37. ORSZÁGOS TUDOMÁNYOS DIÁKKÖRI KONFERENCIA

THE FORMATION OF MODERN STATES- THE STATE-BUILDING PROCESS IN KOSOVO

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1 Introduction

Most people do not think about how many obstacles a newly forming modern state must face or even realise that there are some cases around the world in which the status of the state is not yet clarified. For European people, it is evident that the borders of the modern states were established after WWII and in the 1990s. Sometimes we forget about the situation in the Republics of Kosovo where a unilateral declaration of independence was declared in 2008. However, still today it is not a stable and complete state in the sense of compliance with statehood conditions. The issue of Kosovo came into the spotlight again in August 2022 when the riots and uprising began again in the northern provinces where most of the Serbian minority live. Fortunately, there was no escalation of the situation, but the attention highlighted the unsolved problems of Kosovo and Serbia. The unsolved questions of Kosovo are not a recent dilemma but throughout the years no agreement has been reached, and the problems slowly moved into the shadows. However, every international actor still feels pressure to find a better compromise than the recently existing one.

As for my motivation, I am keen to explore the events that led to the recent situations in Kosovo. My hypothesis of Kosovo is that it is a partially free state, and I am inquisitive to find out, how is it still possible for a state to have such an undecided political and international status in a modern and globalized era. In addition, I would like to analyse how international support and attitude have changed over the years. The title that I have chosen for my research presupposes that in Kosovo state-building happened/happens and it is not an entirely internal process but rather a process with international help. Hence, I am eager to ascertain which states supported and influenced the state-building process in Kosovo. The problem which arises from this unsolved status is that it may endanger the stability of the international community and, additionally and most importantly it may endanger the life of the citizens of Kosovo. I would like to examine whether the problem of Kosovo originates from the lack or non-existence of any fundamental state condition or if is there another type of factor(s) which hinders finding a solution for the status of Kosovo.

Although in order to examine the status of Kosovo, first, I should collect and explain the most fundamental statehood conditions. Hence, I conjecture that there is a worldwide accepted legal document on the necessary statehood conditions. I will include those conditions I found fundamental during my research, but it may not include some conditions that can be important for other researchers or scientists. As I will examine the status of Kosovo, I presuppose that it is not a free state and cannot function without international assistance hence I will include some

state formations in which not all stat conditions are represented. The classification of states where state conditions are missing or not yet represented can be confusing and can be interpreted in many ways so I will clarify my viewpoint on these states. I intend to decide whether Kosovo can be classified into these categories or not.

2 The formation of modern European states

The formation of European states has been a long process, some states have thousand years old history while others were established in the latest century. Over the centuries creation of states was different and was influenced by numerous factors such as the citizens, new political and philosophical ideas and wartime. However, according to Charles Tilly most human-made communities qualified as states of one kind or another: they were organizations that controlled the principal concentrated means of coercion within delimited territories, and exercised priority in some respects over all other organizations acting within the territories.[1] This may suggest that forming a state was not so difficult because when the state achieved these conditions it was accepted as a new state. But today the situation is not so easy and obvious. The Peace of Westphalia is considered the seminal event in international law where conditions of statehood were first mentioned. The reason that this event was far-reaching according to statehood, is that it resulted in the so-called Westphalia sovereignty which provided a non-interference in the domestic affairs of states. This sovereignty contributed to the current international system in which states have equal rights regardless of their size and power. With this first step toward the regulation of statehood, we would assume that further regulations would be adopted easily and more frequently. Yet, in Europe where human civilization has been living for thousands of years, the evolution of forming and transforming into a modern form of states took several hundreds of years.

