be a nation; 2) the state from which it is separated, significantly violates its rights; 3) there are no alternative ways to resolve the conflict in accordance with the norms of international and domestic law. The commission came to the conclusion that only point 1 is being implemented, therefore Transnistria cannot claim state sovereignty (Buchanan, 2001:70).

The Commission's political incorrectness consists in prejudice of the choice of criteria for determining the possibility of granting sovereignty, as well as in falsifying facts. Thus, the commission one-sidedly describes the compliance of Transnistria with the three criteria of sovereignty proposed by the Arbitration Committee of R. Badinter. She also in her report does not take into account the criteria of the state, formulated by the committee: "The state is a formation consisting of a territory and a population that is subject to the influence of organized political power and has sovereignty" (John D, 1987:179*)*.

Very compelling fact is that to date, Transnistria from a formal economic position can be declared bankrupt at any time. Thus, the cumulative revenues of Transdnistrian Moldavian Republic are about 4.8 billion rubles, while the cumulative expenditures that are required to meet the basic needs of the functioning of the state - almost 20 billion rubles. (Devyatkov, 2014:53) In other words, Transnistria has less than a quarter of its own income. From the actual bankruptcy PMR is saved only by substantial financial assistance from Russia. The main items of financial assistance traditionally are: gas supplies and servicing the accumulated debt in connection with its supplies (about $ 5.5 billion), sponsoring social benefits (about 1 billion rubles a year), investments in social infrastructure through a specially created for this NGO "Eurasian Integration" (about 3 billion rubles). It is obvious that the economic model operating in Transnistria has demonstrated its inefficiency that the local economy needs a complete structural restructuring, the search for new mechanisms of functioning in the changed external conditions. (Spartak, 2016:121)[50]

2.2.1.1 EU involvement

In 2001–2003 The EU's leadership has become increasingly interested in the Transnistrian issue. The planned entry into the Union of Romania was supposed to make the EU a neighbor of Moldova and, of course, reinforced the interest of Brussels to the situation in the country, known as the poorest state in Europe. The EU leadership considered the Transnistrian conflict to be the main obstacle to improving the political, economic and social situation in Moldova; The EU Strategy for Moldova 2002–2006 it was stated that the country "can only achieve limited progress towards democratic consolidation and improvements in the economy as long as the Transnistrian problem exists" (European Commission, 2001:7).

The Moldovan authorities have strongly created Transnistria's reputation as a "black hole" with uncontrolled borders, through which smuggled arms, drug trafficking and human trafficking went. The increased international prestige of Romania, which received guarantees of membership in NATO and the EU, also contributed to the internationalization of the Transnistrian issue: Bucharest supported Chisinau in international organizations and did not miss the opportunity to attract the attention of the European political elite to the violation of the territorial integrity of Moldova. (King, 2000:156)

With the development of the Common Foreign and Security Policy (CFSP) and the European Security and Defense Policy, the EU's ability to act internationally has increased. In 2003, the EU launched a police mission in Bosnia and Herzegovina and began military operations in Macedonia and the Congo. Given the increased ambitions and capabilities of the EU, its non-participation in the Transnistrian settlement seemed anachronistic, "preserved" the international political realities of the early 1990s.(European Commission, 2006:8)

The EU leadership, with growing concern and irritation, perceived the perseverance shown by Russia in politics in the post-Soviet space, and the internal political evolution of Russia, perceived as a shift towards authoritarianism. Russia's failure to meet the deadlines for withdrawal of OGRF from Transnistria, recorded in the final document of the 1999 OSCE

Istanbul Summit, was regarded as an encroachment on the neutral status of Moldova. The withdrawal of Russian troops from Moldova began to be viewed as a matter of principles and values, and the real difficulties of this process, above all the need to pair it with a political settlement of the Transnistrian problem, were ignored.

In March 2003, the European Commission launched a large-scale initiative to launch the European Neighborhood Policy. The relevant communiqué, in particular, stated that "the EU should play a more active role in helping to resolve conflicts in Palestine, Western Sahara and Transdniestria." It envisaged "greater involvement of the EU in crisis management", the possibility of its participation in "post-conflict internal security" and "financing post-conflict rehabilitation and development" (European Commission 2003: 12). Transdniestria was called "a magnet attracting organized crime" that could "destabilize or push back the process of state-building, political consolidation and sustainable development" (Yagland, 2015).

The materialization of the declared EU interest in the Transnistrian issue was not long in coming. In February 2003, the EU and the US imposed a ban on issuing visas to Transdniestrian leaders, accusing them of obstructing a political settlement. In March, the European Commission initiated tripartite consultations between the EU, Moldova and Ukraine on the issue of joint control on the Moldovan-Ukrainian border.

From the EU side, an attempt was made to revise the format of the peacekeeping operation. In June 2003, the Netherlands, as the country chairing the OSCE, distributed an informal document to the member countries, suggesting the replacement of the tripartite peacekeeping contingent by OSCE forces under EU administration (other "interested parties" were allowed to participate). The proposal was blocked by the Russian side (Loewenhardt, 2004: 3-4).

The revitalization of the EU was perceived by the Russian leadership as an attempt to violate the status quo prevailing around Transnistria and draw Moldova into the sphere of influence of Euro-Atlantic structures. Russia reacted with a determined attempt to achieve a breakthrough in the political settlement of the Transnistrian problem and reliable guarantees of its interests in Moldova. Moscow proposed and agreed with Chisinau and Tiraspol the "Kozak plan"[51], which envisaged the federalization of Moldova and the stay of the Russian peacekeeping

[51] A plan of solving the Transnistrian conflict through the federalization of Moldova. The project was developed in 2003 by Dmitry Kozak (Russian politician; for 2003, first deputy head of the Presidential Administration of the Russian Federation). According to this plan, Moldova should have become an "asymmetric federation"; Transnistrian Moldavian Republic and Gagauzia Region would receive a special status and the ability to block draft laws which are undesirable for autonomy. Moldova pledged to maintain neutrality and demobilize the army, as

contingent in the country until 2020. The plan, therefore, rested on the false premise that Russia could achieve a solution to the Transnistrian issue, acting unilaterally.

The OSCE mission was acquainted with the "Kozak plan" only three days before its official submission to Chisinau and Tiraspol. The key elements of the plan — the broad opportunities to influence the legislative process in the future federation, provided by Transnistria, and the extension of the Russian military presence in Moldova — were considered unacceptable to the West. Unprecedented pressure was exerted on Moldova by the EU, the USA and the Dutch OSCE chairmanship (accompanied by protest demonstrations in Chisinau), as a result of which President V. Voronin abandoned the "Kozak plan" the day before its scheduled signing.

The EU and Russia thus entered into an open diplomatic conflict on the Transnistrian issue. Russia accused the OSCE of becoming "an instrument in the hands of individual states" (Loewenhardt, 2004: 7), and at the December 2003 meeting of the organization's foreign ministers failed to adopt a final political declaration due to the controversy surrounding conflicts in Moldova and Georgia. Chisinau's foreign policy has become frankly pro-Western, while Russian-Moldovan relations, on the contrary, have deteriorated significantly.

In 2004–2006 The EU continued to demonstrate a decisive attitude to resolve the Transnistrian issue on favorable conditions for the Moldovan ruling elite, consistently increasing the pressure on the PMR. The visa ban for the Transnistrian leadership was extended annually. In September 2004, the EU introduced a double-check system for steel deliveries from Moldova, meaning the need to obtain export certificates from the metallurgical plant located in the Transnistrian city of Rybnitsa. In March 2005, the position of the EU Special Representative in Moldova was established, the main task of which was to be "strengthening EU participation in resolving the Transnistrian conflict" (Council, 2005); A Dutch diplomat was appointed to this post who dealt with Transnistrian issues during the Netherlands chairmanship of the OSCE in 2003. In September 2005, Russia and Transdniestria agreed to change the format of the

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well as to give Russia the right to deploy Russian troops on the territory of Transnistria for a period of 20 years as guarantors of conflict resolution. Literally at the last moment, Moldovan President Vladimir Voronin on the night of November 24-25, 2003, refused to sign the agreement, stating that it provides unilateral advantages for the Transdniestrian region and has a hidden goal - recognition of the independence of Transnistria. (Bubnovsky, 2011) The plan remains unfulfilled to this day.

negotiation process: the EU and the US became observers, and Moldova, Transnistria, Russia, Ukraine and OSCE - negotiators (format "5 + 2")[52].

Despite the launch of the negotiation process under the new scheme, the EU and Moldova tried to take advantage of the coming to power in Ukraine in early 2005, V.A. Yushchenko (who was focused on Euro-Atlantic administration structures) in order to increase economic pressure on Transnistria. In June 2005, V.N. Voronin and V.A. Yushchenko sent a letter to the EU leadership asking for help in establishing an international customs control mechanism on the Transnistrian segment of the Moldovan-Ukrainian border. Already at the end of November 2005, the EU Border Assistance Mission to Moldova and Ukraine was deployed, with the right to visit any point on the Moldovan-Ukrainian border, study customs documents and demand their adjustment. (EUBAM, 2005)

In December 2005, under EU pressure, Ukraine signed a declaration with Moldova. The declaration obliged Ukraine to recognize Transdnistrian goods (which go across the border) bearing only Moldovan custom stamps. Having delayed the beginning of the practical implementation of this decision for two months, Ukraine in March 2006 stopped accepting Transnistrian customs declarations, and export flows from the Transdniestrian Moldavian Republic stopped. This move has caused an escalation of tensions between the parties to the conflict. Tiraspol declared an economic blockade of Transnistria, accusing Kiev of "retreating from the principle of objectivity and joining one of the parties to the conflict" (RFERL, 2006). The EU firmly supported the position of Moldova and Ukraine, called upon Transnistrian legal entities to register in Chisinau and condemned "attempts by self-proclaimed Transnistrian authorities to prevent the free implementation of international trade" (Solana, 2006). Russia supported Tiraspol, agreeing with the assessment of what happened as an economic blockade, and hinted that the EU is responsible for the deterioration of the situation in the conflict zone (Kamynin, 2006).

In response to the restrictions imposed, Transnistria suspended participation in the negotiation process. Russia has significantly increased the volume of assistance provided to Transdnistrian Moldavian Republic, and at the end of March 2006 introduced an embargo on the import of wine products from Moldova (formally motivated by non-compliance with Russian standards). In September 2006, Transdniestria held a referendum, in which 98% of those who

[52] The format includes Moldova, Transnistria and Russia as actors; OSCE and Ukraine as mediators; European Union and the USA as observers. The negotiation format was developed in August 2nd 1992 (European Parliament, 2009).

took part in the voting spoke in favor of independence and the possibility of future integration with Russia.

In 2007–2009 EU policy on the Transnistrian problem has become inert. The EU leadership seems to have realized that the influence of Brussels is enough to block the unacceptable option for the EU to resolve the Transnistrian issue, but not to force the Transnistrian Moldovan Republic to accept EU conditions. Thanks to Russian economic assistance, Transnistria has demonstrated the ability to exist under the new regime of foreign economic activity, although an absolute majority of Transnistrian enterprises working for export really had to re-register in Chisinau. In September 2007, Russia lifted the embargo on the import of Moldovan wines and organized a number of meetings of V.N. Voronin and I.N. Smirnova, but the negotiation process in the 5 + 2 format has not been resumed. The protracted political crisis that erupted in Moldova in the spring of 2009 and brought an unstable coalition of pro-Western right-wing and centrist parties to power has somewhat distracted the attention of the Moldovan political elite, which has redistributed power, from Transnistria (Kamynin, 2006).

2.2.1.2 Risks of escalation

Since the end of 2013, the situation around Transnistria began to worsen due to the unfolding Ukrainian crisis and the deterioration of relations between Russia, the US and the EU. In 2014–2015 an unprecedented (for the first time since the early 1980s) surge in international tensions in Europe occurred, this increased the risk of "thawing" of the Transnistrian conflict and its exploitation by external actors in their own interests. For the first time, the contradictions in the group of mediators and observers of the Transnistrian settlement have become more acute than between the parties of the conflict themselves.

The pressure on Tiraspol from Ukraine, which, considers Transnistria as an additional "front" of the fight against Russia, banned the export of excisable goods to the Transdniestrian Republic. Also, Ukraine broke off the agreement with Russia on transit through Ukrainian territory of Russian military formations in Moldova. Chisinau began to obstruct the work of the

JCC [53] , imposed a ban on crossing the Moldovan-Ukrainian border for vehicles with Transnistrian registration, the number of criminal cases initiated by Moldovan law enforcement agencies against Transnistrian officials increased. For its part, the Transdniestrian Moldavian Republic, faced deteriorating of socio-economic situation due to the financial crisis in Russia. Because of military actions in Eastern Ukraine Kiev suspended participation in the negotiation process by the end of 2014 and announced the call for reservists to the armed forces. Tough statements followed from the special representative of the President of Russia on Transnistria D.O. Rogozin, and A. Merkel publicly accused Russia of intending to destabilize Moldova (Spiegel Staff, 2014).

In 2014, the EU introduced a visa-free regime for Moldovan citizens and signed the Association Agreement with Chisinau, which includes the creation of a deep and wide-ranging FTZ. However, the perception of the Moldovan authorities by the leadership of Germany and the EU changed noticeably in 2015; under the influence of the “disappearance” from the country's banking system of $ 1 billion that was holding Moldovan economy in shock condition by the end of 2014 and the apparent corruption of pro-European politicians discrediting the very idea of Chisinau’s “European choice”. If earlier the country appeared in the EU documents as a successfully reforming state, then in the spring of 2015 progress was “less than in previous years” (European Commission 2015: 2), and in August 2015, an article by the General Times appeared in the New York Times. Secretary of the Council of Europe, T. Jagland, called Moldova a country “captured” by oligarchs (Jagland, 2015). In September 2015, mass anti-government protests began in Moldova, the result was a new resignation of the government.

By mid-2015, the EU leadership apparently began to realize the need to bring relations with Russia out of the deadlock of mutual alienation in which relations ended up as a result of the Ukrainian crisis. The fragile but tangible de-escalation of the situation in the east of Ukraine and the exacerbation of the Syrian crisis demonstrated the impossibility of solving the acute international problem without Russia's participation. Most importantly, the fundamental interdependence of Russia and the EU, forcing Moscow and Brussels to search for compromises contributed to the outlined revision of the EU position. A manifestation of pragmatism on the part of the EU was the informal recommendation to Chisinau in order to improve relations with Moscow; and to reach the consent of Brussels to apply free trade in Transnistria in 2016 to the

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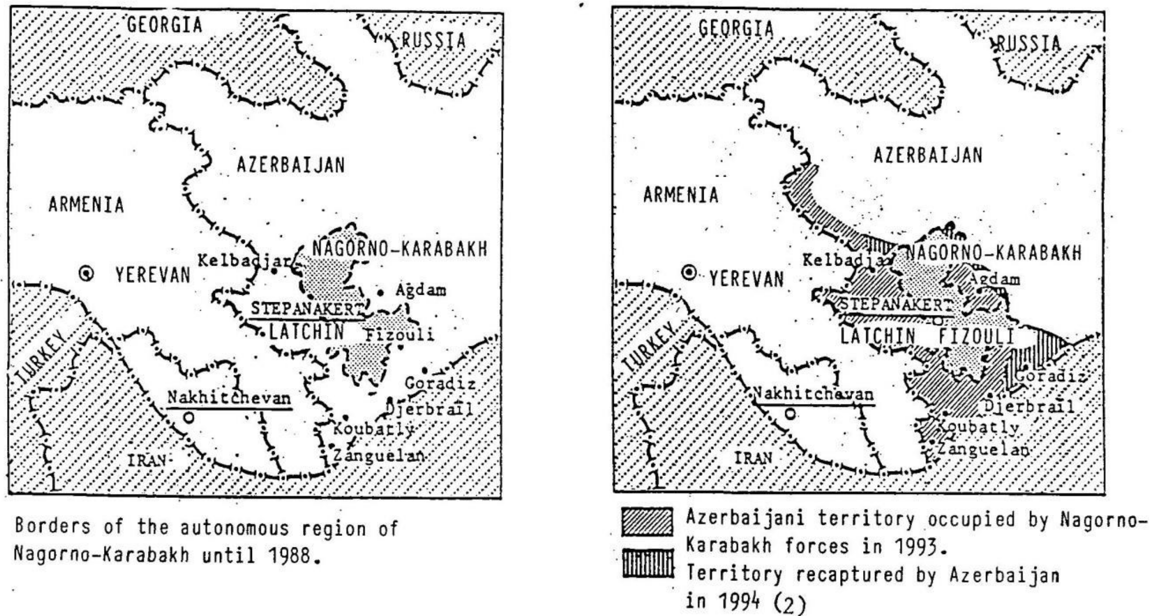
[53] The Joint Control Commission (1992) is a tripartite peacekeeping force and a unified military command structure from Moldova, Transdniestria and Russia, operating in a demilitarized zone on the border between the Republic of Moldova and Ukraine. The disputed territory between them is controlled by the Pridnestrovian Moldavian Republic (Transnistria) (King, 2000:22).

same extent as for the rest of Moldova (without preconditions). The article by T. Jagland, which has become a kind of "manifesto" of the intentions of the EU political elite regarding Moldova, is different in a conciliatory tone with respect to Russian interests in Moldova.

However, the risks of an escalation of the Transnistrian conflict remains as never high, which is fueled by the socioeconomic crisis on both banks of the Dniester, which is aggravated in Chisinau and Tiraspol by the internal political struggle, the Russian-Ukrainian conflict and the tough stance of Kiev towards Transnistria. Under these conditions urgent additional efforts from Russia and the EU, are needed to defuse the situation in the conflict zone and try to restart the “Meseberg Initiative” with regard to the Transdniestrian settlement (Solona, 2006).

2.2 Nagorno-Karabakh

Geographically, Nagorno-Karabakh is located to the west of Azerbaijan.



Borders of the autonomous region of Nagorno-Karabakh until 1988.

Azerbaijani territory occupied by Nagorno-Karabakh forces in 1993.
Territory recaptured by Azerbaijan in 1994 (2)

In 1989, Nagorno-Karabakh occupied an area of 4,000 square kilometers and had a population of 188,000 people (145,000 Armenians, 40,000 Azerbaijanis and 3,000 Russians). (Sole-Tura, 1994:3)

A former province of the Kingdom of Great Armenia, Nagorno-Karabakh was annexed to the Tsarist Empire in accordance with the Treaty of Gulistan in 1813. In the 19th century, the region went through many border changes aimed at blocking the formation of a homogeneous ethnic formation.

In 1921 Nagorno-Karabakh was stated an autonomous region. New borders were drawn in 1923 (however, borders excluding the Lachin corridor [54] linking Nagorno-Karabakh to Armenia).

From 1918 to 1920, against the backdrop of a Turkish-Azeri alliance, Armenia and the Autonomous Republics of Azerbaijan both laid claim to the region. In 1921 Nagorno-Karabakh was united with Azerbaijan by Stalin, and afterwards, in 1923, it acquired status of autonomous region. (Seitlinger, 1997:11)

[54] Lachin Corridor is a mountain corridor connecting Armenia and Nagorno-Karabakh. According to the administrative-territorial division of the Republic of Azerbaijan, it is located in the Lachin region of Azerbaijan; in fact, since May 1992, it has been controlled by the unrecognized Nagorno-Karabakh Republic and is located in the Kashatagh region of Nagorno-Karabakh (Mammadyarov, 2005).

The bloodshed in Nagorno-Karabakh, which claimed more than 10,000 lives, broke out in 1988 when ethnic Armenians organized mass demonstrations in the capital Stepanakert to achieve the inclusion of Nagorno-Karabakh in Armenia. The reaction of Azerbaijanis was extremely cruel, as evidenced by the anti-Armenian pogrom in Sumgait in February 1988.

On February 20, 1988, the deputies from Nagorno-Karabakh appealed to the USSR Supreme Soviet with a call to transfer control over Nagorno-Karabakh from Azerbaijan to Armenia, the claim was rejected on March 23.

On 20 July of the same year the Nagorno-Karabakh Soviet voted for the region to separate from Azerbaijan and to be merged into Armenia bearing the name of Artsakh.

On December 1, 1989, the Artsakh Council and the Parliament of Armenia voted for the reunification of Artsakh and Armenia. On May 20, 1990, the residents of Nagorno-Karabakh took part in the first free elections to the Armenian parliament (Sole-Tura, 1994:5).

After the attempted putsch in Moscow in August 1991, it was decided on September 2, 1991 to create the Republic of Nagorno-Karabakh and in a referendum on December 10 of the same year 99% of the population sided with independence. Parliamentary elections in Nagorno-Karabakh took place on December 28, and the republic was proclaimed independent on January 18, 1992.

From the point of view of the regional authorities, the legitimacy of the new republic was based on the right to self-determination (in accordance with the that-day Constitution of the USSR and the laws giving the population of autonomous regions the right to decide on their state structure, should the republic to which they belong leave The Soviet Union) and the will of the people, as expressed in a referendum on December 10, 1991 (Sole-Tura, 1994:6)

As for the authorities of Azerbaijan, they deny the legitimate existence of the Nagorno-Karabakh Republic, the National Council of which abolished the autonomous status of the region on November 26, 1991. The political institution of Baku unanimously defends the principle of the inviolability of existing borders and respects the Nagorno-Karabakh issue as a result of the territorial demands of Armenia. To date, no country has recognized the Republic of Nagorno-Karabakh[55] (Council of Europe, 1994).

The following subsections show how the conflict developed, the role that Russia and Turkey played, mediation attempts by the CSCE, the UN and the Council of Europe, the points of view of various concerned parties and the prospects for a solution[56](Seitlinger, 1997:15).

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[55] More precisely, by the time the report was issued – 16 June 1994.

[56] The prospects for solutions are discussed in details in Chapter 4.

2.2.2.1 Development of the conflict

In February 1994 Nagorno-Karabakh was considered by many observers as one of the most uneasy hotspots on the earth.

A bulletin issued by the Ministry of Foreign Affairs of Azerbaijan in September 1993 indicated that as a result of the conquering war waged by the Armenian armed forces with the support of Armenian separatist groups from Nagorno-Karabakh, almost 20% of the territory of the Azerbaijan Republic was occupied.

A few weeks later, a meeting was held between representatives of Azerbaijan and Nagorno-Karabakh, at which a cease-fire agreement until November 5 was concluded (Probst, 1993:7).

But in mid-December 1993, Azerbaijani forces launched a counterattack. According to Izvestia, at this stage of the war, tank battles in the north of Karabakh were analogous to medium-sized battles during World War II. At the same time, a trench war was fought nearby the border between Azerbaijan and Iran.

Each side accused the other of using mercenaries. Baku claims that the Armenian armed forces are taking part in the hostilities, but the Russian foreign minister claims that there are neither Armenian expeditionary forces nor Russian tankers in Nagorno-Karabakh, but only a few military advisers and instructors from Yerevan are present.

Azerbaijani Foreign Minister Hasan Gassonov in November 1993 in Paris said that there were no mercenaries from Afghanistan or any other country in the Azerbaijani army.

However, this statement was refuted on January 27, 1994 by a representative of Nagorno-Karabakh, who stated that about 4,000 mercenaries from Afghanistan, Ukraine, Russia, Great Britain and Turkey are fighting with the Azerbaijani army (Probst, 1993:9).

Baku did not officially deny this allegation, and the Russian press[57] published an example of a contract signed by Russian mercenaries and the Azerbaijani armed forces.

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[57] See pictures on the link: https://haqqinaz.com/russkie-naemniki-v-forme-azerbajdzhanskoj-armii/

Many observers[58] concluded that both sides use mercenaries from different countries, which explains the victories of Nagorno-Karabakh in 1993 and the victories of Azerbaijan in early 1994 (Probst, 1993:11).

2.2.2.2 The role of Russia

Russia considers Transcaucasia as the "near abroad" (bliznee zarubezie).

A meeting between the Presidents of Russia (Boris Yeltsin), Armenia (Levon Ter-Petrossian), Azerbaijan (Gaidar Aliev) and Georgia (Edward Shevardnadze) took place in Moscow on 8 October 1993

For the author of the report (Sole-Tura, 1994:5) it seems that Russia is attempting to defend its interest in the region and to extend the influence of the CIS[59]. Azerbaijan undertook a first step in this direction when the country joined the CIS on 24 September 1993.

During the Moscow meeting, Yeltsin presented the three Transcaucasian leaders with a draft joint communiqué, which proposed the creation of Russian military bases in the South Caucasus and measures were taken to jointly protect the borders of Georgia, Armenia and Azerbaijan with Turkey and Iran. The draft also proposes that each side take immediate steps to unblock the communication lines.

This text was approved by the leaders of Armenia and Georgia, but Gaidar Aliyev argued that this type of declaration could not be adopted until Armenian troops are withdrawn from the occupied Azerbaijani territories.

Third countries, in particular the United States and Turkey, also expressed disagreement with Moscow's initiatives in the region.

Despite this, on January 18, 1994, the relevant parties signed the Moscow Protocol, which provides for a cease-fire, separation of the warring parties and the creation of safe havens with international observers (Sole-Tura, 1994:6).

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[58] OSCE mission made up with more than 135 observers, mainly from Russia, Great Britain, the United States, the CIS, France, Italy, Iran, Greece, the Czech Republic, Croatia, Israel, Serbia and Montenegro, the Netherlands, the Republic of Abkhazia, the Republic of South Ossetia, the Transnistrian Moldavian Republic and Armenia (REGNUM, 2005).

[59] Commonwealth of Independent States (CIS) is an international organization (international treaty), called upon to regulate relations of cooperation between the states (but not all) that were previously part of the USSR. The CIS is not a supranational entity and operates on a voluntary basis.