Now, I would like to focus on how the formation was done and which were the primary determinants of the formation. Bob Jessop's definition can be understood as a basic definition of state formation:

> '*State formation is not a once-and-for-all process, nor did the state develop in just one place and then spread elsewhere. The state form has been (re-)invented many times, varied in strength and significance, and seen recurrent cycles of political centralization and decentralization and territorialization and deterritorialization.'*[2]

[1] Tilly, Charles: *Coercion, Capital and European States: AD 990 – 1992*, Wiley-Blackwell, 1992, p 39
[2] Jessop, Bob: *The Origins of the State and State-Building*, International Encyclopedia of Human Geography (Second Edition), 2020, p 7

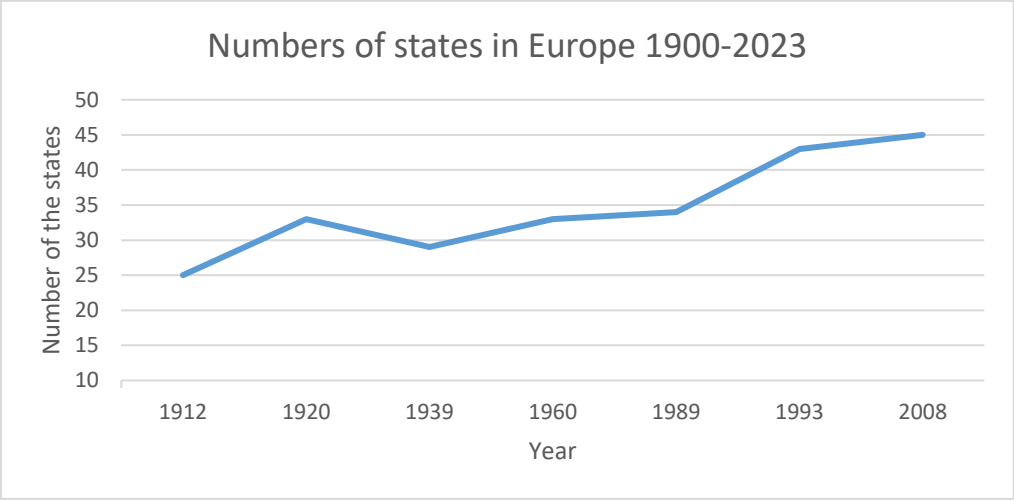
This suggests that modern state formation was not a one-dimensional process but had several layers which influenced it. Establishing states by that time was not influenced by as many factors as today we can observe in the modern states. In Europe during the Middle Ages the primary elements which influenced state formation were wars, differences in religious views, immigration waves and cultural diversity. In its simplest form of explanation, many of these states were formed by people who shared common traditions and characteristics such as the same language or religion. These communities could be newly formed communities, or they were separated from an already existing nation or state. Next, we have to emphasize that as most European states have a long history, the formation of modern states needs to be understood in the sense that most of the states were reshaped and transformed into the model of modern states and were not entirely newly established states. The transformation of these states was affected by many factors such as wars, migration and philosophical ideas. In the continent, over a thousand years, hundreds of smaller and larger scale wars happened which had an impact on the borders of the states, on the population and also the standard living conditions of the citizens. Next, immigration waves came from the south such as from Africa and the east from the Asian continent. The immigration waves did not happen at the same time and the size of the waves was different but as these people mostly had different religions and customs, they had an impact on the formation of European states. As time passed newer and newer philosophical ideas were established and in the Enlightenment Era, there was a boom when these ideas reached more and more people and started to slowly integrate into the functioning of the states. From this time the structural changes of the government and states fasten up in comparison to the previous period when changes were done much slower.

As we understand the factors which were needed for modern states can be created the only question which can be asked that from which era or century we can speak about modern states. According to Péter Takács the modern state arose in connection with the development of feudal absolutism.[3]. In feudal absolutism which was first established around the 17th century in Europe, we could already examine many characteristics, at a minimal level, which today are essential to form and maintain a state. Firstly, the monarch placed a greater emphasis on having a well-paid and well-trained official apparatus, this was the birth of the bureaucracy. They were greatly loyal to the monarch, but they had the knowledge to understand and know what changes were needed to have a functioning state. They were the very first officials whose task was to govern and form the social relations within the state. Secondly, to govern and reach the centrally

[3] Takács Péter: *Államtan*. Budapest, Budapesti Corvinus Egyetem, 2011, p 128

defined goals, the monarch needed to establish a more centralized territorial unit. To establish and uphold a centralized territory military was still indispensable. Therefore, the monarch usually had an adept and prominent military who was entirely loyal to him. Next to the military, police officers were created whose primary task was to maintain order according to the law. Lastly, the most important was that from now on laws were created by the monarch and the officers with will and not just happen to be created. As the monarch created this type of sovereign power which ruled over the previously existing smaller and decentralized territories, the monarch established the monopoly of use of coercion which was first defined in Max Weber's essay *Politics as Vocation*. This presupposes the modern state has legitimacy which means the government and the people working in the field of public administration have the recognized right to rule. 'Consequently, the truly modern states emerged as the state came to be seen as separate from an individual ruler.'[4] The process of achieving these changes took hundreds of years but by the 19th and 20th centuries, almost all European states transformed into the model of modern states or were newly formed states. However, as the two World Wars and the Cold War happened, the number and the structure of the states were changing sometimes year by year. The latest biggest wave of state formation or reestablishment in Europe happened after the end of the Yugoslav wars.

Figure 1: The changes in the numbers of European states (1900-2023)



(created by the author)

[4] Orvis, Stephen & Drogus, Carol, Ann: *Introducing Comparative Politics: Concepts and Cases in Context*, 5th Edition, CQ Press, December 2019, p 33

3 Conditions of statehood

To make a discussion about statehood first, we have to define what is a state. During the centuries philosophers and sociologists tried to find a decent way to define a state. Plato believed that a state is a community that needs to satisfy all the needs of the citizens.[5] By the 16th century, Jean Bodin thought that the continuity and the durability of the state was the key factor. Later, John Locke's idea was that in order to form and maintain a state, a social contract between the state and the citizens is essential, where people give up some of their natural rights in exchange for protection.[6] By the 20th century lawmaking and execution of law became an integral part of states. Georg Jellinek, a German public lawyer, formed an important thesis about the connection between states and law. In Jellinek's understanding the state theory is divided into the doctrine of state sociology and the doctrine of state law.[7] This theory describes perfectly the current situation of states which means state has a dual nature and suggests that a state is both a social phenomenon and a legal institution. All in all, different theories about the state are not better or worse than the others, the main cause of the differences is that philosophers considered different things more important when they formed their theories. But an overall and basic definition can be that a state is a form of human association distinguished from other social groups by its purpose, the establishment of order and security; its methods, the laws and their enforcement; its territory, the area of jurisdiction or geographic boundaries; and finally, by its sovereignty.[8]

In the 19th century which can be already referred to as a modern era two World Wars took place mostly in the European continent. This caused not only millions of casualties, but the borders of the states became blurred and undecided. Finally, the Paris Peace Treaties which closed WWII established and re-established states in Europe. This was the time when scientists and politicians started to think that there was a need to regulate which conditions a state should qualify for in order to be a state. Until this time, it was more or less enough to have a territory and people and a state could be formed. But in the modern era, it was not enough anymore with the changes in political thinking, the fastening technological development and the rising number of world population. It would seem evident that there has been a codification of the rules of

[5] Neu, Jerome: *Plato's Analogy of State and Individual: 'The Republic' and the Organic Theory of the State,* Philosophy 46, no. 177, 1971, p 241

[6] Dienstag, Joshua Foa. *Between History and Nature: Social Contract Theory in Locke and the Founders,* The Journal of Politics 58, no. 4, 1996, p 991, https://doi.org/10.2307/2960146.

[7] Takács Péter : *Államelmélet a XIX-XX: században: Georg Jellinek elmélete,* Pro Publico Bono Online, 1(2), 2011 https://www.academia.edu/37234819/Tak%C3%A1cs_P%C3%A9ter_%C3%81llamelm%C3%A9let_a_XIX_XX_sz%C3%A1zadban_Georg_Jellinek_elm%C3%A9lete

[8] The Editors of Encyclopaedia Britannica: *State,* Encyclopedia Britannica. July 20, 1998. https://www.britannica.com/topic/state-sovereign-political-entity

statehood conditions since the establishment from the establishment of the international law system. Unfortunately, there is no codified law on the statehood conditions. Even though in 1933 in the Montevideo Convention on Rights and Duties of State,[9] the criteria for statehood were defined and accepted by American states and became a customary international law. The problem with it is that it is not a widely accepted definition but still the best formulation that can be used nowadays. The Convention describe how to establish a state; permanent population, defined territory, government and the capacity to enter into relations are fundamental. Next to these, there are many other concepts which can be referred to as fundamental to forming a state. Yet, it is hard to decide which are as important as territory, population and government, and which can be labelled as less important conditions. In my writing next to the Montevideo Criteria, I will examine state recognition, sovereignty, autarky and some material elements of statehood.