2.2.2.3 The role of Turkey

"Transcaucasia has been a bone of contention between Russia and Turkey for centuries"(Council of Europe, 1994).

In September 1993, new Turkish Prime Minister Tansu Chiller met with Boris Yeltsin in Moscow. After the meeting, she stated that Turkey and Russia are no longer rivals for influence in the region, but partners working together to restore security[60]. But other sources[61] point to a number of discrepancies between the respective Transcaucasian policies of the two countries. In particular, Moscow insists that the peacekeeping forces deployed in Nagorno-Karabakh should consist exclusively of Russian troops, while Ankara requires joint forces.

Tensions are also evident in Turkey's relations with Armenia: the Turkish blockade of Armenian communication lines, the assistance provided by Turkish military experts to Azerbaijan in the Nagorno-Karabakh conflict, anti-Armenian demonstrations in several cities of Turkey, regular maneuvers of the Turkish army near the border with Armenia and Ankara's insistence on depicting Armenia as a base for Kurdish terrorism (Sole-Tura, 1994:6).

The Russian newspaper *Nezavisimaya Gazeta* claims that only the presence of Russian troops along the border between Armenia and Turkey and the firm position of the Kremlin, which views this border as a symbol of the borders of the CIS, dissuaded Ankara from direct intervention in Nagorno-Karabakh. Any act of war against Armenia will trigger the implementation of the CIS Collective Security Treaty.

Today it seems that Russia's influence on the internal affairs of Azerbaijan has increased after Gaidar Aliyev overthrew the pro-Turkist president Elchibey in the summer of 1993. The new president is likely to change the course of Azerbaijan's policy towards Russia and the CIS (Sole-Tura, 1994:7).

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[60] Nezavissimaya Gazeta, 30.9.93.
[61] La Pensée Russe, 14/20.10.93; Nezavissimaya Gazeta, 11.11.93; Izvestia, 13.11.93; Izvestia, 3.3.94.

2.2.2.4 The role of the CSCE and the UN

For some significant time, the CSCE (formerly known as the OSCE) and the UN were the main mediators in the Nagorno-Karabakh conflict.

a) CSCE

The Conference on Security and Cooperation in Europe began to participate in the Nagorno-Karabakh conflict in June 1992, when it was decided to gather the belligerents at an international conference in Minsk[62]. Since Azerbaijan refused to participate before the return of the occupied territories, the CSCE created the Minsk Group to solve problems that prevented the holding of the conference itself. The Minsk Group consists of nine countries: Belarus, the Czech Republic, France, Germany, Italy, Russia, Sweden, Turkey and the United States. The main players are the USA, Russia and Turkey, which have real interests in the South Caucasus.

In early October 1993, the chairman of the Minsk Group, Mario Raffaelli, put forward a new peace plan in Nagorno-Karabakh. Within one month, the armed forces of Nagorno-Karabakh had to gradually withdraw their troops from various occupied territories, and Azerbaijan had to lift its blockade at a number of significant stages. First, the gas pipeline had to be unblocked, then the Ijevan-Kazakh railway and, finally, all other lines of communication. All these stages were to be supervised by CSCE expert groups (Price, 2017:5).

Armenia agreed, because its main concern was to unblock the communication lines, but Azerbaijan refused to accept the plan because it had nothing to do with the blockade of the Nakhichevan Republic or the fate of Lachin. Nagorno-Karabakh did not give a positive response, although for the first time it was recognized it as a party to the conflict.

On November 8, 1993, the regular meeting of the Minsk Group was held in Vienna, during which a new peace plan was proposed. This time, Azerbaijan's demands were taken into account, in particular, the need to include Lachin and Chuchi in the occupied regions of Azerbaijan, the withdrawal of troops from the occupied territories and the creation of conditions allowing refugees to return to their homes. It also stated that the status of Nagorno-Karabakh cannot be discussed until the opening of the Minsk Conference.

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[62] The OSCE Minsk Group is a group of OSCE member countries leading a search for a peaceful settlement of the Karabakh conflict. The Minsk Group is co-chaired by Russia, France and the United States. In addition to them, the Minsk Group includes Belarus, Germany, Italy, Sweden, Finland and Turkey, as well as Armenia and Azerbaijan (OSCE, 2011).

The fate of this plan was determined when the Azerbaijani army launched a counter-offensive in mid-December 1993 (Council of Europe, 1994).

b) <u>UN</u>

During 1993, the United Nations Security Council approved three resolutions on the Nagorno-Karabakh conflict.

In resolution 822 of April 29, 1993, the Security Council called for a direct termination of aggressions and the immediate withdrawal of all occupying militaries. It also urged the parties concerned to immediately resume peace negotiations under the auspices of the CSCE Minsk Group.

In resolution 853 of July 29, 1993, the Security Council condemned the seizure of Agdam and other recently occupied regions of Azerbaijan. It also urged the parties concerned to abstain from any actions that could interfere with the peaceful settlement of the conflict, and to negotiate within the framework of the CSCE Minsk Conference or in the direct form in order to find an ultimate solution (Sole-Tura, 1994:8).

Unlike the two resolutions mentioned above, resolution 874 of October 19, 1993 was unacceptable for Azerbaijan, because in paragraph 3 it refers to a new plan of immediate measures to implement UN Security Council resolutions 822 and 853, the very CSCE plan that Azerbaijan rejected.

It should be mentioned that at the end of October 1993, the Secretary-General of the United Nations, Boutros Boutros-Ghali, said that Russian troops are not given a UN mandate to implement peacekeeping missions in the former Soviet republics (Sole-Tura, 1994:9).

2.2.2.5 The role of the Council of Europe

For several years, the Parliamentary Assembly of the Council of Europe and, in particular, the Committee on Relations with Non-Member European Countries has been concerned about the conflict in Nagorno-Karabakh. It should be mentioned that on December 22, 1991, Armenia submitted an application for obtaining the status of a special guest in the Parliamentary Assembly, and then Azerbaijan - on January 24, 1992.

The committee organized a series of hearings to which parliamentary delegations from Armenia and Azerbaijan were invited. The Armenian Parliament invariably accepted these invitations (Strasbourg, February 1992, Minsk, May 1992, Strasbourg, October 1992 and Strasbourg, January 1994), but the Azerbaijani parliament participated only in hearings in October 1992.

On this occasion, Mr. Atkinson, the chairman of the committee, presented the peace plan to two delegations. The answer was received only from the Armenian parliament (Council of Europe: 1994).

Invitations to the last hearing (January 24, 1994) were sent to delegations from Azerbaijan, Armenia and Nagorno-Karabakh, but only the last two took part. The failure to visit Azerbaijan was apparently due to the fact that the delegation of Nagorno-Karabakh was made up exclusively of the Armenian community, as a result of which the Azerbaijani community was not represented.

For this reason, the committee is seeing the option of organizing a second meeting, to which delegations of the Azerbaijani parliament and the Armenian and Azerbaijani communities of Nagorno-Karabakh could be requested.

It should also be noted that the applications by Armenia and Azerbaijan for special guest status are not solely dependent on a solution being found to the Nagorno-Karabakh conflict. In January 1994 a new controversy arose within the Assembly as to whether Transcaucasia was in fact part of Europe or not. Mr. Sole Tura considers (1994:9) that a decision will be taken on this matter as soon as possible, and that the response will be affirmative.

So, as we see today it was affirmative Azerbaijan as well as Armenia both became members of CoE in 25th January 2001.

2.2.2.6 The viewpoints of the parties concerned

a) Nagorno-Karabakh

For the leaders of Nagorno-Karabakh, one of the main conditions that must be fulfilled before the republic can play a full-fledged role in peace negotiations is that it must be officially recognized as a party to the conflict. They also demand that the political status of Nagorno-Karabakh be taken into account at these negotiations.

From the very beginning, Nagorno-Karabakh asserted that the roots of the conflict lie in violations of civil rights and in attempts to suppress their national movement by force. Its leaders now say that they are fighting for political independence and do not want to be tied to either Armenia or Azerbaijan (Council of Europe 1994).

b) Azerbaijan

The official line of Baku is that Armenia is conducting a war of conquest with the goal of acquiring a new territory. Azerbaijan stresses the refugees issue and claims that they should be able to come back to their homes straightaway and in absolute safety (Seitlinger, 1997:17).

c) Armenia

Yerevan's requirement is not just an armistice, but a termination of all inimical actions, particularly, the blockade of communication lines. The Yerevan officials also stated that they have no territorial claims to their neighbors, and simply insist that Stepanakert has to be a part of the peace negotiations as an independent side (Council of Europe 1994).

d) Russia

According to Moscow, since the Nagorno-Karabakh conflict occurs in the CIS, Russia should automatically play a stabilizing role in the region.

Baku hopes to conclude an agreement with Moscow, similar to the agreement between Russia and Georgia, including with a view to strengthening its national army.

Russia put forward five conditions: the external borders of Azerbaijan must be protected by Russian border guards; Creation of Russian military bases in Azerbaijan; the scale of the Azerbaijani territorial waters in the Caspian Sea will be reduced; Russia will be recognized as the only mediator in the Nagorno-Karabakh conflict, and the Republic of Nagorno-Karabakh in one form or another. (Gregorian 2008:152)

By mid-March 1994, the Nagorno-Karabakh conflict seemed somewhat calmer, although it was still far from a political settlement, and the implementation of the recent peace agreements took a long time.

Nonetheless many positive developments are taking place, Mr Sole Tura in his report *"The conflict in Nagorno-Karabakh and prospects for a solution"* stated:

- *on 12 March 1994 the Speakers of the Parliaments of Armenia and Azerbaijan reached a provisional agreement on the removal of troops around Nagorno-Karabakh and the creation of a "buffer zone";*

- *a meeting of the CSCE Minsk Group took place on 11 - 15 April, at which a 23-point document on the reinforcement of confidence-building measures between the conflicting parties was adopted;*

- *on 5 May a meeting of the parliamentary delegations of the CIS Interparliamentary Assembly took place in Bishkek with the participation, among others, of representatives of Armenia, Azerbaijan and Nagorno-Karabakh. These delegations adopted a protocol of agreement on a ceasefire and the preparation of a legal instrument on the settlement of the conflict.*

Nowadays, after two decades the report was issued, Nagorno-Karabakh has been living in a temporary truce[63] for so long, that residents have become accustomed to this state. So much so that daily, measured life flows, in fact, in parallel with the realization that war is constantly at the threshold. Life, economy, commerce, education, evening walks in the city gardens are all as usual as the obligatory daily morning reading of information in newspapers and websites about the state of affairs at the forefront.

2.3. Abkhazia and South Ossetia

2.3.1 South Ossetia

The history of the sovereignty of the Republics of South Ossetia and Abkhazia is of a great interest.

The territory of South Ossetia in ancient times was inhabited by Iranian tribes, which were part of the Union of North Caucasian Iranians. The East Georgian princes repeatedly attacked South Ossetia, but were defeated.

In 1774, the whole Ossetia, except South, became part of Russia. In 1830, South Ossetia also became part of the Russian Empire. In 1843, the Ossetian district was formed as part of the Tiflis province.

South Ossetia as a part of the Russian Empire was not in any dependence from Georgia. The Georgian princes attempted to subjugate South Ossetia to Georgia, trying to enslave the South Ossetian population, but the Russian senate rejected their claims and accused in “harassment to recognize their serfdom over the Ossetians”.

The Russian emperor ordered the transfer of South Ossetians "to the category of state-owned peasants and their exclusion from the feudal dependence on the Georgian princes and their transfer to a special civil status" (Istoricheskie Prozesi, 2010).

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[63] The truce on the Karabakh front was achieved with the assistance of Russia and Kazakhstan in 1994-1995. Since then, it has been repeatedly violated, but the mediators (the OSCE Minsk Group and separately - Russia) are doing everything possible so that full-fledged military actions on the contact line are not taking place.

After the October Revolution, Georgia attempted to join the territory of South Ossetia in military way, which caused protests among the Ossetians. The protests turned into people uprising, the basis of which was the Declaration of the Rights of the Peoples of Russia, adopted on November 2, 1917 "On the right of peoples to self-determination, including separation and formation of an independent state. It referred to the "right of the peoples of Russia to free self-determination, up to the separation and formation of an independent state" (Dzhioev, 2008).

After the adoption of the Declaration of the Rights of the Peoples of Russia, the Georgian Mensheviks united the lands of the Russian province and in 1918 announced the creation of the Georgian Republic. South Ossetia remained part of Russia. On May 28, 1920, delegates of South Ossetia in their "Memorandum of Labor South Ossetia of the Central Committee of the RCP (B) [64] " confirmed that Ossetia remains in Soviet Russia and stated that "it does not allow mediocre entry into Soviet Russia through the Georgian or other republic".

Following this statement on June 20, 1920, South Ossetia was attacked by the Georgian Mensheviks and was subsequently annexed by Georgia.

In response to the aggression of Georgia, the Russian Commissariat of Foreign Affairs stated that "the intervention of Georgia in the affairs of Ossetia would be an unjustified intervention in the affairs of others" (Istoricheskie Prozesi, 2010).

Subsequently, South Ossetia was forcibly transferred to Georgia, and on April 20, 1922, the South Ossetian Autonomous Region was created. By all possible means, the population of South Ossetia was subjected to forced assimilation. The first wave of the genocide of the Ossetian people by Georgia began.

At the time of being in the USSR, Ossetia was divided into South and North. Only in the 1980s the rises of the national movement begin.

In 1989, a state program was introduced, according to which office work in the Georgian language was legally fixed in South Ossetia. After this, on November 10, 1989, the session of the Council of People's Deputies of the South Ossetian Autonomous Region decided to introduce the legal status of an autonomous republic instead of an autonomous region. However, the Presidium of the Supreme Soviet of the Georgian SSR rejected this decision.

In April and June 1990, Georgia declared the illegality of all legal acts of South Ossetia adopted after 1921. In turn, the Parliament of South Ossetia adopted the Declaration of State Sovereignty, the effect of the Constitution and laws of the USSR on its territory. Also, the

[64] Russian Communist Party (Bolsheviks).

Supreme Council of South Ossetia proclaimed transformation of the South Ossetian Autonomous Region into the republic.

In 1990, despite the expiration of the term of office of the Parliament of South Ossetia, the Supreme Council of Georgia did not set a date for regular elections, in response to which the Parliament of South Ossetia decided to hold elections on December 9, 1990. Following the actions of Ossetia, the Georgian media began a series of anti-Ossetian propaganda (Minyar-Beloruchev, 2012).

On December 11, 1990, the Georgian side organized a series of provocations, which led to the conduct of the State of Emergency and curfew, although there was no reason for that.

On January 6, 1991, Georgia brought its military forces in the capital of South Ossetia Tskhinvali, after this arson attacks, arrests, interrogations, and killings of Ossetians began. Following the actions of Georgia, Ossetian self-defense units were formed, which drove the Georgian troops out of Tskhinvali.

March 23, 1991 at a meeting of deputies of the Soviets it was decided to return South Ossetia status of an autonomous region. On September 1, 1991, the session of the Soviets devoted to People's Deputies restored the status of the Republic of South Ossetia. In response, terror from Georgia occurred.

In February 1992, the Georgian armed forces began shelling residential areas and educational institutions in South Ossetia. A series of war crimes followed, in response to which, on May 29, 1992, the South Ossetian Parliament proclaimed the State Sovereignty Act. A series of Georgian provocations followed, after which on June 24, 1992, an Agreement on the principles for resolving the military conflict was signed; and on July 14, 1992, peacekeeping troops entered South Ossetia. They consisted of three battalions: Russian, Georgian and North Ossetian (Minyar-Beloruchev, 2012).

Obvious is the fact that 90 years of national oppression and two genocides made the existence of South Ossetia within Georgia impossible.

In 2008, the wave of the third genocide of the Ossetian people began. The fire between the Georgian and South Ossetian forces took place for the first time since July 2008. On August 7, 2008, both sides agreed on a cease-fire, but on August 8, 2008, Georgia began shelling Tskhinvali. On the same day, Russia joined the military conflict as part of the operation to force the Georgian side to peace. On August 12, 2008 Russian President D. Medvedev announced the successful completion of the operation (Dzhioev, 2008).

On August 13, 2008, South Ossetia announced the completion of the operation to oust Georgian troops from the Kodori Gorge, after which the hostilities were completed. Russia began to supply humanitarian aid for South Ossetia. From 14 to 16 August 2008, a peace plan

was signed, which was called the “Medvedev-Sarkozy Plan” [65] (Dzugaev, 2008). The plan included six steps: 1) do not resort to the use of force; 2) mutual Termination of military actions; 3) free access to humanitarian aid; 4) Georgian armed forces are returning to their places of permanent deployment; 5) the armed forces of the Russian Federation are moved on the line preceding the outbreak of hostilities; 6) creation of international guarantees for ensuring stability and security in Abkhazia and South Ossetia (UN, 2008).

A month later, a memorandum on the implementation of the Medvedev-Sarkozy plan was published.

August 26, 2008. Russian President D. Medvedev signed a decree recognizing the Republic of South Ossetia. However, after this recognition, no further recognition from other states followed (Dzitstsoity, 2008).

2.3.2 Abkhazia

The struggle for the independence of Abkhazia has much in common with the process of sovereignty of South Ossetia.

The history of the struggle of the Abkhaz people for independence has more than one millennium. The territory which is now inhabited by Abkhazians was part of many states[66].

At the dawn of its history, in the II millennium BC Abkhazia subordinated to Pontic king Mithridates VI Eupator. In the 1st century BC Abkhazia was part of the Colchis Kingdom.

In 65 BC it was conquered by the romans. In the IV century AD, when the western Georgian kingdom of Lazik was formed, Abkhazia became a part of it. In the beginning of VI century AD northern Abkhazia was subordinated to Byzantium. Popular uprisings against the Byzantine authorities were brutally suppressed, and in the 60s of the 4th century Byzantium ruled throughout the territory of Abkhazia. In the 6th century AD Abkhazia entered the era of early feudalism, and by the 8th century AD the Abkhaz ethnos emerged (Istoriya Abkhazii, 2012).

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[65] The plan for resolving the military conflict in Georgia in August 2008, adopted at the meeting of the presidents of Russia and France - Dmitry Medvedev and Nicolas Sarkozy during the talks in Moscow on August 12, 2008. On August 14, the plan was signed in the Kremlin by the presidents of Abkhazia and South Ossetia at a meeting with Medvedev, on August 15 by the President of Georgia Mikhail Saakashvili, on August 16 by the President of Russia Dmitry Medvedev (Совместная пресс-конференция, 2008).

[66] Ancient Greece (800 B.C. - 500 B.C), Colchis (750 BC - 164 BC), Roman Empire (1-3 century AD), Byzantine period (4-6 century AD), Arab period (end of 7 - 9 century AD), Abkhazian kingdom (6 - 16 century AD), between the Ottoman and Russian empires (second half 16 -20 centuries), Soviet Union (20 century), Independent Abkhazia (21 century - nowadays)

In the VIII-X centuries AD there was the Abkhazian kingdom. From the 2nd half of the X century Abkhazia was part of the Georgian kingdom. At the end of the 15th century after the collapse of feudal Georgia, Abkhazia disintegrated into separate principalities, which in the XVI-XVII centuries united in one state (V.V. Ketsba, 2008).

In the XVII-XVIII centuries Abkhazia was ruled by Turkey. After numerous popular uprisings against the Turkish yoke, Abkhazia appealed to the Russian tsar with a request to incorporate it into the Russian Empire. The Russian Tsar Alexander I on February 17, 1810 issued a manifesto on the inclusion of the Abkhazian principality into the structure of Russia as autonomy, which Abkhazia maintained from 1810 to 1864. In June 1864, by his decree, Alexander I abolished the principality and renamed it the Sukhum military department of the Russian Empire. From 1864 to 1917 Abkhazia was subordinated to the Tsarist administration in the Caucasus (Istoriya Abkhazii, 2012).

After the October Revolution of 1917, a new era begins in the history of the Abkhaz people. After the collapse of the Russian Empire, Abkhazia joined the Union of the united Highlanders of the Caucasus and the South-Eastern Union. On November 8, 1917, the Abkhaz People's Council was elected, the Constitution and the Declaration of the sovereignty of the Abkhaz people were adopted (Garb, Inal-Ipa and Zakareishvili, 2000).

On February 9, 1918, an agreement was signed between Abkhazia and Georgia on the establishment of relations between Abkhazia and Georgia. The text of the treaty confirmed the sovereignty of Abkhazia (M.I. Zukhba, 2008).

On May 11, 1918, the Mountain Republic[67] was proclaimed at the international peace conference in Batumi, which also included Abkhazia, in response to that in June 1918, the troops of the Democratic Republic of Georgia, with the support of Germany, attacked Abkhazia (M.I. Zukhba, 2008).

On March 4, 1921, Abkhazia was proclaimed as the Abkhazian SSR, and on March 31, 1921, the sovereignty of Abkhazia was proclaimed. On the same day, the Revolutionary Committee of the Georgian SSR recognized the sovereignty of the Abkhaz SSR. On May 21, 1921, the Georgian government issued a decree “On the independence of the Abkhaz SSR”.

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[67] The Mountain Republic of the North Caucasus (MRNC; also known as the Mountain Republic or the Republic of Mountaineers;) was a short-lived state located in the North Caucasus, which existed from 1917 to 1920. It became separated from the Russian Empire during the February Revolution, shortly before the Russian Civil War broke out (See more on https://www.kavkazr.com/a/29631852.html).

In December 16, 1921, on the basis of an agreement, it became part of the Georgian SSR as an autonomous republic. In April 1925, the first Constitution of the Abkhaz SSR was adopted. (Popescu, 2007:16).

In February 1931, the Abkhaz SSR acquired the status of an autonomous republic and became part of the Georgian SSR.

The status reduction of the Abkhaz SSR to the status of autonomy caused a storm of protests in February 1931, which lasted until 1989. The Abkhaz national movement arose, demanding the republic's status to be returned to Abkhazia. On August 25, 1990, Georgia adopted the Act of Independence, in connection with which legal acts adopted from 1921 to 1990 were denounced, including acts on relations with Abkhazia (S.M. Smyr, S.I. Gezerdava, 2008).

Following the collapse of the USSR, Abkhazia announced its withdrawal from the Georgian SSR, in response to which Georgia sent troops into Abkhazia. The military confrontation between Abkhazia and Georgia began. In June 24, 1992 in Dagomys, an agreement between Russia and Georgia on a cease-fire and the entry of peacekeeping troops was signed.

On August 14, 1992, the Georgian troops entered Abkhazia again. The hostilities began, which on September 30, 1993 turned into a defeat for Georgia. Peacekeeping forces were brought into the conflict zone on June 21, 1994, but provocations and sabotage did not cease (Garb, Inal-Ipa and Zakareishvili, 2000).

On November 26, 1994, the Abkhaz Parliament adopted a new Constitution, in which the independence of Abkhazia was proclaimed. Again, it became independent from Georgia. However, the situation remained tense, therefore, from 1994 to 2008 peace in the conflict zone was maintained by the Collective Peacekeeping Forces[68].

In June 2006, the Georgian side introduced military formations into the Kondor gorge, to which Abkhazia protested.

August 2008 was a turning point in the life of Abkhazia. On August 8, 2008, Georgia attacked South Ossetia and Abkhazia (V.V. Ketsba, 2008).

Further military aggression of Georgia was followed by a negative reaction to it by the world community. On August 12, 2008, the Medvedev-Sarkozy Plan was signed to resolve the

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[68] UN peacekeeping forces in an armed contingents of UN member countries allocated under the UN Charter to prevent or eliminate threats to peace and security through joint coercive actions (military demonstration, military blockade etc.), if economic and political measures prove to be or are insufficient. (UN,1948)

situation around the Georgian-Abkhaz conflict. And on August 26, 2008, Russian President D. Medvedev signed a decree recognizing the independence of the Republic of Abkhazia (Priznanie, 2008).

After Russia, the independence of the Republic of Abkhazia in 2008 was recognized by Nicaragua and Venezuela. In 2009, the Republic of Nauru recognized the independence of Abkhazia and South Ossetia, and in 2011 they were recognized by the island states of Vanuatu and Tuvalu.

On November 24, 2014, the Agreement[69] on Alliance and Strategic Partnership between the Russian Federation and the Republic of Abkhazia was signed (O.H. Bgazhba, 2008).

The example of the Russian Federation, which recognized the two self-proclaimed republics, was not followed by any of the UN member states, which speaks of their commitment and dependence on the leading powers of the world.

In response to the succession of recognition of the Republic of Abkhazia, the leaders of the world powers expressed their indignation. However, the fact that the sovereignty of Abkhazia and South Ossetia is recognized by Russia, a member of the UN, suggests that the young republics can be considered full members of the world community.

2.2 *Problems of Recognition of LPR and DPR*

2.2.1 ***Background of the Conflict and Premises for Separation***

In late November 2013, mass protests began in Ukraine, provoked by the postponement of the Ukrainian government to sign an association agreement with the European Union[70]. The peak of the confrontation fell on the period of February 18-21, 2014. February 21, President of Ukraine Viktor Yanukovych signed an agreement with the opposition to resolve the crisis. On the same day, Yanukovych left Kiev. The next day, the Verkhovna Rada, in which the former opposition formed a majority, adopted a resolution stating that Yanukovych “unconstitutionally

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[69] The Treaty of Alliance and Strategic Partnership was signed by the Presidents of the Republic of Abkhazia and the Russian Federation on November 24, 2014. On December 22, it was ratified by the People’s Assembly-Parliament of the Republic of Abkhazia, and on December 26, President Raul Khadzhimba signed the law on its ratification (Договор, 2014). The agreement provides for the formation of a common defense and security space, including through the creation of a joint group of troops of the Armed Forces of the Russian Federation and Abkhazia (МИД РФ, 2015).