3.1 Permanent population

People who were born in a defined territory and habitually live there are called citizens. In modern state people living in the same state has the same legal rights. This was one of the biggest visible changes from the previous forms of states such as kingdoms where people with different family and financial backgrounds had different social statuses and different rights This formed a hierarchical legal relationship within the state but in modern states where people are not treated according to their financial or family background which creates equality of rights. Géza Ferdinándy summarizes the changing progress perfectly in his writings:

> '*Under the influence of the ideas awakened in recent times, the dividing walls between the members of different ranks and orders of the nations collapsed, as a result of which citizenship within the state territory became the exclusive and most important factor in determining the relationship between the citizens and the state.'*[10]

Besides citizens, the people who temporarily stay in a state and then head back to their home country are called foreigners. In connection with the size of the population, there is no minimum or maximum requirement. As there are people who want to form a community with rules in a defined territory a state can be made. As if every person moves out from the state's territory and there is no one to make or execute laws, or to work in the government the state is ended because there is no reason to function if there are no population. We can assert that without a

[10] Ferdinándy Géza: *Az állampolgálságról,* Budapest, 1894

permanent population, a state cannot function or cannot be maintained. This proposes that citizens and states are linked with each other.

Between the state and citizens, there are legal relationships which are regulated by laws. The state has obligations over its citizens and the citizens have rights. The state has to provide social security, adequate housing, opportunity to work, sufficient drinking water, education, and healthcare, and provide the right to take part in cultural and political life.[11] In return, people have to comply with rules and laws. These laws are created by citizens and based on rational thinking and affect everybody equally, the aim of these is to maintain order and keep peace hence the state can develop itself and generate a better standard of living for its citizens. People should refrain from committing a crime which would destroy other people's life, or which hinders the development of the state. Also, decent citizens promote the common good, respect government service, stay open to compromise, and remain civil.[12] Now that we clarify the obligations and rights of citizens, there is a little bit of divergent citizenship called dual citizenship. Before the conscious creation of law people did not pay attention to ancestry and citizenship. But by the 20th century, international conventions and reports started to deal with the question of dual citizenship. It is important because one person belongs to two or more states' populations. In addition, belongs to two states' jurisdiction which means the citizen has obligations in both states and these obligations sometimes are in conflict. Therefore, the concerned states need to settle the problem by conventions. The process of finding a solution may be easy or arduous depending on how the state deals with the question of dual citizenship.

3.2 Territory

Territory is another fundamental element of a state. The territory is a three-dimensional area which is built up by overland, water and air space.[13] Mainland has to be on a natural surface which means an entirely man-made island cannot qualify as territory. By the time modern states were formed, leaders tried to reshape the borders of the states to be more united and not to have smaller scattered territories. The reason for this change was that with a united territory, it was easier to fulfil economic and political goals. Still, there are enclaves and exclaves nowadays that are contrary to the idea that the territory has to be contiguous. An enclave is a territory which is fully surrounded by another state like the Vatican City. An exclave is a smaller territory that is separated from the main territory such as Kaliningrad. There are special cases when a

[11] International Covenant on Economic, Social and Cultural Rights, December 16, 1966,
[12] Haas, Richard*: The Bill of Obligations: The Ten Habits of Good Citizens*, Penguin Press, 2023, p 112
[13] Dudley Nigel: *Guidelines for Applying Protected Area Management Categories*, International Union for Conservation of Nature, Gland, Switzerland, 2008

building or a ship can be referred to as part of the state, such as when a military boat with a national flag is sailing in international waters or an embassy is also part of the home state. For the size of the territory, there is no minimum or maximum. Russia's territory is 17 million square kilometres while the Vatican City is the smallest state in terms of surface area with 0.44 square kilometres. Still, both states have the same rights and obligations under international law.[14] On the other, in the political field, the size of the state may influence the weight of the political power.