[70] The Association Agreement between Ukraine and the European Union is an international treaty aimed at deepening the integration between Ukraine and the European Union in the areas of politics, commerce, culture and security. The Association Agreement replaced the former Partnership and Cooperation Agreement between the European Communities and Ukraine (EU, 2014).

withdrew from the exercise of constitutional powers" and did not fulfill his duties, and also called early presidential elections on May 25, 2014.

The new authorities, who announced the resumption of movement towards European integration, enjoyed some support from the population and quickly consolidated their position in the capital, in the northern, central and western regions of Ukraine. In the South-East, where the positions of the biased President Yanukovich and his party, supported by Russia, were strong, the fact that the former opposition came to power, its first decisions and assistance to the radical organizations of Ukrainian nationalists provoked discontent and protests against the new authorities.

In the regional centers of the South-East, the intensity of the confrontation led to clashes between supporters and opponents of the new government, during which the first victims appeared. The report [71] of the OSCE Mission on the Assessment of the Situation of Human Rights, which worked in Ukraine in March-April 2014, indicated that since the end of February 2014 there has been a tendency to hold simultaneous meetings organized by groups of supporters and opponents of Maidan, with the use of violence. Throughout the entire period of the Mission's work and in all the regions where it worked, the police demonstrated, on the one hand, prejudice against Maidan's supporters, and on the other, they condoned their opponents.

As noted in the report of the OSCE Mission, on the background of the increased polarization of Ukrainian society, serious encroachments on media freedom and an increased flow of biased information, disinformation and propaganda, manifestations of intolerance became frequent; cases of hate speech being used against other ethnic and religious groups. In particular, in the south-eastern regions of Ukraine there was a tendency to associate the political orientation of people (supporters or opponents of Maidan) with their ethnicity. In some cases, the purposes of the attacks were Ukrainian symbols, as well as vehicles with the flag of Ukraine and other national symbols. Active supporters of the Maidan were often called "Bandera", "fascists" and "Nazis", and appearances in defense of the territorial integrity and unitarity of Ukraine were presented as a manifestation of nationalism (OSCE, 2015).

In the Donbass, opponents of the new authorities used tactics that resembled the actions of Euromaidan activists in January-February 2014: blocking and seizing administrative buildings, raising Russian flags and flags of local republics over them. Supporters of the previous government and ideological opponents of Euromaidan put forward the slogan of federalization of Ukraine and the requirement to preserve the official status of the Russian

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[71] See the full report on https://www.osce.org/annual-report/2014

language. There were also demands to recognize the Verkhovna Rada and the government as illegitimate and to hold a referendum (the main idea of which was the autonomy[72] of two regions of eastern Ukraine) regarding the accession of regions to the Russian Federation. The protesters refused to recognize the governors appointed by the new government, elected the "people's leaders" of their regions (OSCE, 2015).

Proclamation of the DPR

On April 6, 2014, after the regular rallies, their participants switched to active actions, capturing a number of administrative buildings in Kharkiv, Donetsk and Lugansk regions.

The very next day, April 7, the Donetsk People's Republic was proclaimed in Donetsk, and a referendum on self-determination of the Donetsk People's Republic was scheduled for May 11th. On the same day, protesters in Kharkiv expressed no confidence in the deputies of the regional council and "alternative deputies" of the Kharkiv territorial community were chosen, deputies decided to create "Kharkiv people's republic" that "will build relations with other states in accordance with international law." (OSCE, 2015) However, ultimately, the attempt of creation Kharkiv People's Republic was suppressed by Ukrainian police.

Proclamation of the LPR

On April 27, the creation of the Lugansk People's Republic was announced in Lugansk, although, unlike the DPR, the Southeast army appeared in the Luhansk region on April 6. The first action of the rebels was the seizure of the building of the Security Service of Ukraine and the pressure on the local regional administration (OSCE, 2015).

On April 29, the rebels occupied the buildings of the regional administration and the regional prosecutor's office, without any resistance from the police. The police officers who were guarding the building went over to the side of the protesters. The flag of Russian Federation was hoisted above the regional administration building.

May 11 referendum

The referendums in the Donetsk and Luhansk regions were held on May 11 and, according to the statements of their organizers, had a turnout of 75% and 75% and the number of

[72]Autonomous areas are regions of a State, usually possessing some ethnic or cultural distinctiveness, which have been granted separate powers of internal administration, to whatever degree, without being detached from the State of which they are part. For such status to be relevant for the purposes of this study it must be established as internationally binding upon the central authorities. In such cases the local entity may have a certain status, although since that does not normally involve any foreign relations capacity, it is usually very limited. Until an advanced stage is reached in the progress towards self-government such areas are not States (Crawford, 2007:323).

voted of 89% and 96%. According to the statement a.i. President of Ukraine Oleksandr Turchinov [73] , about 24% and 32% of voters (respectively) in the regions took part in the referendums.

According to the results of the referendums, the self-proclaimed authorities of both republics declared sovereignty on May the 12th and expressed a desire to become part of Russia, as well as unite in the New Russia (Novorossiya)[74]. The press service of the Russian president stated that "Moscow respects the will of the population of Donetsk and Lugansk regions with respect and proceeds from the fact that the practical implementation of the results of the referendums will take place in a civilized way, without any recidivism of violence, through a dialogue between representatives of Kiev, Donetsk and Lugansk. In the interest of fostering such a dialogue, any mediation efforts are welcomed, including ones through the OSCE. " On the same day, the Ministry of Foreign Affairs of Ukraine called the past referendums in the Donetsk and Lugansk regions illegal and illegitimate.

On May 16, the Prosecutor General's Office of Ukraine recognized the DPR and LNR as terrorist organizations.

The referendum gave a start to the formation of the DPR and the LPR as full-fledged states. Already on May 14, 2014, the Constitution of the DPR was adopted, and on June 21 of that year, the DPR Supreme Council approved the flag and the coat of arms of the republic.

2.4.2 ***Legal aspects (constraints for recognition)***

The republics are unrecognized states, because at the moment they have not received recognition from at least one UN member state. From May 24, 2014 to May 18, 2015, the republics were the co-founders and members of the confederative Union of People's Republics (New Russia/ Novorossiya). The only state that recognized the independence of both republics is South Ossetia, which is itself not a member of the UN and has limited recognition.

Ukraine does not recognize the DPR and LPR as the states, but regards them as terrorist and separatist organizations, puppet states, organized and armed by the Russian Federation, which, with the support of Russian troops, illegally seized and retain Ukrainian territory.

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[73] Aleksandr Turchinov - Ukrainian politician and statesman, Acting President of Ukraine (from February 23 to June 7, 2014) (Very eventful and meaningful period for Ukraine, during which… Crimea ceased being Ukrainian and military actions on Eastern Ukraine Began), Supreme Commander of the Armed Forces of Ukraine (from February 26 to June 7, 2014). Secretary of the National Security and Defense Council of Ukraine (since December 16, 2014).

[74] also the Union of People's Republics, - the confederative union, which united the unrecognized Donetsk People's Republic and the Lugansk People's Republic, proclaimed in the spring of 2014 within the Donetsk and Lugansk regions of Ukraine, respectively.

Territories controlled by the DPR and the LPR are considered to be temporarily occupied by Russia in accordance with Ukrainian legislation (Postanova, 2015).

Official positions of interstate organizations and states

a) European Union

On November the 5th 2014 declared the "illegitimacy" of the "so-called referendums in the Donetsk and Lugansk regions", their non-recognition and the "lack of democratic legitimacy" of their organizers; On the 11th of November EU declared that "considers the holding of" presidential and parliamentary elections "in" DPR and LPR "on November 2 illegal and illegitimate and does not recognize them"; 15.01.2015 confirmed that "the so-called" presidential and parliamentary elections "held in Donetsk and Lugansk on November 2, 2014, violate the legislation of Ukraine and the Minsk agreements [75] , and therefore cannot be recognized; while the holding of these elections had a negative impact on the process of establishing peace "and declared condemnation of acts of terrorism and crimes committed by" separatists and other irregular forces in eastern Ukraine " (Evropeiskii diplomati, 2014).

b) United Nations

On the 11th of November 2014 declared the "uselessness of these specific elections" (UN, 2014).

c) Organization for Security and Cooperation in Europe

One week earlier, on the 4th of November 2014, OSCE stated that "the referendum held yesterday in some places in Eastern Ukraine is incompatible with the Ukrainian Constitution and therefore illegal" and "precisely such provocative actions should be avoided." In addition, it was noted that "it is important that this referendum does not receive international recognition" (OSCE, 2014).

d) North Atlantic Treaty Organization

On the 11th of November 2014 NATO stated that "so-called "elections" held in some areas in the east of Ukraine by armed separatists, contradict the Minsk agreements. NATO countries do not recognize them" (NATO & EU, 2014).

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[75] A document was signed on September 5, 2014 in Minsk in the building of the President Hotel, providing, inter alia, a cease-fire in the territory of Donetsk and Lugansk regions of Ukraine. The document was signed by representatives of Russia, Ukraine, the OSCE, the LPR and the DPR.

e) Parliamentary Assembly of the Council of Europe

On the December 10th 2016 Parliamentary Assembly of the Council of Europe adopted a resolution in which it stated that:

““DPR”and“ LPR ”, created with the support and control of the Russian Federation, do not have any legitimacy in accordance with Ukrainian or international law. This applies to all their “institutions”, including the “courts” established by the de facto authorities. ”

“It is confirmed by the well-documented role of the Russian military in taking control and maintaining control of these regions, despite the strong resistance of the legitimate authority of Ukraine, and the complete dependence of the“ DPR ”and“ LPR ”on the material, technical, financial and administrative aspects”

“Local courts” in “DPR” and “LPR” do not have legitimacy, independence and professionalism”

“So far the current situation in the“ DPR ”and“ LPR ”, which is characterized by lack of security, intimidation, impunity and lack of freedom of speech and information, free and fair elections (guaranteed by Article 3 of the Protocol to the European Convention on Human Rights (ETSN9)) are not possible in these regions” (PACE, 2014).

f) Commonwealth of Independent States

Commonwealth of Independent States, on the 11th of November 2014, stated that it considers “the elections held in the south-east of Ukraine as a fait accompli,” but cannot give its assessment and will be “guided by the position of the Ukrainian authorities” (CIS, 2014).

g) Great Britain

On the 5th of December 2014 the United Kingdom authorities specified that “in the eyes of the world community the veracity of this vote is zero. This so-called referendum is illegal by all standards, no one adhered to any requirements, and there is not even any question of objectivity, transparency and honesty ” (Evropeiskii diplomati, 2014).

h) The USA

On the 5th of December 2014the USA indicated that they do not recognize the "illegal referendum held in some parts of Donetsk and Lugansk"

The US representatives condemned the “illegal so-called elections held on the 11th of March 2014 by separatists in the regions of eastern Ukraine. The holding of such "elections" goes in contrary with the Ukrainian Constitution and the Minsk Protocol of September the 5th»

Four years later, on the 3rd of March 2018 US Special Representative Kurt Walker[76] said that the "DPR" and "LPR" must be eliminated and "these tumors were created by Russia to disguise its role and strengthen the ongoing conflict" (Volker, 2018).

i) Ukraine

Ukraine, on the 5th of December 2014, regarding the holding of "referendums" stated that "this propaganda farce will not have any legal consequences, except for the criminal responsibility of its organizers"

On the 7th of December 2014 Ukrainian representatives on the issue urged the international community to recognize the DPR and the LPR as terrorists' formations

On the 11th of March 2014 it was stated stated that "Ukraine will never recognize the so-called election on November 2. We cannot respect a choice that was not and is not present, either in fact or legally. "

On the 11th of April 2017 the Supreme Specialized Court of Ukraine for the consideration of civil and criminal cases forbade the courts to use the abbreviation "DPR" and "LPR" in court decisions, because neither Lugansk People Republic, nor Lugansk People Republic is recognized by the authorities of Ukraine»

On May 16, 2014, the Prosecutor General's Office of Ukraine declared the DPR and LNR to be terrorist organizations. However, for 2018 there was still no court decision on this charge by the prosecutor's office and, thus, there is no decision recognizing this charge to be legal. In a number of official documents of the Verkhovna Rada of Ukraine[77], the DPR and the LPR are referred to as terrorist organizations (Poroshenko, 2014).

j) Russia

On the 5th of December 2014 Russia declared "respect" "to the will of the population of Donetsk and Lugansk regions"

Over several month, on the 11th of March 2015 Russian authorities declared "respect" of the "will of the inhabitants of the South-East", however, further, Russia clarified that this statement is not recognition.

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[76] Kurt Volker is an American diplomat. Permanent Representative of the United States to NATO (2008-2009). Since 2011, Volker has served as the director of the McCain Institute in Arizona. From July 7, 2017 – Special Representative of the US State Department for Ukraine. (http://argumentua.com/novosti/kurt-volker-priznachenii-predstavnikom-derzhdepu-ssha-z-pitan-ukra-ni)

[77] Ukrainian Parliament

Regarding documents[78] issued in the LPR / DPR, Russia recognizes them from February 18, 2017, but considers their owners as citizens of Ukraine (Kreml, 2014).

2.3 Recognition problems of Kosovo

The international legal recognition of the Republic of Kosovo is an example of the geopolitical influence of the largest states and international organizations on the recognition mechanism of the new state. The recognition of Kosovo by the United States and other world powers is contrary to international law, clearly demonstrating that political expediency is the main factor in the recognition of states.

Under the Yugoslav constitution of 1974 Kosovo was a self-administering province of Serbia.[79] Approximately 90 per cent of the inhabitants are ethnic Albanians ('Kosovars'); most of the remainder are ethnic Serbs. Self-rule in Kosovo was curtailed in 1989 by action of the Serbian Government, leading to local unrest. A Kosovo Liberation Army (KLA) began attacking federal security forces in 1997; in February 1998, the FRY began a military campaign to reaffirm control in the province. A small OSCE mission had functioned in Kosovo under a Memorandum of Understanding with the FRY of 28 October 1992, but the FRY declined to renew this in 1993.[80] Violence in Kosovo continued through 1998.

The recognition of Kosovo has a rich history. In 1999, the New Constitution of Yugoslavia was adopted; the constitution curtailed the rights of national minorities, which included Kosovo Albanians. The adoption of the constitution gave them a reason to take the path of armed struggle, in which the Kosovo Army participated, on the one hand, and the Yugoslav police on the other; in 1998, full-fledged fighting began. This circumstance gave NATO a reason to accuse Yugoslavia of violating the rights of national minorities and to introduce NATO forces into the FRY. Yugoslavia could not stand the pressure and surrendered. Kosovo transferred under UN control (Operaziya NATO, 2014).

Negotiations between Serbia and Kosovo began in 2006, when there were six stages of direct talks between the two parties of the conflict. The Serbian side offered to provide Kosovo

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[78] 18 February 2017, the Russian President, Vladimir Putin, signed the Decree "On the recognition in the Russian Federation of documents and license plates of vehicles issued to citizens of Ukraine and stateless persons permanently residing in the territories of certain districts of Donetsk and Lugansk regions of Ukraine" (Указ, 2017).

[79] Vickers, *The Status of Kosovo in Socialist Yugoslavia;* Kokott in Tomuschat (ed), *Kosovo and the International Community,* 1, 2-6.

[80] SC res 855, 9 Aug 1993.

with autonomy, while financial support would be assigned to Kosovo, and foreign policy and border control issues to Serbia.

On January 31, 2006, a meeting of the contact group[81] on Kosovo was held, at which three basic principles were adopted: Kosovo cannot be returned under the control of Serbia, nor can it be divided or joined to another state (Stroeva, 2011:276).

On February 20, 2006, negotiations between the Serbian and Albanian sides began. The Albanian representatives demanded Kosovo to be fully independent whereas the Serbian side demanded Kosovo Serbs remain self-governing in their compact places. The legal basis for the negotiations was UN Security Council Resolution No. 1160, adopted in March 1998, where it was stated that the solution of the Kosovo problem should be based on the legal integrity of Yugoslavia and on raising the status of Kosovo, which would include a greater degree of autonomy and real self-government. Therefore, the talks focused on the inviolability of the sovereignty of Yugoslavia and the provision of autonomy to Kosovo within Yugoslavia (Stroeva, 2011:277).

Negotiators could not agree, because the Kosovo contact group was categorically against autonomy. Representatives from Kosovo formulated the principle that the status of Kosovo cannot be returned to the situation on March 24, 1999, when NATO aggression against Yugoslavia began.

In January 2007, M. Ahtisaari, the former president of Finland, who was authorized by the UN Security Council as an expert in resolving the conflict, proposed his plan for vesting Kosovo with sovereignty. The plan included requirements for Kosovo to fulfill certain necessities in exchange for Kosovo's independence, but these requirements were not achieved by the Kosovo side.

In his report, M. Ahtisaari insisted on granting independence to Kosovo and introducing international civil and military organizations: "Independence is the only option that can ensure political stability and economic viability of Kosovo. With international assistance and under international supervision, it is necessary to achieve the further development of Kosovo political and legal institutions" (Anufrieva et al., 2011: 117).

On March 26, 2007, the report[82] of the Special Envoy of the Secretary-General, M. Ahtisaari, on the future status of Kosovo appeared; the report noted general instability in the

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[81] The contact group is an international structure established in March 1992 under the auspices of the United Nations to coordinate approaches to resolving the situation in the Balkans. It includes representatives of the United States, Russia, Britain, France and Germany.

region. In this report, the author concludes that the only viable option is to recognize Kosovo as an independent entity. The report also argued that legal institutions should contribute to strengthening Kosovo's sovereignty. By his resolution, M. Ahtisaari contradicted UNSC 1244[83] resolution, which spoke about resolving the conflict around Kosovo without violating the integrity of Yugoslavia (Anufrieva et al., 2011: 113).

Also, the UN rapporteur on the situation in Kosovo concluded that "the UN Security Council deprived Serbia of its governing role in Kosovo and placed it under temporary UN administration." M. Ahtisaari concluded that "independence is the only working option of ensuring political stability and economic viability of Kosovo ... If political ambiguity remains active, then peace and stability in Kosovo and the region will remain under threat. Giving independence to Kosovo appears to be the best guarantee for neutralizing this danger" (Kovach, 2008).

Although the report of M. Ahtisaari was not legal, but rather moral in nature, this fact did not prevent it from being used as a basic document in bilateral negotiations between Kosovo and Serbia. In addition, M. Ahtisaari expressed the opinion that Kosovo could not be returned to Serbian jurisdiction in connection with UN Security Council Resolution No. 1244. He noted the fact that the Serbian administration had been removed from power in Kosovo by the UN mission, which, in his opinion, led to the need to recognize the independence of Kosovo: throughout Kosovo created a situation in which Serbia does not exercise any authority to govern Kosovo. This is an undeniable reality, and it is irreversible. The return of Kosovo under Serbian control would be unacceptable to the overwhelming majority of the population of Kosovo. Belgrade could not regain its power without provoking desperate resistance. The autonomy of Kosovo within the borders of Serbia ... is simply impossible. "(Doklad, 2007)

At the negotiations in Vienna on March 10, 2007, in response to the plan of M. Ahtisaari, the President of Kosovo, Fatmir Sejdiu, said: "It is time to recognize Kosovo as an independent and sovereign state. Even after independence, Kosovo will have a substantial international presence for a certain period, which we invited as the legitimate authority of Kosovo" (Anufrieva et al., 2011: 106).

In response to this statement, Serbian President Vojislav Kostunica, in turn, insisted on Serbia's membership and stressed that "secession of Kosovo from Serbia would represent the

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[82] See the original version https://reliefweb.int/report/serbia/report-special-envoy-secretary-general-kosovos-future-status-s2007168

[83] See the original text of the resolution https://peacemaker.un.org/kosovo-resolution1244

most dangerous of all possible precedents in UN history, as it has never happened before, a UN member state was taken a significant part of its territory by UN" (Anufrieva et al., 2011: 177).

The President of Serbia in his speech emphasized that "until today there has not been a single serious attempt to give a reasonable explanation why Kosovo should be independent, why the UN Charter, the Constitution of Serbia are violated, why such a dangerous precedent is created in international relations" (Anufrieva et al., 2011: 177).

In March 2007, M. Ahtisaari's plan was submitted to a session of the UN Security Council. The United States supported the plan to grant Kosovo sovereignty, while Russia was of the opinion that, in view of the non-compliance with the standards put forward by Kosovo, the EU should not hurry, but acceptable for both sides solution should be found. Russia offered to send a UN Security Council mission to analyze the situation and come to a decision. It was also proposed to monitor the implementation of UNSC 1244 resolution on Kosovo (Guzikova, 2015).

During the negotiations, the UN Security Council decided to send the Mission in April 2007 in order to receive information on the situation in Kosovo. On May 4, 2007, the Mission made a report to the UN Security Council, the conclusions of which were biased and tended toward a decision to grant sovereignty to Kosovo (Guzikova, 2015).

According to the UN Security Council mission, the situation in Kosovo was calm, but the outrage of the Kosovo Serbs by the acts of violence from the Kosovo Albanians was not taken into account. The findings of the Security Council Mission were very vague.

Following this, the format of the negotiations was revised: instead of M. Ahtisaari, "three" representatives from the United States, the Russian Federation and the EU were appointed as leaders of the negotiations. The negotiations were held from August to November 2007. The representative of Russia in the negotiations A.A. Botsan-Kharchenko[84] commented on the work of the Mission in the following way: "Every now and again, opinions are heard from different sides that Kosovo's independence is predetermined ... The negotiation process is hindered by steps that are not intended to reach a compromise (Botsan-Kharchenko, 2007)

A.A. Botsan-Kharchenko emphasized that granting independence to Kosovo creates a dangerous precedent: "There are many spots in the world with active problems of separatism, thus sovereignization of Kosovo, bypassing Belgrade, stimulates this separatism" (Botsan-Kharchenko, 2007)

During the talks, the parties were unable to reach a consensus; therefore it was suggested to decline fulfillment of the statuses originally put forward by the UN (statuses about conditions for granting Kosovo sovereignty). However it was decided to proceed to post-status issues, which implied the relationship of two independent states: Kosovo and Serbia.

The Russian side of the negotiation process realized that international organizations and NATO in resolving the Kosovo problem were following the path of resolving the Yugoslav conflict of the 1990s: decisions were incomplete, time frames were set (which the members of the Mission needed to adhere to), haste to make decisions, etc. Russia sought to find a balanced, deliberate solution to this problem that would suit both parties. The Russian side put forward the following requirements for the negotiation process: do not use double standards; decisions should be made on the basis of international law, prevent unilateral proclamation of the sovereignty of Kosovo, comply with UN Security Council Resolution No. 1244, etc. (Guzikova, 2015).

However, despite the lack of bilateral agreements, on February 17, 2008, Kosovo declared independence. The Declaration of Independence of Kosovo in February 17, 2008 states that "international law, the democratically elected leaders of our people, hereby declare Kosovo an independent and sovereign state. This declaration reflects the will of our people and is in full compliance with the recommendations of the UN Special Envoy Marti Ahtisaari and his comprehensive proposal to resolve the issue of the status of Kosovo" (Anufrieva et al., 2011: 317).

In its resolution of February 18, 2008, Serbia refused to recognize the independence of Kosovo (Anufrieva et al., 2011: 320).

On the same day, February 18, 2008, the EU conveyed its decision on the deployment of the Law Enforcement Mission in Kosovo to the UN Security Council and the appointment of the EU Special Representative for Kosovo. The UN Security Council approved the decision of the EU representative, although the Security Council, according to the mandate, did not have the legal ability to do so (Guzikova, 2015).

On December 9, 2008, the EU's Law and Law Enforcement Mission in Kosovo began its work. The purpose of the mission was to assist Kosovo Albanians in the creation of all state institutions that would meet European standards and international legal norms. Serbia was opposed to the deployment of the Mission's activities in Kosovo, which would mean agreement with the independence of Kosovo. However, UN Secretary-General Ban Ki-moon approved the deployment of the EU Mission in Kosovo. He stated: "I suppose that such an expansion of the role of the EU will be in the interests of the UN and the international community" (Anufrieva et al., 2011:19).

The Serbian side, in turn, appealed to the UN General Assembly with a view to assessing the actions of the Kosovo authorities. Serbian President Boris Tadić in his address spoke of the decision to appeal to the International Court of Justice to give a legal assessment of the actions of the Kosovo side (Anufrieva et al., 2011:445).

On October 8, 2008, the UN General Assembly appealed to the International Court of Justice on the conclusion on the legality of recognizing the independence of Kosovo. On July 22, 2010, the International Court of Justice issued a positive decision on the conformity of the declaration of independence of Kosovo with the norms of international law, causing negative reactions by the world community (Guzikova, 2015).

The advisory opinion of the International Court of Justice on July 2, 2010 recognized the illegitimacy of the proclamation of independence of Kosovo. The International Court of Justice decided that the proclamation of independence of Kosovo is a violation of international law and the UN Security Council Resolution. At the same time, the Court came to the opposite conclusion that UN Security Council Resolution No. 1244 is not an obstacle to Kosovo's withdrawal from Yugoslavia. The court emphasized that the UN Security Council Resolutions are the documents that created the conditions for the declaration of independence of Kosovo and its withdrawal from Yugoslavia (Guzikova, 2015).

According to the norms of international law, the decree of the International Court of Justice is not necessarily enforceable, but it creates a precedent. Vice-President of the International Court of Justice P. Tomka stated that the court should not have issued a conclusion to the UN General Assembly on an issue that falls within the competence of the UN Security Council. The final solution of the issue related to the status of Kosovo should have been settled by decision of the UN Security Council or by agreement between the parties. The solution of this issue is not within the competence of the International Court of Justice (Guzikova, 2015).