The state has the ultimate power in the given territory to make decisions about the activity of the people and about the relationships of the people. It means that the state has sovereign power not just over the citizens but any foreigners who are staying in the state. The state has the right to form the system of norms and enforce the regulations. Yet, when a state wants to make any activity in the territory of another state it cannot be done without the permission of the other state. Which suggests the state has limited power over its boundaries. In a perfect world order every state has state sovereignty wherein between the state boundaries, the state has the right to self-determination and has jurisdiction.[15] Unfortunately, some states try to intervene in other states' political or economic decisions in order to profit from it. Next, states are provided with the right of territorial integrity which means they have the right to protect themselves and any person who is inside its borders. Although, foreign states may violate actively or passively state borders or even how the state exercises jurisdiction. Violating state borders in many cases is in connection with land acquisition. The reasons for land acquisition can be economic growth, security issues, political reasons, religious questions, and reclaiming previously conquered areas. There is a differentiation in how land acquisition happens. There are peaceful and violent ways, and since the establishment of international law, there have been lawful and unlawful ways. The subdivision of territory changes are the following: conquest, annexation, debilitation, cession, occupation, adjudication, purchase, lease, usucapion, exchange or natural occurrents. Nevertheless, in the European continent since the end of WWII, there have been no major changes in the territories of states.

3.3 Government

The government is a politically defined group of people who govern and regulate the state by a central form of means. To form a government a coherent political structure is needed rather

[14] United Nations General Assembly: *Draft Declaration on Rights and Duties of States*, Lake Success and Flushing Meadow, N.Y., 1949

[15] Summers, James*: Kosovo: A Precedent?,* Brill, 2011, p 112

than a strict separation of powers.[16] 'Based on the concept of effectiveness, the criterion 'government' refers to the existence of effective government, which means that the institutionalized political, administrative and executive organizational machinery must actually exercise state authority over the claimed territory and the people residing in that territory.'[17] Governments are political entities and the members of it are elected by the citizens in defined periods. The rights and obligations of government are defined in the laws. After the end of the Cold War, there has been a statement in the UN Charter that governments should be democratic and respect human rights. This was important because the main aim of the government should be to promote social and cultural values and to strive to make a better standard of living for citizens. In addition, the government should make economic development and international relations from which the state can benefit. A government should be independent, and under international law, it should have the authority over people to imply not only the laws created inside the state but also international laws.

We have to mention that there are several types of forms of government. First, there is the presidential form, where the president is not only the head of the state but the head of the executive branch.[18] In this form, the president is only accountable to the people so with political issues he cannot be replaced. Second, in semi-presidentialism, the power is distributed among the head of the state and the head of the republic.[19] In this system both leaders are elected directly by citizens, therefore they have the same legitimate power, still, the president has more power in the legal system. Third, in presidenitalism, the head of the state is elected by the Parliament and after the appointment, the president can form its own cabinet. In this system, the executive power is derived from the Parliament which means the executive power is accountable for the legislative power.[20] Fourth, constitutional monarchy is a form of government where the monarch has executive and legislative power at the same time. Forming a government is democratic when the government and the president are elected directly or indirectly by the people.[21] However, in many Asian and African countries, we can observe that the leader of the state is the leader of the military too. In these states, military coups and overthrowing the existing government by violent means are common.

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[16] Takács Péter, 2011, p 234

[17] Okeowo, Demola: *Statehood, Effectiveness and the Kosovo Declaration of Independence*, SSRN, November 3 2008, p 2 https://ssrn.com/abstract=1316445

[18] Elgie, Robert*: Review of Presidentialism, Parliamentarism and Semi-Presidentialism: Bringing Parties Back In*, by D. J. Samuels and M. S. Shugart. Government and Opposition 46, no. 3,2011, p 398

[19] ibid p 400

[20] ibid p 403

[21] *System of government*, Organisation for Economic Co-operation and Development Library, https://www.oecd-ilibrary.org/sites/025c3909-en/index.html?itemId=/content/component/025c3909-en#snotes-d7e6081