The International Court of Justice issued the following conclusion: "the adoption of the Declaration of Independence of Kosovo is a violation of international law and UN Resolution 1244". However, he further confirms the creation of a sovereign state: "the independence of Kosovo is a reality. The Serbian Government has to decide how it will accept this reality" (Advisory Opinion, 2010).

The obscure conclusion of the International Court further complicated the solution of the problem: the Kosovo side hoped that the conclusion of the court would allow it to join the EU as an equal member, and the Serbian side insisted on a court decision on the unlawful secession of Kosovo from Serbia. It was obvious that the decision of the International Court of Justice was biased and served as a pretext for the proclamation of independence of Kosovo and its recognition by UN member states.

On February 17, 2008, the Kosovo parliament announced the creation of an independent state. At the same time, negotiations on the status of Kosovo with the Serbian side were held. The Kosovo side was completely satisfied with the plan of M. Ahtisaari, which referred to the proposed independence of Kosovo (Declaration of independence, 2008).

Kosovo's secession from Serbia was a gross violation of the principle of territorial integrity enshrined in paragraph 4 of Art. 2 of the UN Charter; the paragraph states that "all UN members in their international relations refrain from the threat or use of force against the territorial integrity or political independence of any state, or in any other way incompatible with the UN goals" (UN Charter, 1945).

The principle of territorial integrity is also assigned in the UN Charter, as well as in the 1970 Declaration of Principles of International Law, which states that "nothing should be interpreted as authorizing or encouraging any action that would lead to the dismemberment or partial or complete violation of territorial integrity or the political unity of sovereign and an independent state, which observe in its actions the principle of equality and self-determination of peoples" (Deklaraziya, 1970).

The OSCE's Final Act of 1975 also enshrines the principle of inviolability of borders, according to which "participating States treat each other as inviolable, which means recognition of existing borders as legally established in accordance with international law " (OSCE, 1975).

The UN contributed to the secession of Kosovo through the adoption of four resolutions: Number 1160, 1199, 1203 and 1244, which made significant contributions to its secession from Serbia. Thus, the preamble to UN Resolution No. 1199[85] states: "Reaffirming the goals of Resolution No. 1160, in which the Council expressed support for a peaceful settlement of the Kosovo problem, which would provide for an enhanced status for Kosovo, a significantly greater degree of autonomy and real self-government ..." (Anufrieva et al., 2011:329).

Similar wording is also found in UN Resolution No. 1203. Even more, resolution No. 1244 explicitly states that "the UN Security Council reaffirms its commitment to the call contained in previous resolutions regarding substantial autonomy and real self-government for Kosovo "(ILC, 2009).

In this UN resolution, the main principle of resolving the problem related to secession of Kosovo was "the political process aimed at concluding a temporary political framework agreement providing for a considerable degree of self-government for Kosovo".

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[85] See the document http://unscr.com/en/resolutions/doc/1199

Thus, Kosovo gained independence from Serbia, regardless of the fact that military actions, genocide and ethnic cleansing took place on its territory (Abashidze, 2007:83).

Following the decision of the International Court of Justice, the sovereignty of Kosovo was recognized by many UN member states. By July 2010, 69 UN member states recognized the independence of Kosovo (ICJ, 2010). To date, 114 UN member states have recognized the Republic of Kosovo.

However, the proclamation of independence of Kosovo creates a dangerous precedent in international law. According to A.S.Stroev, the self-proclamation of Kosovo creates a precedent for the emergence of the norms of a granting model of independence depending on the decisions of the world powers (OSCE, 1975:14)

In 2008, when Kosovo gained independence, the Swiss periodical *Tribune de Genève*[86] described Kosovo as a "wrong zone" with a paralyzed system of justice, with customs dominated society, with drug trafficking, human trafficking and numerous other crimes." At the same time, "the justice system does not work."

It should be noted that Kosovo remains one of the poorest EU countries. The NATO military operation, the lack of a balanced economic policy and lack of access to external finance, as well as high unemployment, aggravated the already disastrous state of economy and the social sphere of Kosovo (Candel, 2008:96).

The UN and the EU played a major role in recognizing Kosovo, which was under international protectorate, according to UN Security Council Resolution 1244. Being under international protectorate was the main factor in the recognition of Kosovo by the majority of EU member states and the United States of America.

The EU and NATO also played a significant role in the recognition of this region. The support of the member states of these international and regional organizations enabled Kosovo to gain recognition from 50 states in a short time.

The Advisory Opinion of the International Court of Justice on the Compliance of the Declaration of Independence of Kosovo with International Law is also important for the practice of international legal recognition. Thanks to ICJ, not only problems related to the lack of codification of international legal recognition were revealed, but also those problems that relate to the interpretation of such important principles of international law as the right of peoples to self-determination and the principle of territorial integrity of states.

[86] The full article available at: https://www.tdg.ch/actu/suisse/2008/02/26/kosovo-independant-vie-vie/

At the same time, the International Court of Justice did not answer the questions related to the problem of international legal recognition of Kosovo. The legality of the unilateral separation of Kosovo from Serbia has not been determined. In addition, the fact of recognition of Kosovo by other states was not evaluated.

Based on the above facts, it can be concluded that international legal recognition of Kosovo was a classic example of the influence of the geopolitical factor on the recognition of states. The international legal recognition of Kosovo by most EU countries is contrary to the principles of international law and is determined only by political expediency.

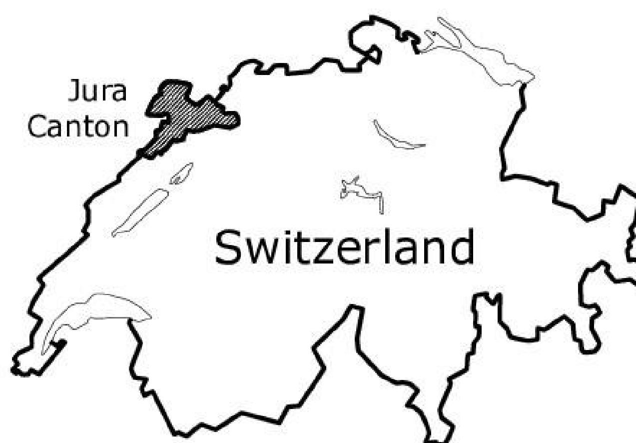
Today the problem of the relationship between the Serbs and Albanians no longer exists. The urgent problems that the EU and the world community are reluctant to solve come to the fore. Currently, human trafficking, drug trafficking and arms trafficking are flourishing in Kosovo. And this all happens against the backdrop of poverty and unemployment.

Chapter 3. ***Secession attempts and issues of recognition***

In this chapter by the number of examples I want to prove that the peaceful suppression of separation attempts is possible. Among examples are such territories as Canton Jura in Switzerland, South Tyrol in Italy, Catalonia in Spain, Scotland and Northern Ireland in the United Kingdom.

3.1 Canton of Jura (Switzerland)

The canton of Jura is one of the 26 cantons of the Swiss Confederation and is an independent sovereign state within Switzerland. Its official name is "Republic and Canton of Jura" ("République et Canton du Jura") (Federal Statistical Office, 2019).



The canton is located in the north-west of Switzerland, in the west and in the north it borders with France, in the south with the Swiss cantons of Neuchâtel and Bern, in the east with the cantons of Solothurn and Basel-Land. In all, a little more than 69 thousand people live in the canton of Jura on an area of 838 square kilometers. The official language is French, but there is also a German-speaking community - Edersvider. The dominant denomination is Catholicism (Guyon-Benoite, 1994:2).

The capital of the canton is the small city of Delémont (in German - Delsberg) with a population of hardly 11 thousand people.

Another city of the canton - Senlegle - is considered the capital of the historical region of the canton Jura Franche-Montagne.

Jura has a well-developed infrastructure for recreation activities and traveling (Guyon-Benoite, 1994:4).

In 1990, the territory covered by the Jura Workers' Community, which constitutes the majority of the mountainous Jura region, had 3 million inhabitants, 60% of whom lived in Switzerland and 40% in France. The region consists of the whole region of Franche-Comte and the four Swiss cantons of Bern, Vaud, Neuchâtel and Jura. The mountainous part (the Jura range)

has only 550,000 inhabitants (45% of whom are on the Swiss side), with a density of 56 inhabitants / km2, which is much higher on the Swiss side (88 inches / km2 as compared to 43 inches / km2 on the French side) (Federal Statistical Office, 2019).

The Swiss Jura has higher level of urbanization and its peripheral municipalities are larger, they are relatively close to each other, while the cities on the French side are smaller and farther from each other. Mountain municipalities are small: 40% of residents live in cities with a population of less than 1,000; More than 5,000 people live in 13 cities.

At the beginning of the last century, 530,000 people lived in the Jura arc, that is, compared with the beginning of the present century, since 1990, the population was almost 550,000. The Swiss part has got about 13,000 since 1990, and the French one - 5,000. Before World War II, population losses in the Jura were noticeably more on the French side than on the Swiss side. Since 1945, a constant growth has been observed in French, right up to the present. In Switzerland, growth ceased between 1970 and 1980. However, since 1980, the population grew again, and in Switzerland at a higher rate than in France (Federal Statistical Office, 2019).

Both French and Swiss pyramids for highlands show a population that is younger than the national average.

3.1.1 Economy

From the point of view of economic and financial development, the canton of Jura is one of the most underdeveloped cantons; there are historical backgrounds for it. If we take the average level of economic development of the Swiss cantons as 100%, then the Jura is at around 30% (Federal Statistical Office, 2019).

At the same time a feature of this densely populated mountain region is its economic activity, the industry of which is a very important part. In both France and Switzerland, industry was largely traditional, since the economic structure of the region consisted mainly of specialized small and medium-sized enterprises.

In the whole area covered by the working community of the Jura, 34% of the working-age population is employed in industry - this percentage is higher than the national average, but in the mountainous part the secondary sector covers almost half of the working population (45%), one third of them are women(Federal Statistical Office, 2019).

In addition to the significance of industry in terms of numbers in the economy, there is substantial specialization in the secondary sector: in the area covered by the Jura Working Community, the first five sectors of the economy in the French classification (out of 22) make up 72% of regional employment in industry, and for the first five The Swiss classification (out of 17) accounts for 81% of industrial employment. Additionally, four of the following businesses

are the same on both sides of the border: foundry and metalworking – metallurgy; mechanical engineering - watch making-jewelry; electrical engineering, electronics and optics; wood and furniture). Consequently, the area covered by the working community of the Jura and, in particular, the region of the Jura, has a very small service sector (Federal Statistical Office, 2019).

These few figures will be enough to clearly indicate the special nature of the Jura mountain range, which arose as a result of historical events on both sides of the border: for example, watch production in France was founded in Franche-Comté during the Reformation in Switzerland and most industries are interconnected, at least through subcontracting. They are also indirectly linked by a cross-border element, as qualified French workers are employed by Swiss firms.

This border element has around 12,000 daily workers crossing the border. The numbers grew very rapidly during the 80s (a growth of 250% between 1984 and 1989), reaching almost 16,000 in 1989. This applies mainly to the industrial sector (60%), and the labor force consists mainly of white and blue collar workers. Conversely, many Swiss families cross the border when they go shopping (mostly food) because of - for them - the favorable exchange rate (Federal Statistical Office, 2019).

Naturally, there is a significant development of agriculture with the participation of 7.5% of the able-bodied population and 12,700 farms in the mountainous part. Dairy farming is a major occupation, with more than 200,000 dairy cattle and more than 80% of the agricultural land used for grazing. Farming has helped to create the typical landscape of chocolate boxes for which the highlands are so famous and which provide additional tourist attraction. On the French side, the fact that rural areas are "closed" may well put an end to the alternation of pastures and forests, which are typical of the Jura - in some municipalities over 70% are forested. Swiss farmers are already expressing their fears in response to the likely economic development (Federal Statistical Office, 2019).

Since 80s of the previous century tourism has become an independent economic sector, first because of the opportunities for skiing and cross-country skiing, and then because of summer outdoor activities (water sports, mountain hiking and mountain-bike tracks, etc.) There are many large resorts throughout the region, and all villages have some connection with this sector. For some villagers, this may be the main activity, and for others, such as farmers, shopkeepers, artisans, etc., is an additional source of income. Tourism has largely been a winter occupation, but over time a great variety of summer time leisure activities appeared, and tourism is firmly rooted in the typical landscapes of the Jura (Petrov, 2005).

3.1.2 Political system

Canton Jura is a parliamentary republic; the parliament (legislative power) consists of 60 deputies. The people have the right to directly participate in the legislative process - all changes to the Constitution are subject to approval in a mandatory referendum; to hold a plebiscite on amending a law, it is enough to collect two thousand signatures or votes from eight communities.

The government (executive branch) consists of five people, the judiciary is personified by the cantonal and constitutional courts, and the canton is divided into three judicial districts. At the federal level, the canton is represented by four deputies in two chambers of the federal parliament - two each in the National Council and the Council of cantons (Petrov, 2005).

3.1.3 History

Jura is the youngest canton of Switzerland; it became a part of Switzerland only in 1979. At the same time, the historical region on which the canton was formed has a long and diverse history. In the XIV century, as a result of the so-called "Burgundian Wars[87]," this traditionally French-speaking area becomes a "subordinate territory" (actually a colony) of the powerful German-speaking canton of Bern, which in this period sought to expand its territory through expansion to the west and south of present-day Switzerland.

In the epoch of the Reformation (XVI century) the canton of Bern turns into Protestantism, which was met with a negative reaction from the Catholics of the Jura. Thus, the potential for the conflict was installed, which led to the formation of independent canton in the twentieth century.

During the period of its existence in Switzerland, the so-called "Helvetic Republic"[88] (1798–1803), created under the influence of Napoleon, of which the Jura region was a part and for several years the region was living in a social framework determined by the liberal and progressive provisions of the "Napoleonic Code [89]" (Gasser, 2004:29).

Post-Napoleonic restoration in Switzerland led to the restoration in the Confederation of the socio-political conditions of the pre-revolutionary "Old regime". In this situation, the decision taken on March 20, 1815 by the Congress of Vienna to transfer the Jura region to the

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[87] The Burgundian Wars (1474-1477) - a series of military conflicts between the Duchy of Burgundy, on the one hand, and France and the Swiss alliance, on the other (Burgunderkriege, 2011).

[88] The Helvetic Republic is a state that existed for five years (from 1798 to 1803) on the territory of modern Switzerland. Its creation was an early attempt to establish a central authority over Switzerland (Водовозов, 1907:22).

[89] the fundamental legislative act of France, which is in a nutshell large-scale codification of civil law, it gave a powerful impetus to the subsequent codification process in many countries of the world.

canton of Bern led to a further strengthening of the conflict potential in this region of Switzerland.

1830 was a year of radical political change throughout Europe. The formation of Belgium was the first sign of a pan-European tendency to strengthen the modern national liberal state. Changes affected the region of Jura. "In the history of the liberal national movement in Switzerland, the Bern Jura, especially its northern Catholic part, occupies the most honorable place," affirms the Basel historian Adolf Gasser (Gasser, 2004:132).

The leader of the Jura liberalism in the XIX century was Xavier Stockmar [90] from Porrentruy. As early as 1826, together with his two closest friends, he swore on the ruins of the Alsatian castle Mormont to free Jura from "Berne tyranny".

Later, Xavier found allies among German-speaking Bernians, after this Stockmar moved to more moderate position, speaking now simply for the autonomy of the Jura within the canton of Bern.

Afterwards, in January 1831, the Bern patriciate was removed from power by the national liberal movement, the new government in Bern managed to dissuade Stockmar from the idea of Jura autonomy. At the same time, French became the second official language of the canton of Bern, so that at this stage the problem of Jura separatism was removed (or at least postponed for some time).

However, after the modern liberal federal state was created in Switzerland in 1848, separatist potential again began to accumulate in the Catholic regions of Berne's Jura. This process was fueled by anti-Church, following the example of Bismarck's Germany (which served as the policy of the new national leadership of the country (Gasser, 2004:145).

3.1.4 Exacerbation in political life

In the era of two world wars, in which Switzerland for various reasons did not participate, and in the post-war period, the relations between the two main cultural and linguistic areas of the country were, at first glance free of problems. The military horrors have convinced both the "Germans" and the "French" of Switzerland that against the background of the war their discords were trifles.

On September 20, 1947, the separatist political organization "Assembly of the Jura" *("Rassemblement jurassien")* arose in the Jura region in order to create an independent and

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[90] Xavier Stockmar (1797-1864) was a Jura patriot and a liberal Swiss politician. He was a member of the Bern government council, and then the National Council.

sovereign canton. However, in the 40-50s of twentieth century the country lived in conditions of economic growth and welfare, therefore political and cultural differences remained in the background.

In the 1960s the struggle for the independence of the Jura region increased significantly. The struggle was led by so called "miniature" terrorists, who were in fact the "military wing" of the "Assembly of the Jura"; they called themselves "Front of liberation of the Jura"[91] *("Front de liberation du Jura" – "FLJ")* (Petrov, 2005).

A number of small provocations were undertaken by the representatives of this movement. That is, in January 1967, activists of the "Assembly of the Jura" entered the New Year's diplomatic reception in the Bern Federal Palace and opened a banner with the words "Free Jura".

Exploring the phenomenon of "separatism of the Jura", not only internal features of the Swiss history (which have already been mentioned) should be taken into account. The 60s of twentieth century were generally marked by a surge of secession sentiments and sympathies enjoyed by the "liberation" movements in the third world countries[92] (Petrov, 2005).

3.1.5 Referendum

On March 1, 1970 a referendum was organized. The only question was raised; it concerned the consent of the citizens of the canton with the prospect of secession of seven Catholic and French-speaking communities and further creation of a new canton based on them. On the referendum the majority voted in favor of this perspective and agreed with the granting to the "Jura district" the right to self-determination.

At the referendum of June 23, 1974, held in seven communities of the "Jura district", the majority of citizens came out for the creation of a new canton ("for" - 36 802 votes "against" - 34 057 votes) (Federal Statistical Office, 1980).

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[91] The references to the then-worldwide known "Front for the National Liberation of Algeria" (the Algerian war that Paris had unsuccessfully waged had just ended).

[92] Intellectuals were delighted with the "deeds" of Mao and Ho Chi Minh and went to anti-American demonstrations under their portraits. There was nothing surprising in the fact that the problem of national minorities and their struggle for "liberation" also acquired a special significance in Europe (Gasser, 2004:57). To this should be added the inception, with the support of France, of the world "francophone" movement, which put the defense of the French language and culture at the forefront. The "start signal" to this movement was given by General de Gaulle's famous visit to Canada, during which he unexpectedly proclaimed the slogan "Long live free Quebec!" (Gasser, 2004:62)Under Georges Pompidou, the international "francophone" movement became in fact the leading organization, which included representatives of the French-speaking areas that fought in Europe and America for the broader autonomy rights (French-speaking Quebec in Canada, the Belgian Wallonia, the Italian region of Aosta and the Bernese Jura) (Gasser, 2004:71).

At the next referendum held in seven communities of the district on March 16, 1975, the three southern communities of the Jura region (Courtelari, La Neuville, and Moutiers) were in favor of remaining in the canton of Bern.

In a Swiss-wide referendum on September 24, 1978, the Swiss people agreed to the creation of a new canton of Jura ("for" - 1,309,722 votes, "against" - 281,917 votes), which on January 1, 1979 officially became part of the Swiss Confederation (Federal Statistical Office, 1980).

On March 25, 1994, representatives of the Federal Council (Government of Switzerland), as well as the cantons of Bern and Jura signed the so-called "Agreement on the canton of Jura", which drew a line under the long history of the emergence of the new canton and consolidated the mutual recognition of cantonal borders.

On September 12, 2003, the cantonal "Jura Autonomy Movement" launched an initiative to reunite the "Bern Jura" with the canton Jura, to which the Bern parliament responded with new concessions, in particular, the creation in May 2004 "Council of the Bern Jura region" (Petrov, 2005).

3.1.6 Constitutional patriotism

Of course, the conflict around the Jura region was not an act of direct conflict between the "French" and "German" parts of Switzerland. It was rather a conflict between the Bern state, on one side, and part of the cantonal French-speaking minority, on the other. In addition, it was a conflict within Jura itself, that is, between those who were set up as separatists (the Catholic north of the Jura) and those who chose to remain in the canton of Bern (the protestant south of the region).

It can be assumed that this conflict has its own positive experience (which can serve as a great example for other states). The historical feature of Switzerland is that the national identity was initially formed at the cantonal level within the framework of the liberalization of the cantonal political and constitutional order in the 30–40s of 19th century.

Again, it could be guessed that the Swiss cantonal and then national patriotism from the very beginning was developed in the form of constitutional patriotism[93]. This factor was decisive in the Confederation. If this factor was absent, the conflict around the Bern Jura would have turned into a bloody one.

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[93] At the heart of the concept of constitutional patriotism is the understanding of the simple fact that in modern conditions the national state can no longer be understood as a "natural phenomenon". The romantic notion of the existence of a "natural" nation in the conditions of the beginning of the new millennium ceases to be adequate (Vodovozov, 1907:22).

Concluding, the Swiss citizens realized that the emergence of a new canton would not mean the creation of a "lawless zone". They were confident that the people of the new canton would not be a threat, but, on the contrary, additional support for Switzerland as a whole.

3.2. South Tyrol (Italy)

As we see in South Tyrolean situation the language factor played the most important role. Neither niter economy, nor ethnic factor is primarily once.

3.2.1 Historical Background

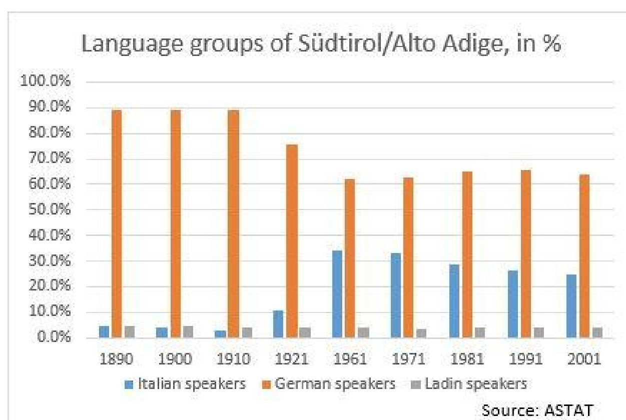
At the end of the First World War, new political conditions emerged in Central Europe. The Danube monarchy, the Austrian cosmopolitan state collapsed, and new borders were shaped.

It also impacted the Tyrol, which was united and belonged to Austria since 1363. Because of the Ceasefire Agreement and the Treaty of Saint-Germain in 1919 between the winning powers of the First World War and the newly established Austrian Republic, South Tyrol became part of the Kingdom of Italy (Maslova, 2015:110).

The entire territory of Tirol was ruled by the Habsburgs and stayed with temporary changes in its political structure within the Hapsburg Empire up until the culmination of the First World War. Due to the 1919 Paris Peace Conference South Tyrol became separated from the rest of Tyrol and happened to be annexed to Italy (at that time 89% of region population spoke German). Although German speakers still constitute the majority (which is 64%) in the modern South Tyrol province, they are a minority in Italy (Maslova, 2015:115).

The capture of power in Italy by Benito Mussolini marked the beginning of the fascist italinisation of the South Tyrol. The Italian language, between 1923 and 1925 became the only approved official language, and all the names of places and fields were assigned to the newly created Italian names.

In the framework of the fascist school reforms in subsequent years, the German language was forbidden in all schools. Because of this the so-called "catacomb schools" started appearing, which were temporary, and then they became secret schools, in which children were taught in their native German language. In 1928, factories and large enterprises began to settle in the Bolzano area. Only Italian-speakers were engaged in these new companies. In just a few years, the population of Bolzano grew from 30,000 to 120,000 due to Italian newcomers (Council of Europe, 1964).



3.2.2The first move toward autonomy

The creation of the South Tyrolean Autonomous Region was the outcome of a long process, which, despite some violent moments, was largely characterized by pacific negotiations (Maslova, 2015:115). In the period between wars in 1922 the fascists Mussolini launched the “March on Bozen / Bolzano” against German-speaking people, and the government initiated an aggressive policy of Italianization of South Tyrol, trying to abolish the demographic and cultural significance of the Germans region. By the end of World War II the first autonomous region in northeastern Italy, Trentino-Alto Adige, was created. However, this autonomous region did not only include the mostly German-speaking South Tyrol, but it also attached the traditionally Italian-speaking region of Trentino to it, with the result that the majority turned to Italian-speakers. This situation was not satisfactory from the point of view of the predominantly German-speaking South Tyroleans, who demanded a new agreement for their region (Alcock, 2001:17).

3.2.3 Austra Intervention

Negotiations on the creation of a new law were largely formed by Austria. The country saw itself as the protector of the German-speaking inhabitants of South Tyrol and promoted the

cause of autonomy, internationalizing the problem. Bruno Kresiki, Austrian Foreign Minister in 1959-1966, drew attention to the question of South Tyrol at the UN General Assembly in 1960[94], where he proposed a resolution calling Italy and Austria to resolve the issue together. At the same time, terrorist acts were committed in South Tyrol by groups such as the Befreiungsausschuss Südtirol (South Tyrol Liberation Committee), which resulted in the death of 21 people and the injury of 57 people in 1950-80 (Maslova, 2015:120). However, these attacks did not lead to a final breakdown of the negotiations between Italy and Austria.