3.4 Capacity to enter international relations

The capacity to enter international relations means sovereign and independent states interact with each other. The form of relationship can be diplomatic, political, military or economic. The way these relations are established might be with agreements or treaties or it might happen states just make consultations or discussions with each other, but these are still a form of international relations. Also, 'international relations represent the capacity to engage in international relations, taken to include the ability to fulfil treaty obligations.'[22] The states endeavour to make relations that are beneficial for all parties. In addition, the degree of independence might be concluded from the capacity to enter international relations. The expression of non-recognition or the implication of non-recognition could mean that states do not want to enter a relationship with each other. We can assume when some conditions are fulfilled to be a state, then the state can start to form relations with other states. The awakening of international relations happened after the WWI. Woodrow Wilson released his Fourteen Points where he encouraged the states to form open covenants because he believed that the secret alliances caused WWI. Later on, WWII stimulated systematic social and scientific investigation which could help the development of international relations. After WWII states considered carefully with whom they wanted to form relations. Around this time scientists and philosophers started to form theories about international relations, and still today we can examine differences in the way states interact with each other.

Of course, there are exceptions for the lack of the ability to form international relations. Put the case that State A is not entirely independent from State B. State B helps with money State A to finance the expenditure of the state but with the money State B influences some state decisions too. State A may need a mineral which can be found in only State C but because State B has an unfavourable relationship with it State B says it has to choose which it wants, but if it chooses State C State B will stop giving money to State A. Concluding this it means sovereignty, independence and the capacity to enter into relations depend on each other. Modern era, politics influences many aspects of our life and may also influences international relations. We can observe that the type of political leadership of the state or government can change the level of capability to form international relations. An example can be State A has conservative leadership while State B has liberal leadership. In this case, it may happen that

[22] Okeowo, Demola, November 3 2008, p 3

State A leadership will not agree with the changes or the activities that State B does, and so if there is an opportunity to reduce the relationship between them State A would reduce it.

3.5 Sovereignty

The ultimate power of the state is either called authority or sovereignty. Nonetheless, as I found that sovereignty is the supreme authority over a state, I will use the concept of sovereignty.[23] In the contemporary world, sovereignty primarily has been connected with the idea that states are autonomous and independent from each other.[24] Within their own boundaries, the members of the polity are free to choose their form of government.[25] This suggests if there is a free state it can form a government that has ultimate power. But if the government fails to its aim and a foreign state governs the state, we can question its sovereignty. Furthermore, if we live in a sovereign state there are political parties or/and people who are in a position where their words are legitimate and accepted without questioning. However, accepting these words which can be norms or orders not always mean that citizens are compliant with them, they only accept these facts. Sovereignty can be divided into two, there is internal and external sovereignty.[26] Internal sovereignty means the state has the power to exercise power and control over a given territory and population.[27] This concludes that previous conditions like territory and population are indispensable in a state. Next, this type of sovereignty entails the right to make and execute laws on its sovereign territory.[28] Also, there is a principle which says that all states are sovereignly equal.[29] As I mentioned I use the concept of sovereignty as an important state condition but now I would like to highlight that when a sovereign government execute laws over its territory and its citizens, the government exercises authority over them. Besides making laws and orders the state must protect its citizens from any kind of danger and if the state fails to do so, the international community may intervene. External sovereignty means the state has the right to frame its foreign policy and form international relationships. It must respect other states' sovereignty and do not violate them. If any kind of violation or failure of the fulfilment of obligations happens, the state will be responsible, and it will have consequences or sanctions.

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[23] Sir Watts, Arthur: *Sovereignty*, Encyclopedia Princetoniensis, Princeton University, https://pesd.princeton.edu/node/671

[24] Krasner, Stephen D.: *Sovereignty*, Foreign Policy, no. 122,2001 p 22, https://doi.org/10.2307/3183223

[25] ibid

[26] Fejes Zsuszanna &Szalai Anikó (szerk.): Államközi kapcsolatok, Szeged, Magyarország, Iurisperitus Kiadó, 2019, p 81

[27] Britannica, T. Editors of Encyclopaedia: *Sovereignty*, Encyclopedia Britannica, August 11, 2023., https://www.britannica.com/topic/sovereignty

[28] *What Is Sovereignty?*, Understanding the International System, Council of Foreign Relations, April 28, 2023, https://world101.cfr.org/understanding-international-system/building-blocks/what-sovereignty

[29] United Nations*: Charter of the United Nations*, 24 October 1945, 1 UNTS XVI, https://www.refworld.org/docid/3ae6b3930.html

As well as there is also the concept of popular sovereignty which describes that the sovereign power comes from the population. People can practice sovereignty by direct or indirect means such as elections.