The new, second statute of autonomy of South Tyrol was reached as a result of peaceful diplomatic negotiations in 1972, which defined the institutional framework of the present Provincia Autonoma di Bolzano – Alto Adige/Autonome Provinz Bozen – Südtirol (Alcock, 2001:3). This new statute covers the territory of South Tyrol / Alto Adige and contains two new elements compared to the old statute: the compulsory bilingualism of public administration in the region and the linguistically proportional system in the regional economy. In addition, this new statute was the first to take into account the Lador-speaking community of the region.[95]

3.2.4 Conclusion

The case of South Tyrol proves that the formation of an autonomous region, that efficiently defends the rights of national minorities, is possible without a threat to the territorial integrity of the country. However, the importance of the internationalization of the South Tyrolean problem by Austria and the country's role as a defender of the German-speaking population in South Tyrol played a decisive role in creating a second, more effective statute of autonomy. As mentioned above, the aptitude to create autonomous regions depends on the constitutional order of the countries; hence, it is difficult to compare the position of minorities in different countries. Nevertheless, South Tyrol can serve as a remarkable example of national minorities’ protection in Europe.

The situation with South Tyrol is very similar to the one in Transnistrian, where interests of national minorities were not taken into consideration by Moldovan side. The language factor is very significant in conducing to the separatism in the example of South Tyrol. However, the situation could be different if Transnistria had direct border with Russia.

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[94] Thus, in 1960, the UN General Assembly adopted only a formal resolution on the issue of South Tyrol, completely ignoring the plight of local residents. See: *UN resolution 1960*

[95]The Rito-Romance language spoken in the provinces of South Tyrol, Trentino and Belluno.

3.5. British Separatism

In the UK, major national issues are related to Scotland and Northern Ireland (Ulster).

3.5.1 Scotland

The tensions between England and Scotland have been continuing for more than one century. The development of Scottish nationalism started to manifest itself in the 20s of the last century.

The Scottish National Party (SNP), the present leader of this political movement, was formed in 1934. The program of this right-wing party includes the standards of self-government and (in the future) independence. The Convention of SNP (1976) proclaimed that a separate Scottish parliament is only the first step, and “nothing except independence” will satisfy it (Smyth, 2011).

In July 1978, it was decided to hold a referendum; the main item on the referendum’s agenda was the creation of the Scottish Parliament. According to the polls, at least 40% of the local electorate was supposed to vote “for”, but those who did not appear were automatically considered “against”. The referendum took place in 1979 and brought 32.85% of the total number of voters eligible to vote.

After the referendum was held, the subject of autonomy was not raised in political circles for nearly ten years. By 1990, according to public opinion polls, the idea of independence met 50 percent of supporters. The referendum was held on September 11, 1997; 74% of voters reinforced the idea of creation an independent parliament. 63% voted for giving the parliament right to impact the amount of taxes imposed by London. According to public opinion polls, 52% of Scottish residents were ready to vote in favor of independence, and 41% was in contradiction of (BBC, 2014).

In 1999, the process of gaining autonomy began in Scotland. Scottish First Minister Alex Salmond appointed a referendum on independence for 2014 (however Scotland did not plan to abandon the monarchy, and the British monarch would remain the monarch of Scotland[96]). There was the only simple question on the referendum “Should Scotland be an independent country?”, the voters had a choice between “Yes” or “No”. Public opinion on the issue of independence in Scotland was divided as 55.3% (against independence) and 44.7% respectively (BBC, 2014). Since the majority voted against the independence Scotland remained a part of the UK.

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[96] Now the British queen is also the queen of Australia, New Zealand, Canada, Jamaica and other Commonwealth kingdoms.

But there are opinions [97] that the referendum was falsified. Nevertheless, one thing remains to be precise - separatist tensions in Scotland still exist.

3.5.2 Northern Ireland

The Northern Ireland situation is even more controversial. This was the case in the early modern times. The indigenous people of Northern Ireland (Ulster) are Irish. Then in the 17th and 18th centuries, when the English government was intensively colonizing this region, people from England and Scotland moved here, occupying not only the best lands, but also main posts in economic and political life. The indigenous population fell into the position of tenants and agricultural workers, losing most of their political rights. Such national and social layering is worsened by religious differences. The native Irish population follows Catholicism, while the inhabitants of England and Scotland are supporters of the Anglican and Presbyterian churches. Religious tangle further exacerbates the situation, turning Ulster into a complex screw of religious, national and socio-economic contradictions (Parker, 1972).

Since in 1949 the main part of Ireland finally came out of Britain, becoming no longer a dominion, but an independent state, the main efforts of Irish Catholics were aimed at joining Northern Ireland with the Republic of Ireland. At the same time, the struggle was conducted not only by political methods, but also in the form of armed resistance to the British, which was carried out by a militant group called the Irish Republican Army (IRA)[98] . Terrorist attacks resulted in thousands of people dead, after that the British government was forced to enter its territory in Ulster (Bourke, 2003:118).

Only in 1998 the government managed to reach an agreement with Ulster nationalists; the agreement was concluded in conducting a referendum which took place in Ulster. After the referendum, the direct imperative of London in Ireland, introduced (more than fifteen years ago), was annulled. The government of Northern Ireland was restored as well. In its turn the Republic of Ireland excluded from its main law the articles in which the northern counties were considered an integral part of this country. In other words, autonomy was restored in Ulster. However the disarmament of the IRA militants was not implemented, and the threat of a new worsening of interethnic tensions had not been completely eliminated (Bourke, 2003:114). Nevertheless, the UK managed to preserve its territorial integrity.

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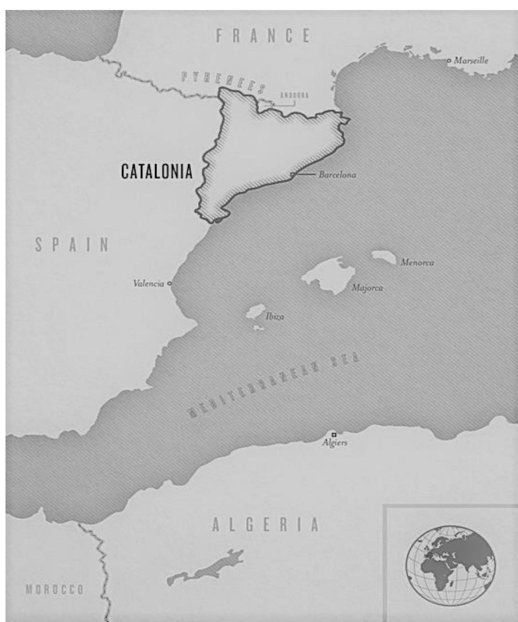
[97] See Kinder (20 September 2014) or Addley (22 September 2014).

[98] Irish militant group, the goal of which is to achieve complete independence of Northern Ireland from the United Kingdom, including - and mainly - the termination of the military occupation of Northern Ireland (part of Ulster) (Bourke, 2003:20).

According to Timothy Snyder separation of Scotland and Northern Ireland would mean for the UK to becoming absolutely opposite country from which it was before (half a century ago), it would become a tiny country (with tiny economy share) and it would not resist then to such a big countries as the USA, China and Russia (Snyder, 2019).

3.4 Catalonia



Catalonia is probably the most vivid example of separation attempt suppression among those I show in my research.

3.4.1 Historical Background
Separatism from Medieval

Catalonia's striving for independence has been growing for ages. From X century until the beginning of XVIII century this region was independent. But in 1714 as a result, after the war for Spanish inheritance, Catalonia was subordinated to Burbons, local authorities were disbanded and Spanish was declared as official language. By the end of XIX century the region became significant again at the expense of economic and cultural upheaval (Ryder, 2007:223).

The victory of fascism in Spanish civil war in 1939 brought to Catalonia new wave of liberties suppression and ban of regional languages. Only after dictator's Franco death in 1975 Catalonia could claim to big independence. The right of self-governance of Spanish autonomous regions (also Catalonia) was registered in Democratic Constitution (1978 year) and Charter of Autonomy (Middleton, 2016:119).

3.4.2 Recent History

In 2006 Catalonia adopted new variant of the Charter of Autonomy, since then deterioration of relations with Madrid started, reaching its peak by October 2017. The new Charter assumes changes in region's financial system and obliges Catalonians to speak local language. In 2010 Spanish Supreme Court recognized new charter as illegal – and conflict between Barcelona and Madrid began getting worse dramatically.

Very recently on the 1st of October 2017, despite of Madrid's official prohibition, independence referendum took place in Catalonia. According to the region authorities the results were as follows: 90% voted for separation, under 42, 3% attendance rate. The question in voting

papers was – “Do you want Catalonia to be independent state with republican form of government?” (Foneska, 2017:34).

As early as referendum itself took place, Madrid declared it as contradictory to the country’s constitution. On the first of October 2017 the police were closing polling stations and taking away voting equipment. Brute force was used toward insurgents. Spanish Prime Minister Mariano Rajoy declared “plebiscite was not real; it was rather a performance”. Catalonia’s government was made responsible for disorders.

10 days after conducting illegal referendum, Catalonian establishment adopts document of region’s independence. “We establish Catalonian republic as independent and sovereign state” said in the document. However, adoption of independence declaration was postponed (Foneska, 2017:34).

3.4.3 The legitimacy of the independence

On the 11th of October Mariano Rajoy presented an ultimatum to the region’s authorities: Catalonia should explain whether it declared independence or not. This is the necessary condition for article 155 to be triggered; this article means deprivation Catalonia of autonomy status.

Catalan parliament (after secret vote on the 27th of October) under central authorities’ pressure proclaimed creation of the independent state. As a response, Spanish government adopted a resolution about regional parliament dissolution; also, direct region’s administration was adopted, according to the article 155 of the Spanish constitution. New election date was announced.

On the 29th of October (2017), according to different data, from 300 thousand to 1 million people came in the streets of Barcelona. The slogan of the demonstration was “Catalonia is everybody of us” (Foneska, 2017:82).

Carles Puigdemont, the head of Catalonian regional administration, committed supporter of region’s independence, declared that Catalonians deserves right for independent state in form of a republic. In the beginning of 2017 local parliament ratified a special law, which opens a way to independence through referendum.

On the 30th of October (2017) Carles Puigdemont, who was deprived of mandate by the Spanish government absconded to Brussels with his companions. In Spain the separatists are accused of revolt, rebellion and misuse of public funds. However, Puigdemont himself claimed, he will not ask for political asylum and will come back to Spain if he is guaranteed fair judicial proceedings (Foneska, 2017:103).

3.5 Comparative analysis of Catalonia with separated LPR and DPR

The purpose of this subchapter is to demonstrate that an economic disaster could happen to Catalonia and the whole Spain, if the first happened to be separated. However, In Spain, smart political strategy was implemented toward separatists region and the territorial integrity was sustained.

* Donbass data in the table is taken before the war (2014)

	Catalonia	Donbass
GDP index	234 651 million euros	54 637 thousand euros
Share in the country's economy	20 per cent	20 per cent
Share in Spanish export	25,6 % or 65,2 billion – Catalonian Share in Spanish export	23-27% or 991,7 million
The population of the region (percentage in respect to the whole population)	7,5 million people (16 per cent out of the whole Spanish population)	6,6 million people (10 per cent out of the whole Ukrainian population)
Area of the region (percentage of the whole country's population)	32 108 square kilometers (6,3 % out of the whole land of the Country)	53 200 square kilometers (8,8 per cent out of the whole land of the Country)
The number of Olympic medalists	1/3 olimpic medalists in Rio Olimpics – Catalonians	1/4 olimpic medalists from Donbass (mostly water sports)
The number of people who are against Catalonia Independence. according to "illegal" referendum	63 per cent are against Catalonia Independence referendum	Donezk region 11 % are against Lugansk region 3.8 % are against

(Estadística oficial de Cataluña, February 2019) (UKRSTAT, February 2014)

The analysis is based on pre-conflict data (territories controlled by the government (TCG) and non-controlled territories (NCTG) in total) until 2015, with some available preliminary data for 2016. After 2014, only TCG data is available. The analysis was carried out in all five eastern regions, but it is clear that the Lugansk and Donetsk regions are the most involved. Therefore,

this research focuses on the TCG of the Luhansk and Donetsk regions, as well as the average for Ukraine for comparison (Analysis, 2017:2).

The analysis shows that the conflict had an impact on the entire territory of Ukraine - especially on the five eastern regions, Lugansk and Donetsk regions suffered the most because of a direct impact (for example, loss of control over the territory, over infrastructure, markets and resources), and indirect impact through negative structural change and poverty.

The analysis also demonstrates that the conflict has affected all levels of socio-economic indicators, including the macro level, the level of enterprises and labor, and the level of households:

- In the period from 2014 to 2016, consumer prices doubled (in 2010 prices), which directly affected the level of "real income" in Donbass, namely: 55% in the government-controlled territory (GCT) of the Donetsk region and 64 % in Lugansk.
- Poverty, according to the actual cost of living (living expenses), increased in the period from 2013 to 2015: the percentage of the population living below the actual subsistence minimum increased from 20% in 2013 to 74% in 2015 at the GCT of the Luhansk region and 22% to 66% at GCT Donetsk region.
- In the period from 2013 to 2016, the unemployment rate among the working-age population at the GCT of the Donetsk region increased to 14.6% (compared with 8.2%) and in Luhansk - to 16.9% (compared to 6.7%) (Analysis, 2017:3).

3.5.1 Pre-conflict situation:

Pre-conflict situation: Pre-conflict conditions of economic growth in the East of Ukraine were favorable, especially in the Luhansk and Donetsk regions. The majority of coal-mining, metallurgical, coke-chemical, chemical, machine-building enterprises, which employed a significant number of highly skilled workers, were concentrated in these areas. Lugansk and Donetsk regions occupy around 9% of the territory of Ukraine before the conflict, they produced 25% of industrial and 8% of Ukraine's agricultural products, and these two regions accounted for 23-27% of Ukraine's total exports (Analysis, 2017:3). The geographical location of stocks of raw materials and markets was also favorable; thus, products, diversified industry, developed transport infrastructure, communications, high population density distinguished Lugansk and Donetsk regions as one of the most economically developed regions of Ukraine.

3.5.2 Post-conflict situation:

At the end of 2014, Lugansk and Donetsk regions were divided into the territory controlled by the government (TCG) and the territory not controlled by the government (TNCG) (Analysis, 2017:3). This had a negative impact on the overall socio-economic situation, complex infrastructure (including power supply and water supply systems), communications and accessibility of visits to these regions, as well as access to social assistance.

In the Donetsk region, in connection with the division, as well as the destruction of the railway network (the reason for the increase in transportation costs) and the energy infrastructure, many enterprises, especially in the heavy industry, were forced to cut, suspend or terminate production processes. Before the conflict, Donetsk Oblast in all major economic indicators occupied a position above the average for Ukraine (for example, gross regional product (GRP), gross value added (GVA), turnover, export / import, investment, household income), while Lugansk Oblast occupied average position in Ukraine. However, by 2015, the TCG of the Donetsk region took a position below the national average for all indicators, while the PPT of the Luhansk region decreased even more and is currently among the poorest regions of Ukraine (Analysis, 2017:6).

3.5.3 Impact on Households

This section contains an analysis of the consequences of conflict at the household level in TCG of the Lugansk and Donetsk regions, as well as the socio-economic status of households, its main social indicators, such as poverty level (subsistence level)[99], incomes, expenses, etc.

Poverty: Conflicts with the “domino effect” (e.g., inflation, lack of fuel / electricity, capacity reduction, nationalization and economic / trade blockade, rising unemployment as a result of the closure of enterprises, etc.) led to an increase in poverty.

Between 2013 and 2015, the percentage of the population living below the actual subsistence minimum increased from 20% in 2013 to 74% in 2015 in the Luhansk region and from 22% to 66% in the Donetsk region, and the average in Ukraine (only TCG) increased from 22% to 58% (UKRSTAT, 2014) .

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[99]The poverty level / depth of poverty indicator is defined as the income deficit of poor households relative to the subsistence minimum. The “subsistence minimum” is enough to satisfy basic needs. This value is the basis for categorizing the “poor” as categories. For this analysis, the value “poverty by actual cost of living” was used - this refers to the percentage of the population living below the actual subsistence minimum (sometimes this value also includes the percentage of the population below the poverty line).

In 2015, in order to reach the level of the actual subsistence minimum (or out of the poverty line), the average population in Ukraine had to increase their income by 27%, while in the Donetsk region, income had to increase by 31%, and in the Luhansk region - 34% to reach the specified level.

Speaking about income, in the pre-conflict period, Donbass region was one of the fastest growing in terms of income compared to the rest of Ukraine. In the period 2010 to 2013, the growth of income in the Donetsk and Lugansk regions amounted to 30%.

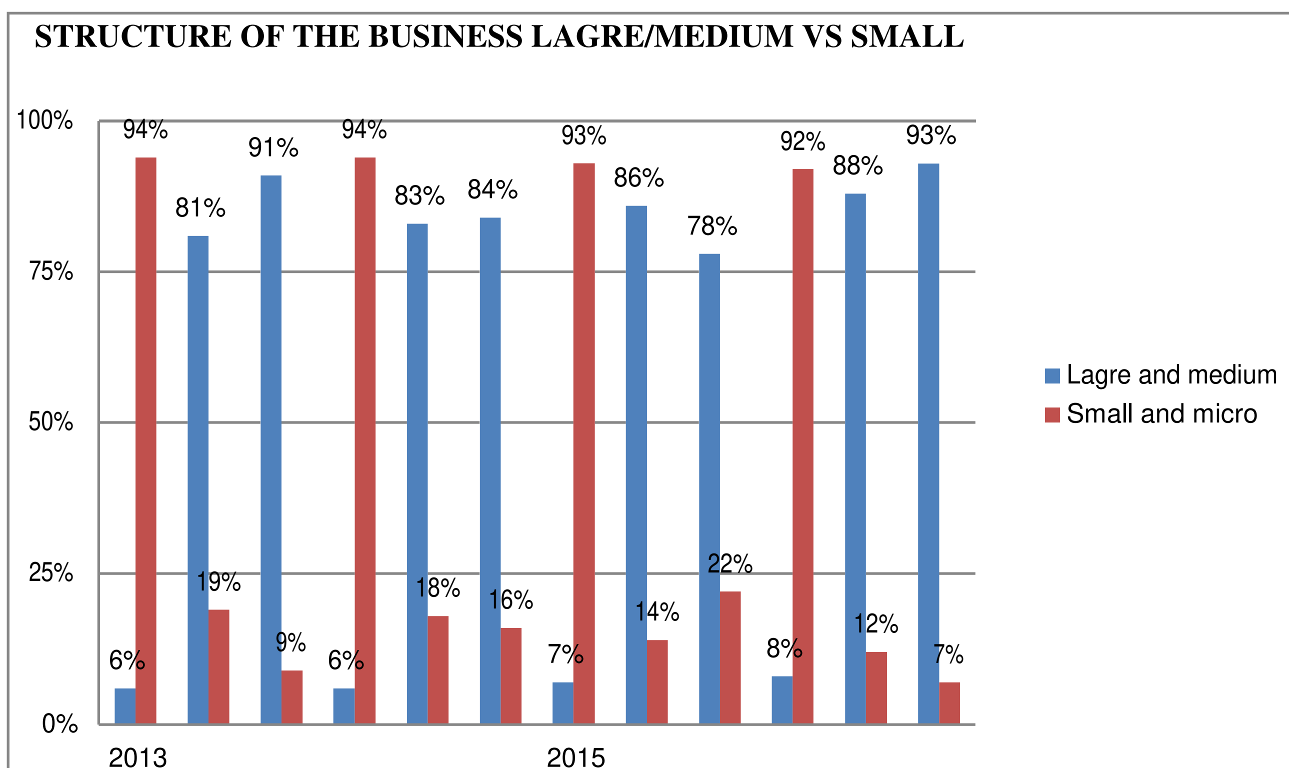
At the same time, the average income in the Donetsk region was 13% higher than the average in Ukraine, and the Luhansk region was approximately equal to the national average (Analysis, 2017:6).

However, in 2015 the situation changed the level of income in the territory of Donbass fell. When compared with the average level of income in Ukraine, the figure for the Donetsk region by 2015 decreased by 12%, while in the Luhansk region it decreased by 18%.

Poverty level increased above national average. In the period from 2014 to 2016, consumer prices doubled in all regions of Ukraine (in 2010 prices), while real income in the Donetsk region decreased by 55% and by 64% in the Luhansk region (UKRSTAT, 2014).

3.5.4 Reduction of Number of Enterprises:

Due to the loss of control of the territory in the Luhansk and Donetsk regions and the closure of many enterprises, the number of large and medium-sized enterprises, in particular, has sharply decreased. Due to the influence of the conflict on the infrastructure (i.e., transport, energy, etc.), many enterprises have reduced, suspended or discontinued their production processes. In particular, this has affected ind



ustry with a significant share of enterprises located in places close to the line of contact with the territories under the control of the Government of Ukraine.

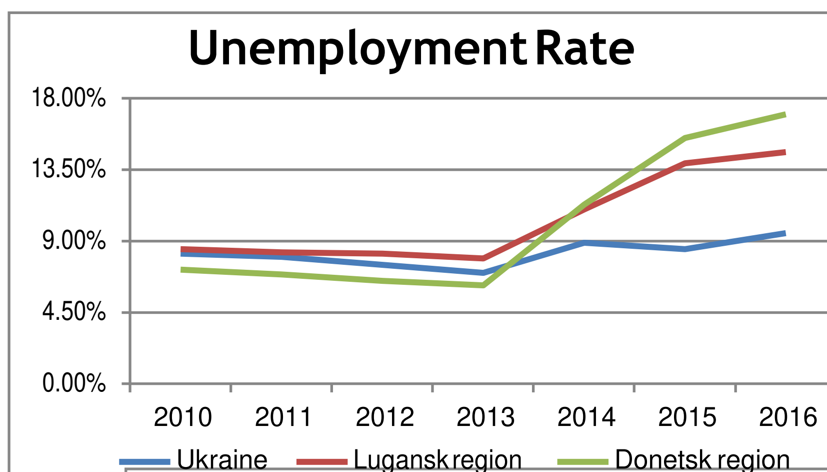
In the period from 2013 to 2015, the Luhansk region lost 70% of the total number of enterprises, while the Donetsk region almost 60%, which was 21% at the level of the whole Ukraine.

After 2013, the business structure remains unchanged from the point of view of large / medium / small and micro enterprises, and their employees, on the other hand. The graph above shows that the economy of Donbass is based on large and medium-sized enterprises, especially after 2014 (Analysis, 2017:11).

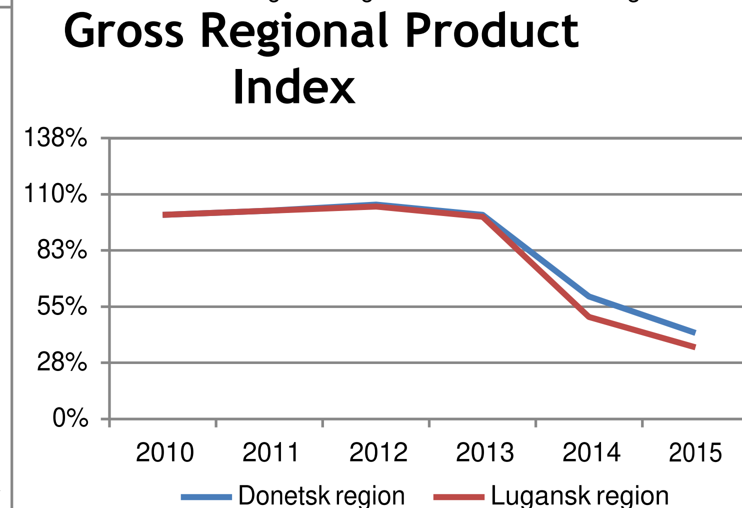
Taking into account the current trend of closure of enterprises and given the recent blockade and its likely impact on large and medium-sized enterprises, it is possible that the unemployment rate in the Luhansk and Donetsk regions will grow even more.

3.5.5 Impact on working force:

In 2015, due to the loss of control of the territories, the number of economically active population at PPT of the Donetsk region decreased by 55% (1 million people), the Luhansk region - by 63% (600,000 people).



In 2016, the highest unemployment rate compared with the rest of Ukraine (9.5%) is observed in Luhansk (14.6%) and Donetsk (16.9%) regions (UKRSTAT, 2014).



In the period from 2013 to 2015, an increase in the level of wage arrears in the Donetsk and Lugansk regions is observed. In May 2013, wage arrears amounted to 217 million UAH in Donetsk and 61 million UAH in the Luhansk regions (despite the fact that it was less populated

than the Donetsk region). In December 2015, the debt increased to 389 million UAH in Donetsk region and up to 516 million in the Luhansk region, while on average in Ukraine it was 80 million UAH (Analysis, 2017:12).

3.5.6 Gross Regional Product

The conflict had a direct negative impact on all macroeconomic indicators.

Between 2013 (before the conflict) and 2015, there was a reduction in the gross regional product (GRP). In the Luhansk region, the physical value of GRP decreased by 70%, and in the Donetsk region - by almost 60% (in 2010 prices).

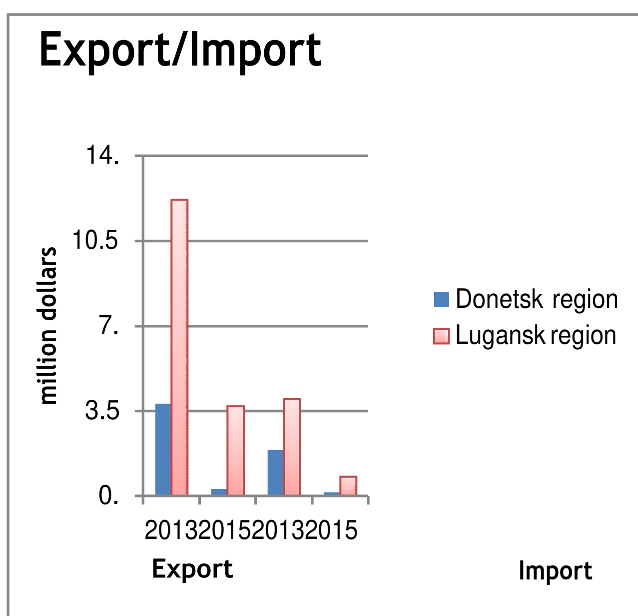
Similarly, the share of gross regional product of Donbass compared with Ukraine's GDP decreased from 14% in 2013 to 7% in 2015 (Analysis, 2017:13).

3.5.7 The deterioration of the situation in the industry:

From 2013 to 2015, the main financial and economic indicators of the industry have deteriorated - while almost all types of economic activity have declined. During this period, the gross value added (GVA) of the mining industry in the Luhansk region decreased by 75% and 48% in the Donetsk region; and the GVA of construction decreased by 56% in the Luhansk region and 51% in the Donetsk region. At the same time, in the period from 2013 to 2015, the total volume of industrial products sold (goods and services) decreased by 21% in the Donetsk region and 68% in the Luhansk region.

3.5.8 Regional export/import:

From 2013 to 2015, in the Donetsk region there was a 72% reduction in exports of goods, whereas in the Luhansk region there was a reduction in exports of goods by 88%. At the same time, regional imports of goods decreased in the Donetsk region by 73%, and in the Luhansk region - by 81% (Analysis, 2017:13).



3.5.9 Key changes in foreign economic activity:

During this period, the geographical structure of imports / exports from two main markets (EU and Russia) in the Luhansk and Donetsk regions

changed. The decline in total exports was caused by a change in the overall structure and direction of exports.

In the period from 2013 to 2015, the geography of Ukraine's foreign economic activity changed in all regions of the country. A number of export and import directions shifted from the CIS countries (primarily Russia) to the EU and other countries, but this reorientation did not compensate for the past volumes of Ukrainian exports / imports (Gurdgiev, 2009:56).

Nevertheless, Russia remains the main partner for all eastern regions of Ukraine, especially for Donbass. This means that the economy may continue to experience a continuing negative trend in the event of further and further escalation of the conflict.

Investments in industry: Most of the total capital investment in the Donetsk region (62% in 2013) has traditionally been transferred to industry, 70% of which was allocated to the mining, quarrying and processing industries. However, more and more often the risk (real and perceived) associated with engaging a business in conflict areas affects the level of investment. As a result, in 2013-2015, capital investments decreased by 70% in the Donetsk region and by 82% in the Luhansk region. In the context of the ongoing conflict, this trend is unlikely to end in terms of increasing the regional capital investment portfolio (Analysis, 2017:14).

Chapter 4. Ways of improving states recognition institutes

4.1 Relevant recognition problems of contemporary self-claimed states.

There are insoluble contradictions associated with the recognition of states in modern international legal theory. Despite the different ways of the emergence of new states, almost all of them face the same problem - non-recognition and related to it impossibility of being full-fledged subjects of international relations while exercising their rights.

There is a list of problems associated with the recognition of states, among which the main ones are: opposition to the principles of territorial integrity and the right of peoples to self-determination, the definition of criteria for statehood and mechanisms for the recognition of states (Todorov, 2005:245).

The main legal principle contributing to the emergence of new states was the right of peoples to self-determination, which arose as a result of the collapse of the colonial system after the Second World War. Initially, this principle was applied exclusively to oppressed colonial peoples who fought for their independence from the metropolis. At present, due to the disintegration of federal states, this principle is applied outside the context of the colonial struggle, and is associated with the struggle of discriminated oppressed peoples who were oppressed as part of multinational or federal states. This principle has been applied in exceptional cases, when a certain nation or nationality within a federation is subjected to extreme discrimination, and the problem can be resolved only by withdrawing from the federation. Also, because of the growth of ethnic conflicts, the number of young unrecognized states that appeared as a result of these conflicts increased (Grant, 2007:148).

The problem of recognition of states is complicated by the fact that there is no specific recognition algorithm, as well as principles and criteria. Each state decides for itself whether to establish relations with other states or not. Other states or international organizations are not permitted to exert any pressure on it.

The solution to the problem of recognizing new states depends not only on the legal component, but also on the political one; since there is a position of world powers that impede the solution of the problem of recognition and view the non-recognition of states as a factor in the geopolitical struggle. This leads to an escalation of military conflicts, ccomplicates life of the population of unrecognized territories and leads to incessant, smoldering conflicts. Therefore,

this problem should be solved on the basis of a combination of political and legal factors (Margiev, 2005:120).

There are no fixed rules that regulate the procedure for the emergence of new states in international law. Some international scientists offer their own solution to the problem. Thus, J. Sharpantier concludes that "there must be a "compatibility" of a new state with the international legal order, due to the absence of rules governing the birth of states." (Sharpantier, 2007:190).

Because of the fact that the institution of recognition has not yet been codified, the possibility of emergence of double standards toward new states arises. The institution of international legal recognition is mainly governed by customs, which are dispositive and therefore not binding.

The absence of codified international legal norms regulating the institution of recognition gives reason to the emergence of international legal conflicts. Young states continue to be in a state of limbo, which does not allow them to defend their rights in international organizations and international courts (Likhachev, 2010:76).

Consequently, it can be concluded that the absence of an international legal framework regarding the recognition of states are means of geopolitical manipulation in the interests of the leading world powers. Based on their political interests, the world powers themselves decide who should be recognized and who should not.

Currently, there are new unrecognized states, as a result of this the codification of the institution of recognition and the normative consolidation of the mechanism of vesting newly created states with legal personality is necessary, which would enable these states to acquire rights and become full-fledged subjects of international law. An increasing number of self-proclaimed republics, not recognized by international community began to appear; V. Baranovsky on this occasion expresses the opinion that "1), the practice of double standards has spread: "one nation, for some reason, is allowed to exercise their right to self-determination, while others are not; 2) existing outside the legal field and legal practices unrecognized quasi-states are almost inevitably-criminalized internally and become a catalyst for contradictions and conflicts between the states involved in these relations; 3) examples of already existing quasi-state entities create a dangerous precedent, inspiring all new applicants for self-determination " (Baranovsky, 2003:35).

According to the theory of international law, the foundations for the emergence of a state are two international legal principles: the principle of equality and self-determination of peoples (UN General Assembly, 1970).

They are widely represented in a number of international regulatory acts. Thus, after the adoption of the UN Charter, the principle of self-determination of peoples was confirmed in

international UN documents: UN General Assembly resolutions No. 545 (VI) (UN General Assembly, 1952), resolution No. 1514 (XV) of December 14, 1960 (Pridnestrovie, 2006) and in the Declaration of Principles of the Final Act OSCE 1975 (OSCE, 1975). These documents enshrine the free and inalienable right of peoples to control their own destiny.

The importance of the principle of self-determination of peoples is enshrined in several UN documents. Thus, UN General Assembly resolution 49/148 proclaims: "The UN General Assembly stresses the importance of the worldwide realization of the rights of peoples to self-determination for the effective guarantee of human rights" (UN General Assembly, 1995).

The principle of self-determination of peoples is most fully revealed in the Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation between States, adopted by Resolution No. 2625 of October 24, 1970: the establishing of any other status freely determined by the people are forms of the exercise by this people of the right to self-determination" (UN General Assembly, 1970).

The Declaration also states that "every state is obliged to refrain from any violent actions that could prevent the peoples from exercising their right to self-determination". The Declaration states that "nothing in the above paragraphs should not be interpreted as authorizing or encouraging any actions that would lead to the dismemberment or partial or complete violation of the territorial integrity or political unity of sovereign and independent states that respect the principle of equality and self-determination in their actions peoples, that is, the signatories of the Declaration, oppose the use of any actions that violate the territorial integrity and political unity of states.

The Helsinki Final Act of the 1975 Conference on Security and Cooperation in Europe approved the Declaration of Principles that should guide the States Parties to the Conference (OSCE, 1975).

It states that, in accordance with the principle of equality and the right of peoples to dispose of their destiny, "all peoples always have the right, in complete freedom, to determine when and how they desire their internal and external political status without external interference and exercise their discretion, economic, social and cultural development "(OSCE, 1975).

In an advisory opinion on Western Sahara, the International Court of Justice, referring to the well-known resolution of the UN General Assembly 1514 (XV), affirmed that "the exercise of the right to self-determination can be carried out only with the free will of the people concerned"(ICJ, 1975).

The International Court of Justice stressed that the resolution 2625 (XXV) of the UN General Assembly "reiterates the need to take into account the will of the peoples concerned" (ICJ, 1975:32-33).

The above international documents proceed from the inalienability and non-repayment of the right of peoples to self-determination. Thus, international law recognizes the possibility of self-determination through the formation of a separate state, but, as practice shows, this rule applied to former colonial-dependent peoples and only as territorial, not ethnic communities. The question of secession in the self-determination of states (secession) in international law is not developed and is recognized by the international community only if it is carried out on the basis of mutual consent. The difficulty in the practical implementation of the principle of self-determination lies in the fact that there are no formal criteria for its application (Lukashuk, 2005:360).

In the modern world, unfortunately, decisions regarding the self-determination of peoples are made by international organizations, depending on the political will of the major world powers, such as the United States, Great Britain, and the EU member states, which, through their participation in international organizations, decide the fate of entire nations.

At the same time, it is necessary to remember that many of the world's greatest powers began their existence as self-proclaimed states, including the United States. Thus, in 1776, the 13 British colonies of North America adopted the Declaration of Independence, in this way they “self-proclaimed” the republic, and then, by armed means, forced their metropole, Britain, to recognize their independence (Grant, 2007:135). Therefore, de facto US recognition preceded its de jure recognition. Almost all South American states, which in the 1920s were self-proclaimed in XIX century declared independence and in militarily way forced Spain to recognize them as sovereign states (Feldman, 1975:23). In Europe, Belgium and the Netherlands are self-proclaimed. Algeria also declared its independence and, after the war of liberation, forced France to recognize it as independent state (Alexandrova, 2009:20). So, the fact of self-proclamation is not something unique in world history and international law.

In accordance with the provisions of international law, historical, ethnographic, and economic grounds are usually advanced, and the will of the population in the disputed territories is also taken into account through a referendum. However, as international legal practice shows, this is not enough for a state to acquire recognition. A new state can be recognized as a sovereign *de facto*, only when its sovereignty is recognized by most countries. At the same time, it is not indicated nowhere how many states should recognize a new state formation in order for it to acquire complete international legal personality (Kolstø, 2006:723).

At present, however, it is difficult to find another rule of international law that would be violated as often as the right of peoples to self-determination. At certain periods of history, attempts were made to justify an expansionist policy, to deny the right of the peoples of the

occupied regions to self-determination under the pretext that this could violate the unity and territorial integrity of the state (Lynch, 2002:839).

There are many examples of the colonial powers which put forward such slogans as “Algeria is France”, “Goa is Portugal”, declared the enslaved countries as parts of the metropolitan territory, argued that the self-determination of the peoples of the forcibly retained colonies threatened the territorial integrity of the multinational colonial states and the inviolability of their state borders. The same is the case today.

Thus, in paragraph 2 of Art. 1 of the UN Charter, which deals with equality and self-determination, refers not only to "nations", but also "nations" (UN Charter, 1945).

Hence, it was noted that the principle of self-determination is based on the “equality of nations” and not only all nations have this right, but all states as well. Therefore, self-determination is closely related to the principle of the territorial integrity of the state.

The International Covenant on Economic, Social and Cultural Rights, adopted on December 16, 1966 by Resolution No. 2200, states that “all peoples have the right to self-determination” (UN, 1966).

By virtue of this right, they freely establish their political status and freely ensure their economic, social and cultural development ”(Section 1, Article 1) (UN General Assembly, 1970).

By signing the Helsinki Final Act, the participating States committed themselves to respecting “the right of peoples to control their destiny”, confirming that “all peoples always have the right, being in complete freedom, to determine when and how they desire their internal and external political status without interference from outside, and carry out at their discretion their political, economic, social and cultural development” (OSCE, 1975).

The largest world powers have always tried to present this norm of relations between nations as undesirable and “separatism” violating their “legal” world order. However, there is also a legal inaccuracy, because international law does not have a clear definition of this concept, and even more so a norm that would condemn this phenomenon of international life.

The UN General Assembly Resolution No. 545, adopted on February 5, 1952, states that "the violation of the right to self-determination of peoples led to bloodshed and war in the past and is regarded as a constant threat to the world." The UN General Assembly speaks of the need "to properly deal with the political aspirations of all peoples, contributing to this international peace and security, and to develop friendly relations between nations based on the recognition of the principle of equal rights of peoples and their right to self-determination" (UN General Assembly, 1952).

From a political and legal point of view, the right of peoples to self-determination is a prerequisite and a necessary condition for peace and friendly relations between peoples and states. At the same time, according to Barsegov, “the right of nations to self-determination as an imperative norm of international law should be recognized always and in all cases, regardless of under what circumstances and on what grounds the accession of the territory, the people of which raise the question of self-determination” (Barsegov, 1989:56).

At the same time, the “principle of self-determination” in the UN Charter is not fixed as decisive, but as a kind of common wish. Consequently, the idea of implementing the “right of peoples to self-determination” is inherently contrary to the objectives of the charter, which provides for primary, main goals - “to maintain international peace and security” and “to develop friendly relations among nations” (UN Charter, 1945).

The principle of self-determination of peoples is most fully revealed in the Declaration on the Principles of International Law Concerning Friendly Relations and Cooperation between States, adopted by Resolution No. 2625 of October 24, 1970: the establishment of any other status freely determined by the people are forms of the exercise by this people of the right to self-determination” (UN General Assembly, 1970).

The Declaration also states that “every state is obliged to refrain from any violent actions that could prevent the peoples from exercising their right to self-determination”. The Declaration states that “nothing in the above paragraphs should not be interpreted as authorizing or encouraging any actions that would lead to the dismemberment or partial or complete violation of the territorial integrity or political unity of sovereign and independent states that respect the principle of equality and self-determination in their actions peoples, ”i.e. the signatories of the Declaration, oppose the use of any actions that violate the territorial integrity and political unity of the state (UN General Assembly, 1970).

The difficulty in the implementation of the principle of self-determination lies in the fact that there are no formal criteria for its application. The problem of the practical implementation of the principle of self-determination also lies in the fact that the exercise of this right is more likely not in the legal but in the political sphere and its decision is within the competence of the world's greatest powers and their governments, rather than local authorities.

In the modern world, unfortunately, decisions regarding the self-determination of peoples are made not by the peoples themselves, but by the largest states, such as the United States, Great Britain, and the EU member states, who, through their puppet governments, decide the fate of entire nations, as was the case in the colonial era (Ostroukhov, 2010:150).

In modern international practice, self-proclaimed states are outcasts of the world community, with which superpowers and their satellites fight in all possible ways, including an

economic blockade, the introduction of "peacekeeping contingents", etc. However, it must be recalled that many of the world's greatest powers began their existence precisely as self-proclaimed states, including the United States.

Another important principle affecting the possibility of international legal recognition of the state is the principle of the territorial integrity of the state. It also considers the prohibition of its forcible dismemberment or seizure and rejection, since these acts are classified as acts of direct aggression. Each state has the right and duty to protect its territory and its citizens living on it (Marchenko, 1998: 205).

At the same time, the principle of the territorial integrity of a state cannot be opposed to the right of peoples to self-determination. It is necessary to clarify that the UN Charter establishes "territorial inviolability", without meaning the integrity of the territory. In the UN Charter, this concept is not connected with the self-determination of peoples, but with the non-use of force between states. Consequently, in the UN Charter, the substitution of concepts with far-reaching consequences was carried out. Indeed, during the collapse of the USSR, the SFRY, the CSFR, the world powers did not intend to preserve the integrity of these once powerful states. The world community has never sought to maintain the borders of the signatories of the Helsinki Declaration.

The principle of the territorial integrity of a state is also considered as a prohibition of its forcible dismemberment or seizure and rejection, since these acts are classified as acts of direct aggression: “Every state has the right and duty to protect its territory and its citizens living on it” (Marchenko, 1998:96).

According to paragraph 4 of Art. 2 of the UN Charter, “all UN members abstain in their international offenses from the threat or use of force against the territorial integrity or political independence of any state, or in any other way incompatible with the objectives of the UN (UN Charter, 1945).

The Declaration of Principles of International Law of 1970 in paragraph 1 also contains a reference to the principle of territorial integrity. It mainly refers to the “principle that states in their international relations refrain from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the goals of the United Nations” (UN General Assembly, 1970).

By signing the Helsinki Final Act, the participating States committed themselves to respecting “the right of peoples to control their destiny”, confirming that “all peoples always have the right, in complete freedom, to determine when and how they desire their internal and external political status without outside interference, and conduct at their discretion their political, economic, social and cultural development ” (OSCE, 1975).

The most complete consolidation of the principle of territorial integrity was found in the Final Act of the Conference on Security and Co-operation in Europe of 1975, paragraph 4 of which states that “the participating States will respect the territorial integrity of each of the participating States; accordingly, they will refrain from any actions incompatible with the purposes and principles of the Charter of the United Nations, against the territorial integrity, political independence or unity of any participating State and, in particular, from any such actions constituting the use of force or threat of force "(OSCE, 1975).

The CSCE Final Act also states that “the participating States will refrain from turning each other’s territory into a military occupation object or other direct or indirect measures of use of force in violation of international law or into an object of acquisition through such measures or the threat of their implementation (OSCE, 1975).

There is a contradiction between the right to self-determination and territorial integrity in international law. In practice, one of these principles serves as a priority, depending on the political will of the world powers. There is a legal norm that contributes to the resolution of the problem issue in international law. The Declaration of Principles of International Law of 1970 interprets the ratio of the two basic principles of international law as follows: in deciding the priority between the principle of self-determination and the territorial integrity of states, the so-called “precautionary clause” protecting the state from “slipping into separatism” should be applied. Russian scholar of international affairs N.V. Ostroukhov affirms that it is possible to deduce from it three conditions under which the principle of self-determination goes against the principle of the territorial integrity of the state: “1) the state must observe the principle of equal rights and self-determination in its actions, 2) the state must therefore have a government representing all the people living in the territory, 3) at the same time there should not be any discrimination. Only if all these conditions are met, should priority be given to preserving the unity of the state, otherwise it can be called into question ” (Ostroukhov, 2010:158).

It is obvious that the territorial integrity of the state should be based on the voluntary will of each nation that is part of the state, as well as on the right to freely withdraw from the state on the basis of the free will of the people. Therefore, the principle of the right to self-determination of peoples does not contradict the principle of the territorial integrity of the state. The main problem in this matter is the identification of the goodwill of the nations that make up the state through a referendum.

Thus, it can be concluded that the contradictions between these fundamental principles should be resolved by the peoples themselves who inhabit this territory, possibly during a referendum, and not on the basis of political considerations of leading states. After all, it is the people who inhabit a certain territory that must decide their fate and determine which state to

live in. However, no other states or international organizations have the right to influence the decision-making process (Lukashuk, 2005:360).

Some scholars consider that the act of recognition of states has become politically biased and dependent on the will of the recognizing states. So, S.M. Markedonov contends that “after the recognition of Kosovo, on the one hand, and Abkhazia and South Ossetia, on the other, the Yalta-Postddam model of international law finally ceased to exist as a legitimate body of norms, and world politics will now be based on political expediency” (Markedonov, 2005).

This statement is illustrated by political instability and the long non-recognition of such self-proclaimed states as the Republic of Kosovo, the Pridnestrovskaia Moldavskaia Respublika, the Nagorno-Karabakh Republic, the Republic of South Ossetia and Abkhazia, etc. The world powers have their political interests, which prevents them from becoming full-fledged states.

The largest world powers adhere to the concept of building foreign policy from a position of strength. There is political stability and relative security in countries supported by strong states. Unfortunately, this cannot be said about the unrecognized states that are held hostage by the geopolitical games of world powers. The position of unrecognized states is also dangerous by the fact that they are considered as temporary formations and as spheres of influence of world powers, therefore the issue of recognition cannot be viewed only from a legal point of view, it is also necessary to take into account political factors that have a much greater influence on the recognition of new states (Lukashuk, 2005:362).

4.2. Prospects for Soverenization of Self-Claimed (Unrecognized) States

The post-Soviet unrecognized states do not enjoy the support of the West (except, partly, Nagorno-Karabakh, which receives direct state financial aid from the United States) [100]. Therefore, the prospects for their sovereignty in the space of the former USSR are seen in a different range of opportunities than those provided for Kosovo and, for example, Free Kurdistan. Nevertheless, the existing possibilities of legitimizing them as states are significant (Silaeva, 2011:137):

- International legal possibilities, for example, the OSCE-supported memorandum on Transnistria of May 8, 1997, according to which Transnistria is provided with sovereign rights to conduct foreign economic, educational and cultural activities;

[100] Тут можно пояснить каким образом

- The possibilities of being integrated - interregional, communication and economic ties of all parties of the conflict and their neighbors (except for Nagorno-Karabakh, which does not have any inter-regional ties with Azerbaijan);
- Elements of the international legitimization of existing institutions of power of unrecognized states - for example, the OSCE-supported plan for parliamentary elections in Transnistria according to the laws of the Pridnestrovian Moldavian Republic.

Additional factors[101] for the legitimation of unrecognized states as subjects of settlement (regardless of its results) and at the same time factors for expanding the possibilities of this settlement should be:

- Absolute exclusion of NATO from the settlement processes in the post-Soviet space, because the participation of the Alliance will only lead to a new split between the parties and further freeze of a conflict;
- The rejection of the peace enforcement imposed by NATO on the territory of the former Yugoslavia through military, political pressure, economic blockade or "humanitarian intervention", which resulted in the physical destruction of Serbian Krajina and the actual separation of Kosovo.
- Absolute respect of the sovereign rights of citizens of the countries-guarantors in the territory of unrecognized states (about 100 thousand citizens of Russia and 50 thousand citizens of Ukraine in Transnistria, 115 thousand citizens of Russia in Abkhazia, 20 thousand citizens of Russia in South Ossetia). These citizens by their existence not only ensure the international character of the settlement, but also give civilian subjectness to the population of these states;
- Interregional economic integration and preliminary democratization in conflict zones - as a precondition for any settlement.

International relations are developing rapidly: new territorial subjects are emerging, the balance of power is changing, and developing countries claim to be the leaders of the system. The problem of self-proclaimed states holds a special place on the world's agenda. Today, at the peaceful stage of human development, the changes in the structure of world politics are determined by new players in international relations, not by wars and post-war treaties (as it was during the 20th century).At the same time, it should be noted that the emergence of small states,

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[101] In addition, in the conflict zones around Transnistria, Abkhazia, South Ossetia (everywhere with the peacekeeping participation of Russia), Nagorno-Karabakh (with the diplomatic initiative of Russia) the peace existed for more than ten years, and therefore there is no reason for peace enforcement

undoubtedly, reduces the number of possible global changes in international relations[102]. At least, if the self-proclaimed republics can generate serious changes in the system, they, in their consequences, will not be as catastrophic as the damage from the war (Chemruseva, 2007:58).

Today, the political map of the world is diverse. There are a number of countries claiming secession and independence in all regions. However, the number of self-proclaimed and partially recognized countries remains minimal. The paradox is that in one part of the world states are focused on integration, others, on the contrary, on disintegration. Some aspire to intensify cooperation with neighboring countries and turn cooperation from bilateral to multilateral; others pursue a policy of separation from the center to ensure their sovereignty.

In general, secession can be avoided by conducting a competent national policy and respecting the rights of minorities. The problem is that the proclamation of independence is preceded by a national struggle to defend the rights of minorities. Speaking about post-Soviet space, very peculiar thing here is non-observance of minority rights (namely Russians/Russian speaking population). Even in Russia itself, in which more than 100 nationalities live, it is impossible to restrain national sentiments (Chemruseva, 2007:62).

The collapse of the USSR became the starting point of the sovereign parade, when the status of the independent republics was acquired by countries that were historically part of the territory of the Russian empire, as well as those that enjoyed its patronage during the period of Tsarist Russia and support during the Soviet era. Very remarkable example is Abkhazia and South Ossetia these countries defended their independence on the basis of the historical paradigm. With regard to these republics, as well as to others, the following assertion is legitimately correct: a national struggle for upholding the rights of minorities precedes the proclamation of independence. Often this struggle overgrowth into an armed one, which leads to significant human casualties. This is exactly what happened in South Ossetia and Abkhazia, which, after the war with the Georgian authorities, declared their independence (Dzhioev, 2008).

Nowadays situation shows that each specific case of self-proclaimed states is considered distinctly. The problem is that there is no single approach to determining the legitimacy of the declaration of a certain territory. Rather, it is a matter of political sympathy and loyalty to the regime in these countries. Some argue that the inclusion of new actors in world politics is undermining the system, since new states often join one of the blocks of states, which increases its influence due to new actors. At the same time, it cannot be said that tiny states like Nagorno-

[102] В пример можно привести Словению и страны Балтии, мол при Югославии и Советском Союзе была так, а сейчас вот так

Karabkh or Transnistria can play any significant role in the global political field at the moment (Silaeva, 2011:137). However, there are examples of small states that are at a relatively high stage of political and economic development in the world history. An important condition for the prosperity of these republics (Akbkazia, South Ossetia, Transnistria, Nagorno-Karabakh) should be active support not only from Russian [103] side, but also intensification of contacts and increasing cooperation with countries favoring the authorities in these countries.