3.6 State recognition

'The process in which a state acknowledges another entity as a state is known as recognition.'[30] The recognition can happen by a statement or any action which implies the other state's recognition. The recognition can be important evidence that the factual criteria of statehood have been fulfilled. Also, it indicates that the states accept the newly formed state's sovereignty, independence and territorial integrity. However, in many cases, we can observe that recognition is a kind of political act. By recognition, states may start to form agreements in economic, political or environmental fields. In international law, there are two theories of recognition: constitutive theory and declarative theory.[31] 'The constitutive theory perceives recognition as "a necessary act before the recognized entity can enjoy an international personality," while the declaratory theory perceives it as 'merely' a political act recognizing a preexisting state of affairs.'[32] Constitutive recognition means a state is born when it is recognized by at least one other already existing state. Until this does not happen the entity cannot refer to be a full state and cannot be part of the international community. This theory is the subjective side of statehood. On the other hand, declaratory theory means an entity which fits the statehood criteria is automatically granted state status even if other countries deny its recognition. Yet, the problem of this type of theory is that what are the exact conditions of statehood. In Montevideo Convention, there are four basic criteria, but they are minimal in scope. Oppositional argues that nowadays there is a need to widen these four criteria. The creation of this theory was based on the idea that international law has to be universal, and this theory brings to the fore the objective side of state recognition.

The forms of recognition can be *de facto*[33] or *de jure*[34] which mostly refers to the government of the state. *De facto* recognition means a state acknowledges the situation in another state when a new government takes control, but it is given provisionally because the new government is

[30] *Formation and Recognition of States Under International Law*, JUSTIA, https://www.justia.com/international-law/formation-and-recognition-of-states-under-international-law/

[31] Teacher, Law: *Declaratory and Constitutive Theories of State Recognition*, November 2013, https://www.lawteacher.net/free-law-essays/constitutional-law/declaratory-and-constitutive-theories-of-state.php?vref=1

[32] ibid

[33] De facto: legal concept used to refer to what happens in reality or in practice

[34] De jure: refers to what is actually notated in the legal code

not yet capable of fulfilling the obligations under international law.[35] On the contrary, *de jure* recognition refers to a government recognized as a legitimate power holder. In *de jure* recognition diplomatic relations can be established while in *de facto* they cannot. In addition, many times when a new government gains power by revolt or coup d'état it is recognized as *de facto* but when a government can gain power constitutionally and peacefully there is a higher chance to gain *de jure* recognition from other states.[36] Another difference between *de jure* and *de facto* recognition is that the representatives of *de facto* states do not have full immunity but under *de jure* recognition every state representative has full immunity.[37]

3.7 Autarky

Autarky is a little bit complex condition of statehood. This concept means a state is self-sufficient and does not rely entirely on trading with other states. Following this way of thinking means that a state tries to make some limitations on trading. Of course, for a state, it is best if it can produce everything which is needed inside the state, but it is really idealised because there are not so many states which have every natural and industrial resource to be totally self-sufficient. Imposing limitations on some products might help the development of some sectors of industry but it needs to be done carefully and well-thought-out. Some states may pursue autarky for reasons of national security, economic independence, or ideological independence. Still, the question arises of which level of autarky is needed to be a sovereign and independent state. For some people, the minimal level may mean when states can produce foodstuff which is enough for all citizens but for others it may mean when not only the basic foods are assured but when other products such as clothing are also produced in the state.