The main question is: whether recognize new states or not? Which of the principles should be applied in most cases: the right of nations to self-determination or the territorial integrity of states? Since the modern system of international relations is quite stable, countries that were the initiators of its creation are afraid of its erosion due to the increased precedents of self-proclamation of the independence of countries. A significant transformation of the system will become a reality if the process of self-proclamation acquires the character of a domino-like phenomenon. This is especially dangerous if new countries belong to the opposite blocks, which illustrates the example of Abkhazia and South Ossetia (Abkhazia, Transnistria), on the one hand, and Kosovo on the other. If the United States and the EU supported the independence of the former territory of Serbia, then Russia - the regions that were part of Georgia. Such a policy of the countries indicates the absence of a single approach to the problems of the newly proclaimed states (Krylov, 2005:32).

The international community did not come to a compromise on the issue of the independence of the Caucasian republics. At the moment, they are recognized only by 4 countries, which is considerably less than the number of countries that recognized Kosovo. This leads to a logical question: how long will these republics exist without international recognition? If it is assumed that they will remain in isolation, for example, after Russia refuses to allocate money to maintain these republics. Today, the republics are not active enough in domestic and foreign policy to gain support from other countries. Moreover, these republics are in international isolation.

The Russian position on these republics was very clear - after recognizing Kosovo, which Russia did not agree with, recognition of the Caucasian republics was not only an expression of support for traditional neighbors in the region, but also a matter of principle in response to Western politics. Russia initially stated that the separation of Kosovo from Serbia could also cause the separation of other parts of the states which have national issues (Krylov, 2005:157).

[103] Russia provides most of their GDP and allocates substantial financial assistance for their development

4.3 Improving the legal significance of the institution of recognition of states at the present stage of international relations

Currently, there are about 120 unrecognized states. This fact is connected with the unwillingness of world powers to recognize self-proclaimed states. Many unrecognized states have all signs of statehood, but do not receive recognition. This problem leads to smoldering military conflicts and requires its quick resolution.

International scholars in the special literature on this issue have already proposed ways for an international legal resolution. Thus, some of them offered to codify the institution of recognition (John, 1987:22).

After the founding of the United Nations, it was even expressed the opinion that this international organization would deal with the issue of unifying the practice of states in matters of recognition. To solve this problem, it was proposed to create within the UN a special commission to codify issues related to the recognition of new states - the UN International Law Commission, which was established in 1949 and compiled a preliminary list consisting of 14 items selected for codification. The first point was "The recognition of states and governments" (UN, 2009). Unfortunately, the topic has not become a subject of consideration.

The complexity of the codification of the institution of recognition of states is related to the fact that the world powers when deciding on the recognition of a particular state are guided, primarily, by geopolitical motives rather than legal ones (Lukashuk, 2005:383).

At the moment there are more than 120 states that are waiting for recognition. But due to the lack of a legal framework and, most importantly, the desire of the leading states of the world to recognize newly created entities, they cannot become full-value subjects of international relations. The lack of codification of the institution of international recognition hampers the process of giving new states international legal recognition and, as a result, legal personality (Mitina, 2005:10).

Such international legal recognition mechanisms should be developed that would eliminate existing conflicts and ambivalent interpretation of international legal norms and allow new states to become full-fledged states.

As a basis for making an international legal decision on the recognition of a new state, the presence of a statehood factor can be taken as an indicator of the political maturity of a young territorial entity (Todorov, 2005:285).

The Montevideo Convention of 1933 has four signs of the state as a subject of international law: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states (Montevideo, 1933).

Another factor in the possibility of vesting a new state with a legal personality was its suggestion that it should comply with the jus cogens imperative norms of international law, which began to be taken into account from the moment the United States did not recognize Manzhougo in 1931 (Middlebush, 1934:52).

Currently, this practice is confirmed by the Resolution of the UN General Assembly No. 56/83 2001 "Responsibility of the parties for international legal acts" in Art. 41 p. 2: “No state recognizes the situation created as a result of a serious violation within the meaning of Article 40, and does not render assistance or any other aid in maintaining such a situation” (UN General Assembly, 2001).

That is, if a territorial entity meets all the requirements of the Montevideo Convention, but has appeared in violation of the norms of jus cogens, other states do not have the right to recognize its statehood.

In the “Criteria for the recognition of new states in Eastern Europe and on the territory of the Soviet Union”, adopted by the foreign ministers of the “twelve”[104] on December 16, 1991, it was emphasized that the states resulting from aggression will not be recognized (Krylov, 2005:32).

This document also expanded the criteria that should be met by territorial entities that are subject of recognition:

“- compliance with the provisions of the UN Charter and the commitments made under the Helsinki Final Act and the Charter of Paris, especially with regard to the rule of law, democracy and human rights; - guarantees of the rights of ethnic and national groups and minorities in accordance with the commitments made in the framework of the CSCE;

- respect for the inviolability of all borders, which cannot be changed except by peaceful means and with the general consent; - the adoption of all relevant commitments relating to disarmament and non-proliferation of nuclear weapons, as well as security and regional stability;

- the obligation to resolve by agreement, including providing, if necessary, recourse to arbitration, all issues relating to the succession of the state and regional disputes ” (Middlebush, 1934:63).

These criteria should be adopted as the basic principles in the implementation of the commission on the recognition of the legal personality of new states.

The case law relating to the international recognition of states cannot be used as the main source of the law of the institution of recognition, since decisions of international organizations

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[104] Foreign ministers of the twelve allied republics of the USSR

are made under pressure from leading powers because of political reasons, which contradicts the basic principles of international law.

There are precedents for the implementation of recognition with violation of existing international norms. In particular, it concerns the recognition of countries formed during the collapse of the USSR, Yugoslavia and other states (Stroeva, 2011:255).

As for the mechanisms of recognition of states, there are two ways to implement: constitutive, involving the recognition of new states, and declarative, based on the act of proclaiming sovereignty by a new state. The declarative recognition mechanism is important because of emerging of a big number of self-proclaimed states which demand recognition.

To solve this problem, it is proposed to create within the UN a special commission on the recognition of the legal personality of new states that would take a decision based on the fundamental principles of international law (Borgen, 2006:70).

It is necessary to develop international legal norms that would fix the criteria necessary for the recognition of the legal personality of a new state. The effect of these norms must be imperative and, therefore, decisions taken by the commission regarding the legal personality of states must be binding by all authorities.

The recognition of states is an inalienable prerogative of the states themselves and cannot be dictated from the outside. In view of this, the commission to recognize the legal personality of new states should be vested with the authority to recognize the international legal personality of new states, regardless of the position of the leading world powers. This body may be part of the UN or have an independent status, but its decisions must be mandatory (Anufrieva et al., 2011: 120).

In the case when the UN proposes to recognize a state, it issues a convention in which the organisation recommends recognizing the new state. Following the decree of the UN the "parade of recognitions" begins. This recognition mechanism is the implementation of constitutive recognition theory. In the case of the self-proclamation of a new state, it still does not receive full recognition, even if it was recognized by several states. This recognition mechanism originates from the declarative theory of recognition. However, at present this mechanism of recognition of states cannot be practically implemented, since the world community ignores the self-proclaimed states, making them “recluse territories” (Borgen, 2006:82).

A recognition mechanism based on constitutive theory depends on the will of powers which give recognition. A young state is a passive side and cannot in any way affect the result of recognition. In the case of a declarative recognition mechanism, the young state declares its sovereignty and calls on the state to establish diplomatic, cultural, economic and other relations

with it. In this case, the young state shows political will and desire to become a full-value subject of international relations.

With declarative recognition, the state must meet certain requirements of statehood. If the state complies with the signs of statehood, it is considered recognized. At the moment, this recognition mechanism has no practical use.

As a solution to the problem of recognition, it is expedient to use a recognition mechanism based on a declarative theory. It is based on the statehood factor - the compliance of a young state with certain criteria of statehood. As a decision-making body on the compliance of a new state with the criteria of statehood, the UN Commission on the recognition of young states can serve (Pegg, 1998:202).

If the proposed recommendations are practically applied this will allow new states to gain international legal status and legal personality necessary for the implementation of their international rights and obligations, reduce tensions between states, and increase the level of confidence.

4.3.1 A way of resolving Ukrainian Problem

The only official way of resolving conflict in Eastern Ukraine is the "Set of measures for the implementation of the Minsk agreements (or the Second Minsk Agreement)[105] " (Minsk Agreements, 2015). It was agreed on February 11–12, 2015 at the summit in Minsk by the leaders of Germany, France, Ukraine and Russia in the format of the "Norman Four" and signed by the Contact Group on the settlement of the situation in Ukraine, consisting of representatives of Ukraine, Russia, the OSCE and the unrecognized Donetsk and Lugansk republics. Later on, the Minsk agreements were approved by a special resolution of the UN Security Council.

Following the talks in Minsk, which lasted more than eighteen hours, starting from the evening of February 11, the press service of the Ukrainian leader said that "the Tripartite contact group signed a document that was prepared in difficult discussions."(UN, 2019)

"The main thing is that on the night from Saturday to Sunday (from February 14 to February 15) at 00:00 an unconditional cease-fire should be established. Under the conditions when the conflict unfolds in the ATO zone [106] , this is very important for us, "said Petro Poroshenko after the talks in Minsk on February 12, 2015 (Poroshenko, 2015).

[105] See the full text here https://www.newcoldwar.org/text-of-the-minsk-2-ceasefire-agreement/

[106] Anti-Terrorist Operation Zone. It is a part of the territory of Ukraine with a special legal regime as a result of the fighting in the eastern part of Ukraine.

The parties developed and agreed on a set of measures as a mechanism that will allow the implementation of the "Minsk agreements adopted and signed in Minsk on February 12, 2015 by all who signed the Minsk Protocol of September 5, 2014 and the Minsk Memorandum of September 19, 2014," the press service of the President of Ukraine on February 12 (Poroshenko, 2015).

"The leaders remain committed to the vision of a single humanitarian and economic space from the Atlantic to the Pacific, based on full respect of international law and the principles of the OSCE. To this end, they agree to create a control mechanism in the Normandy format, which will be convened on a regular basis, in principle at the level of senior officials of the ministries of foreign affairs, "the Declaration on behalf of the presidents of Russia, Ukraine, France, the German Chancellor reported in support of the Set of Measures to implement the Minsk agreements (OSCE 2015).

Maria Zolkina, a political analyst at the Ilk Kucheriv Foundation for Democratic Initiatives, said that over the past year, the existing Minsk Agreements did not bring anything to the settlement of the situation in Donbass, but finally secured "the status of the basic formula, within which one must look for a way out situations" (Zolkina, 2016).

"Even if the formula of a real compromise and settlement between Ukraine and Russia differs from what is written in the Set of Measures for the Implementation of the Minsk Agreements, it will still be implemented under the sign of the Minsk Agreements. For example, the idea of the international contingent is not yet clear, it goes beyond the boundaries of the Minsk agreements, but all parties Ukraine, Russia and the West as a moderator have joined in the discussion of this idea, " (Zolkina, 2016)

Zolkina regards that periodically appearing plans for resolving the conflict is also an attempt to bring the Minsk agreements out of the "dead end".

"Actually, the current, fourth year of the agreement is not a year of international success on the issue of the" Minsk format ", but this is the year when Ukraine made major institutional changes, applied the format of the Combined Forces Operation instead of the Antiterrorist Operation," says Maria Zolkina (Zolkina, 2016).

At the same time, she notes that relations between Ukraine and the occupied territories should be considered on several levels - political, economic, humanitarian.

"We understand that the occupied territories became closer to Russia because all the levers of economic influence after the interruption of economic relations with Ukraine passed to Moscow. Politically and economically, they are moving away, but at the same time, this does not mean that Ukraine should make concessions to Russia. During the years of the Minsk agreements, it is possible to earn in a modified state with additional mechanisms; they have

already absorbed all possible formats that can be applied and reached agreements, but not by concessions from Ukraine to Russia, or by harming Ukrainian statehood, ” Maria Zolkina (Zolkina, 2016).

According to her, the Ukrainian influence on the occupied territories remains at the humanitarian level, ordinary Ukrainians are ready to maintain social ties on both sides of the distinction.

4.3.2 Position of the USA

The USA is accusing Russia only. For this issue the USA are represented by Kurt Volker[107].

“Four years in a row, Russia continues daily violation of the Minsk agreements”. Such a Twitter post on February 12, 2019, the fourth anniversary of the signing of the Minsk Agreements, was made by Kurt Volker, Special Representative by the US State Department for Ukraine.

“Four years ago, Russia signed the Set of Measures for the Implementation of the Minsk Agreements, the first point of which was the cease-fire from February 14-15, 2015. About a week later, Russia and its followers captured Debaltseve. And after four years, Russia continues to violate the Minsk agreements on a daily basis, ” said Kurt Volker (Volker, 2018).

On the Facebook page of the United States Embassy in Ukraine, it is noted that in the period from 2015 to 2019, Russia has consistently failed to comply with the Minsk agreements. "Russia must stop fueling the humanitarian, economic and environmental crisis created by it, release Ukrainian prisoners, withdraw weapons and troops, and implement an immediate and comprehensive cease-fire" (US Embassy, 2019)

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[107] From July 7, 2017 - Special Representative of the US State Department for Ukraine.

4.3.3 Position of Russia and the OSCE

The Russian president, Vladimir Putin, as one of the guarantees of the implementation of the Minsk Agreements, says[108] following on the issue:

Minsk 2 is the most correct and, to date, the only verified way to solve this problem, and the Normandy four would never have agreed it, if it had not considered it to be right, fair and realizable. For its part, Russia is doing and will do everything that depends on it in order to influence the authorities of the unrecognized, self-proclaimed LPR and DPR. But not everything depends on Russia; our partners both in Europe and in the United States should have a corresponding impact on the Kiev authorities today. Russia does not have such influence as the United States and Europe have, so that the Kiev authorities fulfill everything that was agreed in Minsk.

The key thing is a political settlement. Of course, at the first stage, it is necessary to create conditions for this joint work, it was necessary to stop active hostilities, to withdraw heavy weapons; in general, this is done, there is a shootout, unfortunately, there are still victims, but there are no large-scale hostilities, the parties are split up. We need to start to fulfill the Minsk agreements.(Putin, 2015)

At the same time, in Russia responsibility for non-compliance with the Minsk agreements is laid on the Ukrainian authorities.

“The facts show that the Minsk Agreements stubbornly sabotaged by the current Kiev authorities, which, judging by a number of facts (Hug, 2018)[109], did not refuse to use military force to solve the so-called Donbass problem” (OSCE, 2018)

In addition, Russian Foreign Minister, Sergey Lavrov[110] said. “We also paid attention to Kiev’s flagrant violations of basic rights and freedoms, including linguistic, educational, religious, as well as the extremely dangerous growth of nationalist and purely neo-Nazi sentiments in Ukraine.” Sergei Lavrov pointed to the "futility of the position taken by Brussels regarding the fact that normalization of relations with Russia is possible only after Moscow fulfills the Minsk agreements on a Ukrainian settlement." (Lavrov, 2019)

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[109] See the facts more precisely in the OSCE report from 03.06.2015 Access: https://www.osce.org/ukraine-smm/162216?download=true

[110] Soviet and Russian diplomat and statesman. Minister of Foreign Affairs of the Russian Federation since March 9, 2004. Permanent member of the Security Council of the Russian Federation. Ambassador Extraordinary and Plenipotentiary.

The Special Representative of the OSCE Chairman-in-Office in Ukraine and the Tripartite Contact Group[111], Ambassador Martin Saidik, calls on all parties of the conflict to take targeted measures for the full and comprehensive implementation of the Minsk agreements (Saidik, 2019).

This is stated on his statement on the OSCE website. "Today turned four years of the set of measures for the implementation of the Minsk agreements. This document, along with the Declaration of the "Norman Four" of February 12, 2015, approved by the UN Security Council - in conjunction with the Minsk Protocol and the Minsk Memorandum of September 2014 - is the basis for the ongoing work of the Tripartite Contact Group on finding a peaceful solution to the conflict in Eastern Ukraine, "said Martin Saidik[112]. (Saidik, 2019).

However, opinion of the Ukrainian's opposition resembles the Russian one. The leader of the Ukrainian opposition movement, Viktor Medcechuk, said that the Ukrainian side does not adhere to the Minsk agreements. "The current Ukrainian government is not interested in the implementation of the Minsk agreements, because it does not need the territory of the CADLR[113] and the people living there", (Medvechuk, 2019). The politician added that such statements of the current government on this issue are devoid of content, do not bear any specifics and look like "speculation."

4.3.4 "Myths" and "no alternative" of the Agreements

Maria Kucherenko, an analyst at the Center for Civil Society Studies, considers that the parties cannot refuse the format of negotiations in the Tripartite Working Group because the meetings in the "Minsk format" are busy with "everyday issues" that affect life in the occupied and adjacent to the front territories (Kurchenko, 2019).

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[111] is a group of representatives from Ukraine, the Russian Federation and the Organization for Security and Cooperation in Europe, which was formed as a means to facilitate a diplomatic solution to the war in the Donbass region of Ukraine. The group is made up with: Ukraine: Leonid Kuchma (Representative of the President of Ukraine) (until November 21, 2018); Yevhen Marchuk (from November 21, 2018); OSCE: Heidi Tagliavini; Russia: Mikhail Zurabov (Ambassador of Russia to Ukraine); Unofficially: Viktor Medvedchuk, Nestor Shufrych (until July 8, 2014).

[112] Martin Zaidik - Austrian diplomat, Permanent Representative of Austria to the United Nations from 2012. From June 22, 2015, the Special Representative of the OSCE Chairmanship of the Trilateral Contact Group on the Implementation of the Peace Plan in the East of Ukraine.

[113] The territories of the Donetsk and Luhansk Provinces with a special regime of local self-government are a concept of the administrative division of Ukraine, which brings together a part of the Donetsk Province and another part of the Luhansk Province. The borders of the territories were legally approved on March 17, 2015 on the basis of the line that separates in Ukraine and has been internationally unrecognized from the Federal State of New Russia (People's Republic of Donetsk and Luhansk).

"But in any case, the curse of the word "non-alternative" must be abandoned, says Maria Kucherenko. What does the notion of "non-alternative Minsk agreements" mean? Really, since 2015, nothing has changed so much if it is a war, and every day something changes both at the front and around it. And what to do with it? Of course, Ukraine continues to fulfill its part on security, we are committed to the signed documents, but, nevertheless, we should not bend over the desire of the Kremlin, which is picked up by European organizations and the current Ukrainian government, that there is no alternative. Today it is not there - but this does not mean that it will not be tomorrow or the day after tomorrow. " (Kurchenko, 2019)

Maria Kucherenko notes that initially the Minsk agreements were adopted under the pressure of circumstances and serious hostilities. And over time, four years later, experts and politicians often appeal to the "myths" rather than to the content of this document.

4.2.2 A way of resolving Transnistrian problem

The legal mechanisms created and functioning in the Transdniestrian Moldavian Republic as a whole ensure the protection and provision of the state interests of the unrecognized state and, through this, influence the course and dynamics of the Transnistrian conflict.

Over the course of the nearly twenty-five year history of the Transdniestrian conflict, a situations have arisen for several times when a political settlement seemed entirely possible. There are a number of factors conducive to finding a political solution to the problem in Transnistria, unlike other conflicts on post-Soviet space. The armed confrontation of 1992 was brief and had significantly less casualties and destruction than the wars in Tajikistan, Abkhazia and Nagorno-Karabakh; it is remarkable that since July 1992 there has not been a single case of renewed fire. The bulk of the population of the right bank of Moldova and Transnistria does not feel hostility towards each other. Parties of the conflict have intensive trade and transport links as well as human contacts. As early as May 1997, Chisinau and Tiraspol signed a memorandum on the basics of normalizing relations, in which the parties stated the intention "to build their relations within a common state" (Memorandum, 1997).

However, a political resolution of the conflict was never achieved; moreover, in 2014–2015, there was an increase in tensions and the possibility of its escalation in the conflict zone. The current negotiation format did not allow finding a balance between the interests of the Moldovan and Transnistrian elites and key external actors - Russia and the European Union. Since the Transnistrean conflict broke out and there have been developed some prospects for resolution.

4.3.2.1 "Freezing" the conflict

At the initial stage of the Transnistrian conflict attempts for peaceful settlement were made in a quadripartite format, which included Russia, Moldova, Ukraine and Romania. In April 1992, the ministers of foreign affairs of these countries signed a declaration on a cease-fire and the establishment of a quadripartite joint commission to monitor the situation in the conflict zone. According to declaration the possibility of conducting a peacekeeping operation in the conflict zone was envisaged (Markedonov, 2005:110).

The four-sided format, however, could not become an effective mechanism for maintaining a truce or even a constructive political dialogue. Russia insisted on using the 14th army stationed in Moldova[114] as a key component of the peacekeeping forces, which Chisinau and Bucharest did not agree with. The Transnistrian side objected to the participation of Romania in the negotiation process and insisted on recognizing itself as a full-value party to the negotiations. The truce was repeatedly broken, and the escalation of the conflict, caused by Chisinau's attempt in June 1992 to establish control over the city of Bendery, effectively put an end to the four-party negotiation process (Markedonov, 2005:115).

On July 21, 1992, the Presidents of Russia and Moldova signed the Agreement on the Principles of the Peaceful Settlement of the Armed Conflict in the Transnistrian Region of the Republic of Moldova, initialed also by the President of the Transnistrian Moldovan Republic (PMR) I.N. Smirnov. The agreement provided for a cease-fire, dilution of the warring parties and the creation of a demilitarized zone. A peacekeeping force consisting of Russian, Moldovan and Transnistrian contingents was established, and the Joint Control Commission (JCC), operating on the basis of consensus, under which authority peacekeeping forces was transferred (Sherr, 2003:7).

Neither Euro-Atlantic structures nor Western countries participated in the preparation of the 1992 agreement and in making decisions on the peacekeeping operation in Transnistria. At that time, the United States and leading European countries did not have a certain strategy for the post-Soviet space, and their interests were practically not affected by the events in the small, deeply peripheral fragment of the Soviet Union. The only channel ensuring the participation of the West in the Transnistrian settlement was the institutionally reluctant meeting (later the Organization) on Security and Cooperation in Europe (CSCE / OSCE). In 1993, at the insistence

[114] Association of the Armed Forces of the Russian Federation, stationed in the territory of the unrecognized Pridnestrovskaia Moldavskaia Respublika, existing since 1995. The group is the successor of the 14th Guards Army of the USSR Armed Forces, which, during the Soviets, was constantly biased in the territory of today's Transnistrian People Republic.

of the Moldovan side, the CSCE joined the negotiations as a second (along with Russia) mediator, and in July 1994, the CSCE mission signed an agreement with the JCC, allowing its representatives to participate in the commission's meetings and move freely in the security zone (Sherr, 2003:4).

In the meantime, the negotiation process on the Transnistrian settlement, revealed a significant divergence of positions of the parties. Chisinau agreed to nothing more than the autonomy of Transnistria in the framework of unitary Moldova, and Tiraspol in its turn, to nothing less than confederative relations with Moldova. On May 8, 1997, Moldova and the PMR, being mediated by Russia, Ukraine and the OSCE, signed a memorandum on the foundations of normalizing relations, which remains the only document on the political aspects of the settlement, signed during the years of negotiations. The document stated that the parties "will continue to establish state-law relations", stipulated the right of Transnistrian to participate in shaping Moldova's foreign policy and introduced the concept of a "common state" (Memorandum, 1997). The latter, however, was interpreted by the parties quite differently; The Transnistrian establishment interpreted this formulation as a de facto recognition of the confederative option. It is significant that the OSCE Mission, despite the signing of a memorandum by the acting chairman of the organization, recommended the OSCE Permanent Council to abstain from approving the memorandum. The OSCE and Chisinau prefer to avoid referring to this document, which in the expert environment is often viewed as "a serious defeat of the Moldovan side" (King, 2000: 203).

During the 1990s the Transnistrian conflict completely moved to the "frozen" stage. The main parameters of the current status quo were stability in the conflict zone; de facto independence of the PMR from Moldova, fostering by substantial Russian economic assistance; peacekeeping operation; the presence on the left bank of the Dniester of the Operational Group of Russian Forces (OGRV), into which the 14th Army was transformed in 1995; insoluble contradictions between the parties regarding the political status of Transnistria; five-sided negotiation process (Moldova, Transnistria and three mediators - Russia, Ukraine and the OSCE). An important external condition for maintaining the status quo was the actual non-participation in the Transnistrian settlement of the US and the EU. The activities of the OSCE Mission (the only representative of the Euro-Atlantic structures in the conflict zone) were criticized both by Chisinau and Tiraspol and was depended on the on the political preferences of the diplomats who were guiding it (Roper 2001: 111). After the termination of the four-party negotiation format in the summer of 1992, Romania was suspended from the negotiation process. By the end of the 1990s the role of Ukraine as one of the mediators and guarantors of the future settlement was slightly increased. Kiev, however, played a secondary role, preferring

not to deteriorate relations with Russia and tolerating with the actual independence of the PMR (with which, despite the protests of Moldova, Ukraine maintained direct economic ties). In general, Transnistrian problems were resolved in the framework of contacts between Moscow, Chisinau and Tiraspol (Roper 2001: 115).

4.3.2.2 5+2 negotiations

The Moldovan president and civil society have other plans for conflict resolution. The frozen conflict lasts already for a quarter of century. Since the start of the Bendery tragedy, the climax of the armed conflict on the Dniester, was in July 1992 with the signing in Moscow the agreement "On the principles of resolving the armed conflict in the Transnistrian region of Moldova." The document was signed by the then Presidents of Russia Boris Yeltsin and Moldova president Mircea Snegur (Alexandrova, 2009:28).

One more prospect for resolution was the establishing of negotiations in 5+2 format. Over the past 25 years, many documents that create the basis for conducting negotiations on Transnistria have been proposed and adopted. The current mechanism was the result of the signing in 2002 in Bratislava the agreement “On the organization of the negotiation process on the Transnistrian settlement”. It envisaged the creation of a permanent meeting on political issues, the ultimate goal of which is the final resolution of the Transnistrian problem (Shiryaev & Drobysheva, 2016:42).

Negotiations are in the 5 + 2 format[115] (Chisinau and Tiraspol - parties to the conflict, Russia, Ukraine and the OSCE - guarantor parties, the EU and the US - observers). The process stalled more than once and was interrupted for a long time due to differences in the positions of

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[115] Negotiations in “5+2” format have been going for 16 years by the moment, the current format commuted the previous one, similar format which was relevant from August 2nd 1992 (right after relative settlement of the Transnistria conflict). The active phases of negotiations have been occurring every year (in different cities, post-soviet once and European once) with the only break from 2006 till 2011 (nevertheless, the dialogue between Transnistria and Moldova was not holding on). Some of the steps are:

*(*the set of participants can vary)*

“5+2” Odessa, Ukraine; May 24th 2013

“5+2” Moscow 2014; March 21st

“5+2” Kiev 2015 and 2016; January the 14th and July 20th respectively

“5+2” Vienna (27-28 November 2017)

“5+2” Budapest November 2017 and April 2018

“5+2” Rome, 30 May 2018.

the conflicting parties on a particular issue. The situation improved significantly when in 2016 Germany chaired the OSCE.

The format did not set global goals such as reunification of Transnistria with Moldova; it has only little items on its agenda instead. For example, the adoption of the Rome protocol, according to which Moldova recognizes school certificates and driver licenses from Transnistria (OSCE, 2018).

4.2.2.3 Meseberg Initiative and the policy of "small steps"

A new period of activation of the EU policy towards the Transnistrian settlement came in 2010–2012. The government of Germany became the initiator of the return of the Transnistrian issue to the agenda of the “big” European policy. Berlin tried to take advantage of the particularly close nature of Russian-German interaction and the general atmosphere of warming relations between Russia and the West related to the “reset” policy announced by the US administration to solve the Transnistrian issue under conditions favorable for the EU and Moldova. The need to make progress in the Transnistrian settlement was pursued both by the negotiations between the EU and Moldova, which began in January 2010, to conclude an Association Agreement, and by Germany’s desire to strengthen the positions of the pro-European coalition, which was difficult to hold in Chisinau, having organized a foreign policy breakthrough for it (Galinsky, 2001: 67).

In June 2010, at the Russian-German summit in Meseberg at the initiative of Federal Chancellor Merkel a memorandum was signed, it provided for “considering the possibility of creating a Russia-EU Committee on foreign policy and security at the ministerial level. The document stipulated the cooperation of Russia and the EU “towards resolving the Transnistrian conflict, meaning the achievement of tangible progress in the“ 5 + 2 ”format,” including the possibility of “joint activities of Russia and the EU that would guarantee a smooth transition from the current situation to the final resolution (Memorandum, 2010).

The document was not previously agreed with the European Commission and other EU countries which Berlin, in such a way, confronted with a fait accompli. However, the Transnistrian settlement taken by Germany under its patronage finally activated the process. In November 2010, the Government of the Federal Republic of Germany arranged a conference on confidence-building measures in the Moldovan-Transdniestrian settlement process, which became an annual event. At the end of 2011, negotiations in the “5 + 2” format were resumed; in 2012, their participants managed to agree on a document entitled “Principles and procedures for holding negotiations” and outlining an agenda divided into three “blocks” (socio-economic issues, legal and humanitarian issues and a comprehensive settlement). A sign of tensions relief

was the adoption in 2012 at a meeting of OSCE foreign ministers of the first decade statement on the negotiation process on Transnistrian settlement[116] (Shmulevich, 2006).

Substantial innovation of the EU policy in the Transnistrian issue was a bet on “small steps” - an attempt to ensure the gradual integration of Transnistria into Moldova, while supporting the pro-European course of Chisinau and transforming Moldova into a successful, attractive state for Transnistrian residents. The degree of rhetoric against the PMR, which the EU’s statements abounded earlier, was noticeably reduced. In 2010, the Council of the EU suspended the visa sanctions against the leaders of Transnistria. The change of establishment in Tiraspol at the end of 2011 was positively perceived in Brussels and Chisinau: European experts considered the new president of PMR E. Shevchuk, as a person inclined for compromises much more than the former president (Popescu & Litra, 2012:3). It is significant that in August 2012, Shevchuk was even invited to meet Merkel during her visit to Chisinau, nevertheless Transnistrian leader, refused the invitation.

In the same time Thomas Hammarberg[117] noted the positive developments taking place in Transnistria in this area. Tiraspol was invited to participate in the negotiations of the EU and Moldova on the creation of a free trade zone (FTA), to which the Transnistrian Municipality eventually sent observers (Hammarberg, 2013).

The policy of “small steps” contributed to the revitalization of economic and humanitarian ties between Transnistria and right-bank Moldova. An agreement was reached on the restoration of direct telephone communication, passenger traffic was resumed (on the Chisinau-Tiraspol-Odessa route) and freight rail traffic through Transnistrian territory, Moldova canceled fines for violating the rules of residence on its territory for residents of Transnistria who have foreign (Russian or Ukrainian) citizenship . The volume of trade between the parties increased, aided by the abolition of the 100% import duty on Tiraspol. The EU financed the implementation of a number of infrastructure and humanitarian projects in Moldova and Transnistria (Statement, 2016).

Nevertheless, the key problems of the Transnistrian settlement remained unresolved. There is the increasing convergence of Chisinau with Bucharest. The negotiation process was adversely affected by frequent political upheavals in Chisinau and friction in the ruling elite of Transdniestria.

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[116] Где можно найти?
[117] an authoritative European expert on human rights issues and former Council of Europe Commissioner for Human Rights.

4.2.2.4 Hard power versus soft

The next way of the conflict resolution the conflict can be characterized as “Hard Power versus soft”. The thing is that the civil society of Moldova does not remain aloof from the solution of the problem. On June 2, 2017, in Chisinau, the Institute for Effective Policy presented a new plan for uniting the country. It provides a "soft" option and a "hard" one. According to the developer of the plan, Vitaly Andrievsky, the Transdniestrians themselves will have to choose from these two options (Plavinsky, 2016).

"Soft" provides for the special status of Transnistria as a part of Moldova and withdrawal of Russian troops from the region within about a year. But by this time, Transnistrians should already see the advantages of the European way of development and life in the EU. Citizens of Russia and Ukraine, who do not have Moldovan passports, will have to either obtain a residence permit of Moldova or leave the country.

The "hard" option is related to coercive measures. According to Andrievsky, Chisinau is ready to free the inhabitants of the region from "illegal occupation." Transdniestria should be completely isolated from the outside world, supply of fuel stopped, the Internet disconnected, and exports and imports should go only through Chisinau. The developers of the plan reckons that all this should be dealt with by a special committee in the Moldovan parliament.

The plan should be implemented until 2021 (Yagland, 2015).

4.2.2.5 Granting Federation

Moldovan president Igor Dodon speaks of himself as a supporter of the federal structure of the state. Transnistria will not have status such subjects, for example, of Russian Federation do, only unification within a single state is possible. "We will find a formula. Let us discuss," the president said (Volkova, 2006:203).

The leader of the unrecognized "Pridnestrovian Moldavian Republic" ("PMR") Vadim Krasnoselsky is convinced that Moldova is not ready to become a federation. He said "It is necessary to solve relevant problems, and not to deal with empty political slogans, such as federalization and a special status for Transnistria," (Krasnoselsky, 2018) . According to Krasnoselsky, Transnistria wants independence, and then unification with Russia. At the referendum in 2006, 98 percent of the region’s residents voted for this option (Volkova, 2006:224).

According to Valeriy Ostalep, director of the Institute for Security Problems of Kishinau, if there is the political will and real leaders who have authority in Chisinau and Tiraspol, it is possible to prepare the ground for solving the problem within two years. However, the expert

complains, “today I do not see such leaders and political will among the elites of the conflicting parties” (Ostalep, 2017).

4.3.3 A way of resolving Transcaucasia crisis in general

Mr. Atkinson, a Council of Europe special representative on the Transcaucasia region gives the following variants.

- The three Transcaucasian countries (Armenia, Azerbaijan and Georgia) have to begin serious consideration and negotiations on the creation of a Community of Transcaucasian States (CTS) on the basis of settled principles and policies.
- CTS could establish their own parliamentary assembly (PACTS) as well as a conference of local and regional authorities of CTS.
- The primary task of the CTS will be to assess the remaining obstacles to freedom of movement, labor, currency, goods and services. In parallel, an analysis will be made of obstacles to the exercise of fundamental freedoms and human rights as defined in Council of Europe conventions that will pave the way for the return of refugees to their original homes. This will

require all parties involved in disputes to make positional statements and proposals for confidence-building measures (Council of Europe, 1994).

The above initiatives will lead to the development of appropriate recommendations for consideration by the CCC and its Parliamentary Assembly, as well as for the national parliaments of the three countries and for presentation to their governments. The purpose of these recommendations should be to remove the practical obstacles that exist on the borders between them, as a basis for the final status agreement in the pursuit of a peaceful and prosperous community of the Caucasian states. The result will allow the peoples of Abkhazia and Nagorno-Karabakh to return to the conflict situation in which they live in the world, and are confident that in the new framework of the Community of Transcaucasian States (CTS), human rights are protected, private property is restored and the opportunities for cooperation within existing boundaries (Council of Europe, 1994).

a) Nagorno-Karabakh

The two extremes - full independence for Nagorno-Karabakh or its absorption by Azerbaijan - can be virtually ruled out. The both variants are possible either under UN mandate or under Russian supervision.

A territory under UN mandate

The main cause of the conflict in Nagorno-Karabakh is not a particular hatred between two peoples or religious differences, but a clash of two principles of equal forces: the right to self-determination and the principle of the inviolability of borders (Berg & Toomla, 2009:42).

Modernization the principle of the inviolability of borders would allow finding a way out of this vicious circle. There are precedents for this, especially in cases of violations of human rights. For example, the UN Security Council restricted the sovereignty of Baghdad in that part of Iraqi territory where the regime of Saddam Hussein violated human rights.

The principle of the inviolability of borders should be adapted to become a principle that states cannot expand their territory at the expense of others. This would mean in practice that Armenia could not annex Nagorno-Karabakh and Azerbaijan would no longer have any reason to wage war on the territory's inhabitants, who could be granted a degree of autonomy. A United Nations mandate for Nagorno-Karabakh would provide firm security guarantees (Council of Europe, 1997).

A territory under Russian supervision

It is apparent that the resumption of the Russian presence in Azerbaijan and the strengthening of the military influence of Moscow can have a significant impact on any political settlement of the Nagorno-Karabakh conflict.

Thus, it is likely that Russia will come out for Nagorno-Karabakh, while remaining legally a part of Azerbaijan, but perhaps with a confederative status under Russian control. With time, Russia can also convince the international community to allow it to control the political and military situation in the region: Moscow diplomats in the UN and CSCE have been working in this direction for some time (Council of Europe, 1997).

b) Abkhazia and South Ossetia

In connection with the operation of the summer of 2008, which some experts[118] call the Russian-Georgian war, relations between Russia and Georgia, the United States and the EU have worsened. At the same time, Abkhazia and South Ossetia announced their secession from Georgia. Russia came out with support, as part of the population of South Ossetia had Russian passports, and the Constitution of the Republic does not exclude the possibility of joining Russia. Moreover, the population of North Ossetia and South Ossetia are related peoples. Abkhazia, which was not historically part of Georgia, was part of Russia. Moreover, the interests of citizens were not fully respected when Abkhazia was part of Georgia (Garb, Inal-Ipa and Zakareishvili, 2000).

The issue of recognition of new states is extremely difficult. Obviously, in any case, one of the parties will lose. In the case of Abkhazia and South Ossetia – Georgia (for example, in the case of Kosovo – Serbia). Comparing these examples, one can say that Kosovo gained real independence, and the Caucasian republics only had the legal status of republics. It is clear that the Western community is blocking the emergence of new allies on the borders of Russia, supporting its traditional ally - Georgia (Krilov, 1951:212).

The question that requires an answer is the question of why the world community refuses to recognize South Ossetia and Abkhazia. Most likely, this is a demonstration of disagreement with Moscow. It is likely that if it were not for that harsh course of the Bush Jr. administration. In relation to Russia and the political support of the Saakashvili[119] regime, the events could have

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[118] See K. Mazuato, H. Bgazhba, V. Ketsba or Popescu

[119] President of Georgia from January 25, 2004 to November 25, 2007 and from January 20, 2008 to November 17, 2013, Chairman of the United National Movement Party, one of the leaders of the Rose Revolution, which resulted in the removal of Edward Shevardnadze from power.

developed in a different scenario. Although it is rather an optimistic assumption. Even today, at a time when the United States headed for a reset and rapprochement on a comprehensive range of issues, Obama did not recognize these republics. NATO and EU countries adhering to pro-American policies do not seek, unilaterally, without US support, to recognize South Ossetia and Abkhazia (Priznanie, 2008).

In a globalizing world where integration trends from economic rapprochement prevail - the creation of a customs union, a free trade zone, a single economic market up to the creation of a political union, the path of separation and disintegration is destructive. In a world that operates according to the rules of the capitalist market, the observance of uniform rules and international cooperation is the key to the development of states. Therefore, there must be good reasons for separating part of the country and declaring its independence (Krilov, 1951:209).

Analyzing the example of South Ossetia and Abkhazia, it is obvious that the population was dissatisfied with its position within Georgia. The Georgian authorities made no attempt to improve the situation of the residents of the region. On the contrary, a discriminatory national policy was pursued; attempts were made to rally the state by force. For example the situation of the Basque country or Catalonia, which are also seeking to secede from Spain, is not comparable with the situation of the inhabitants of these republics. Of course, now the population of Abkhazia and South Ossetia lives better than they lived as citizens of Georgia (Krilov, 1951:212).

Thus, since any policy should be aimed at observing the interests of people, that is, having a social orientation, it can be stated that the declaration of independence of South Ossetia and Abkhazia is a fair and right step. Given the specificity of the current state of affairs, South Ossetia and Abkhazia, it might be advisable to combine their efforts to build a competitive economy and protect their international status. It would probably be advisable to create a supranational state body with the participation of representatives of two countries and Russia, whose work will be aimed at the establishment of statehood in these republics (Krilov, 1951:218).

4.3.4 Prospects for Kosovo

In the mid-1970s, the future US ambassador to Yugoslavia, the well-known politician Lawrence Eagleburger [120] in the Balkan region, remarked: "The grave of Yugoslavia is dug in Pristina ... Look at what you, as a state, are doing in Pristina and in Kosovo in general. You opened for them one of the largest universities in Yugoslavia, gave them the Academy of Sciences and in these high institutes you train some political scientists, sociologists, philosophers, and you create a great army of future disgruntled people who know how to do some serious things, who will occupy the streets tomorrow and demand their state " (Eagleburger,1992).

Now it is quite clear that it was not a lack of attention to the Albanians, but an overabundance of it on the part of the state power of the Socialist Federal Republic that gave rise to the phenomenon that became the detonator of the collapse. In the 1980s, through the Lending Fund for the Accelerated Development of the Underdeveloped Republics and Autonomous Provinces of Kosovo, they were receiving $ 1.5 million annually (the reluctance to spend large sums to support the Kosovo economy was one of the most serious reasons for withdrawing Slovenia and Croatia from the SFRY). But despite the fact that the rate of economic growth in this region was the highest in the country - 6.7%, the level of per capita income was significantly lower than the total Yugoslav, and the unemployment rate was 30% higher than the national average: in the late 80s about 800 thousand people in the province could not find work, which is quite natural, since Kosovo ranked first in Europe in terms of natural population growth rates. The reasons were rooted in the history of ethnic clashes in Kosovo and they could not be resolved by the forces of only Serbia and even only Yugoslavia. However, the world community was looking for a solution to the problem primarily at the expense of the Serbs (Kovach, 2008).

One of the lessons of Kosovo is that the model for solving the Albanian issue through concessions from the Slavic population in Serbia, Montenegro and Macedonia does not alleviate the national problem of the Albanian ethnos. Javier Solana's desire to express European conformity and foreign policy inertia in the United States's channel to relieve tensions in the Balkans by organizing "New Dayton," that is, transforming the FRY into a triune confederation of the type of Bosnia and Herzegovina, is not even a palliative solution. After the parliaments of Serbia and Montenegro ratified the agreement on the destruction of the FRY, renaming the state into "Serbia and Montenegro" and maintaining this temporary status for three years, the problem

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[120] American statesman and diplomat who held the post of US Secretary of State in the administration of President George W. Bush.

of Kosovo came to the fore. Formally, the region remains an autonomous part of Serbia, Serbia's de facto sovereignty does not extend to its territory, although there is such a structure as the Kosovo Coordination Center in Serbia, there are UN police forces, a NATO peacekeeping contingent and a whole host of international observers in the region (Aleksa Djilas et al., 2002:105).

As it is known, all these military-administrative-police structures did not in any way prevent ethnic cleansing of the Serbian population - most of the genocidal excesses and vandalism took place after the withdrawal of the Yugoslav army from the province and the introduction of the KFOR [121] troops there. At present, only miserable enclaves of Serbs in Kosovo remain: in Pristina, 300 of 40,000 Serbs who once lived in the regional capital, in Pechi - 200 out of 20,000, in Prizren - 100 out of 11,000. About 280,000 Serbs, that is, two thirds of the non-Albanian population of the region. The most active and numerous Serbian community was preserved in the town of Kosovska Mitrovica, but it became the object of incessant repression. In April 2002, there was a mass demonstration by the Serbs in defense of the arrested leader and a clash with victims from both sides of the international police forces (Anufrieva et al., 2011:401).

Serbian enclaves remain only if they are guarded daily by international peacekeeping forces, but this cannot continue. A constructive solution must be found. The Serbian community in Kosovo is intimidated and deprived of basic civil rights, the most active and affluent part of the population has left Kosovo and has refugee status in Serbia; that part of the Serbs, which decided to stay for living in Kosovo, is consolidating around the Serbian Orthodox Church and is trying to establish a dialogue with the Albanian administration (Anufrieva et al., 2011:410).

At the end of 2001, elections for the Kosovo parliament were held under the supervision of the UN mission. The resulting political structure today looks like this: the president, the unicameral assembly and the local governments - the municipalities. The activities of the parliament are under the strict control of the special representative of the UN, without its ratification, no law is void. There are 120 deputy seats in the assembly, of which 20 are not elected and belong to national minorities, 10 of them are Serbian. During the municipal elections, a re-registration of voters was held, and the representatives of the United Nations were engaged in this, which exceeded their mandate (Kovach, 2008).

During the re-registration of the identity card received 1,250,000 voters, but Serbian refugees (280,000 people) were not properly taken into account. As a result of the parliamentary

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[121] NATO-led international forces responsible for ensuring stability in Kosovo (first the Autonomous Province of Kosovo and Metohija of the Republic of Serbia, and since February 17, 2008 - the partially recognized Republic of Kosovo).

elections, representatives of 14 parties took part, 8 of which were Albanian. The rest represent national minorities - Gypsy, Turkish, etc. Only one Serbian party will be represented in the assembly - the Serbian Return Party, which takes third place. Of the 120 seats, 22 were thus received by the Serbs. The leader of the elections was the party of Ibrahim Rugova - 47 mandates, the radicals - the Democratic Party of Kosovo Hashim Tachi - in second place, the Alliance for the Future of Kosovo - headed by field commander Hayreggini - in fourth place (Guzikova, 2015).

Some analysts[122] in the current situation consider it is possible to talk about the existence in the environment of Euro-Atlantic experts and decision makers of a plan aimed at normalizing the situation in Kosovo by concluding agreements between Serbian and Albanian political leaders on the division of responsibility. Such agreements, however, are, firstly, kept on Atlantic bayonets, and secondly, are possible only under the rule of I.Rugovy, who is incapable of playing the role of the “Albanian Gandhi”; Both components are not constants of the political process and do not create the basis for stabilizing the situation around Kosovo (Anufrieva et al., 2011:303).

The optimal solution is cantonization. In a new political configuration, Kosovo can either become an equal member of the federation with Serbia and Montenegro, or maintain its autonomous status as part of Serbia (but in this, the most fantastic version, Kosovo’s powers will be expanded, and Serbia’s sovereignty should be guaranteed by the world community), or obtain state independence as the Republic of Kosovo. Either option requires a review of the status of Kosovo. This opens up political opportunities for non-military solution of the existing set of issues (Aleksa Djilas et al., 2002:122).

The disintegration of Yugoslavia signified deep-seated crisis phenomena in world politics and was impossible outside of this global context. According to many analysts[123], by the end of the 20th century, the Yalta-Potsdam system had become obsolete, faced with the contradiction "national self-determination - the need to preserve the existing state borders." The bloc system and the global confrontation, in which Yugoslavia played (not unsuccessfully) the role of a “buffer”, also outlived itself (Kalevi, 1996:120).

In addition, the Yugoslav Federation itself experienced an acute economic crisis under conditions of self-governing socialism, a crisis of the state system in conditions of hyperinflation, a crisis of socialist ideology, a crisis of the exterritorial federation as a form of

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[122] See T. Stephen, T. Bataković or D. Geldenhuys
[123] See J. Kalevi, A. Ghani or S. Bartolini

national self-determination, a crisis of theory and practice of Yugoslavism as the ethnopolitical basis of a multi-national state. The flowering of the Yugoslav Slavic Federation, resting on Tito's formula “weak Serbia - strong Yugoslavia” could not be long and strong. However, the collapse of the united state in the bloody war was not predetermined (Aleksa Djilas et al., 2002:95).

Kosovo detonated the Balkan crisis. Albanian ethnos still maintains its role as a supplier of secessionism in the Balkans. To the question of Spiegel magazine: “What will happen if Kosovo becomes part of the new state of southern Slavs?” - I.Rugova said: “Then there will be a new war, and all the inhabitants of Kosovo will take up arms” (Rugova, 2005).

The fact that South-Eastern Europe is experiencing an era of transformations in the system of the “new world order” and the hegemony of the only superpower, leads to the need to develop a new international status for Kosovo under the auspices of international sponsors, such as the United States, Russia and the OSCE. Only in this format can a state develop a viable model of regional international relations. Russia's participation is important not only for the Serbian side, but even more so for Russia itself, on whose territory the processes of "Balkanization" are developing at full speed (the North Caucasus, the Volga republics) and the experience of everyday work with these phenomena becomes for Russia a part of its agenda (Deon, 2009:230) .

Of course, the development of a new status for Kosovo is the subject of long-term (at least 3 years) multi-disciplinary work, but its fundamental principles can and should be defined now. Back in 1968, an outstanding Serbian writer and public figure, Dobrica Josic, warned: in an attempt to preserve the territorial integrity of Kosovo and Metohija, Serbia could lose this whole land altogether. He stressed that dual sovereignty - Yugoslav and Albanian - on these lands is impossible. History has confirmed the correctness of the writer, as well as the timeliness of numerous projects on the division of the region into Serbian and Albanian regions. Academician M. Yovichich wrote in 1996: “Kosovo and Metohija today are an inappropriate element of an asymmetric state system, which for these reasons must be eliminated.” He proposed the territorial - not ethnic - division of the whole country into 13 regions, that is, a new principle of federalism without reference to national-cultural autonomy (Kolsto, 2012:281).

The last before the crisis of 1999 was the project of the cantonization of Kosovo by the Serbian historian D. Batakovich. 18 cantons were created in the province, of which 5 would have a predominantly Serbian population and would belong to the constitutional system of Serbia, the rest - Albanians would have weaker ties with the Federation. However, the principle of cantonization, literally forcibly applied in Bosnia and Herzegovina and in Macedonia, was rejected in Kosovo because of the desire of the Albanian leaders to seize the entire territory by terrorism by force (Bataković, 2007:155).

Today, in the face of collective counter-terrorism techniques in international politics, a compromise solution for Kosovo, based on the principle of cantonization (division of the territory of the province under the control of the peacekeeping force already in it), is again extremely relevant. In this case, the Russian contingent will assume the natural functions of ensuring the security of the Serbian population and come out of the ambiguous position in which it currently is. Only on the basis of cantonization (territorial division) can the historical right of the Serbian people to live in the Kosovo region, to own the aggregate economic wealth of the region, to which Serbs have made a decisive contribution to the preservation of the historic heritage of the Kosovo and Metohija, be realized (Rugova, 2005).

The separation should be based on taking into account the historical area of residence of ethnic groups, the proportional distribution of resources (taking into account the Serb refugees from Kosovo, that is, according to the last census of the 1980s), and the protection of historical heritage. The Serbian cantons, naturally, would maintain their status in Serbia, the Albanian cantons could receive the status as a result of the referendum (join Albania or remain independent from all) (Anufrieva et al., 2011:353).

Cantonization is the optimal solution not only for Kosovo, but also for Macedonia (where the process of separation of territories spontaneously - in violation of the rights of the Slavic population - is already under way), and for Montenegro, where the Albanian community accumulates strength to repeat the proven Kosovo scenario. It is therefore important to ensure the conditions under which the cantonization process will take place in conditions of relative stability, under the control of peacekeeping forces, taking into account the views of the population and protecting the rights of minorities (Guzikova, 2015).

Russia could act (after necessary consultations with the Serbian side) as the initiator of this international legal settlement, capable not only of unleashing the tight Balkan knot and making Russian policy in the region sane, but also offer a viable model for resolving ethnic and religious conflicts in the CIS (first queue in Transnistria, Abkhazia, South Ossetia) (Stephen, 2003:180).

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