On the negative side, autarky can mean that leaders try to possess all raw materials. It can lead to state isolation. In addition, no matter how hard the states tried no modern states have full autarky. 'The justification for autarky often draws on populist arguments of keeping money at home and out of the hands of politically unfriendly nations.'[38] We can see the example of North Korea where the leadership claims that they do not require trade with other states because they are self-sufficient. Although they are indeed isolated, still there are some specific states such as Russia and China with whom they have an excessive trading relationship. The other argument against autarky being so important as a state condition is that small and microstates are naturally

[35] Bhushan Kirti: *De Facto and De Jure Recognition of States under International Law*, LEXPEEPS, 2020, https://lexpeeps.in/de-facto-and-de-jure-recognition-of-states-under-international-law/

[36] *De Facto and De Jure Recognition*, Unacademy, https://unacademy.com/content/upsc/study-material/law/de-facto-and-de-jure-recognition/

[37] Bhushan Kirti, 2020

[38] Kenton, Will: *Understanding Autarky With Real World Examples*, Investopedia, 2021, https://www.investopedia.com/terms/a/autarky.asp

unable to produce everything inside the state because of the small territory most cases there are not enough natural and industrial resources. Yet, many microstates are considered modern states such as Vatican City, San Marino and Liechtenstein and for them, all international rights and duties are provided. We can observe that modern era not just smaller states but many states rely on international trade to access resources and products that they cannot produce domestically.

3.8 Material elements: Human rights, democratic values

Human rights came to the fore in the Enlightenment Era among philosophers and legal theorists. The new idea was that people should be provided with some natural rights which belong to them from birth. But it was a long and tough period in that from Locke's rights to life, liberty and property we arrived at the wide range of human rights recognised internationally.[39] After WWII international community felt it was the right time to adopt a legal document in connection with human rights in order to prevent any further atrocities which had happened in the two World Wars. In 1948, the Universal Declaration of Human Rights was adopted by the General Assembly of the United Nations. It represents the universal recognition that basic rights and fundamental freedoms are inherent to all human beings, inalienable and equally applicable to everyone and that every one of us is born free and equal in dignity and rights.[40] 'This ushered in a new era of rights wherein a state is no longer immune from international scrutiny in the case of egregious human rights violations such as the Holocaust that shocked the collective human consciousness.' [41] Nowadays, there are nine core international treaties and all UN member States have already ratified at least one or more of these treaties.[42] Further international treaties are more specific and affect issues such as racial discrimination, disabilities, children, migrants and torture. Yet, even though many states ratified these treaties many times we can see that people's rights are oppressed or severely limited. There are cases where there is a minimal violation of human rights for instance, in Russia, there is some problem with the freedom of the press and speech but still, it is considered as a state. While North Korea, where people's privacy is greatly violated and human rights are controlled by the leader, is also considered a sovereign and independent state. The problem is that even though there are international courts where people can address their concerns and problems until it is not in the

[39] Tuckness, Alex: *Locke's Political Philosophy,* The Stanford Encyclopedia of Philosophy 2005 (Fall 2023 Edition), https://plato.stanford.edu/entries/locke-political/

[40] Universal Declaration of Human Rights, United Nations, 1948

[41] Leib, Linda Hajjar.: *An Overview of the characteristics and controversies of human rights*, In Human Rights and the Environment: Philosophical, Theoretical and Legal Perspectives, Brill, 2011, p 53. http://www.jstor.org/stable/10.1163/j.ctt1w8h1t2.6.

[42] United Nations*: The Core International Human Rights Treaties*, United Nations Publications, New York and Geneva, 2014, https://www.ohchr.org/sites/default/files/Documents/Publications/CoreInternationalHumanRightsTreaties_en.pdf

interest of the leadership of the state, there will be hardly any change in those states. The only thing other states can do is impose sanctions against those states that do not respect entirely human rights. However, the problem is that when new states want to be formed and human rights are not yet respected enough the state cannot gain other states' respect, and recognition and even they do not want to enter into a relationship with them. Therefore, respect for human rights is not an obvious and clearly defined condition but when we think about a modern state, we believe that to a greater or lesser extent, respect for human rights must exist in a newly formed state.

Democratic values or principles are the other important material element of the statehood. A democratic state must provide equal opportunity for people to participate in voting, elections and peaceful protest. According to elections, the political parties should accept the result of the voting and it would be their obligation to help the peaceful transfer of power if there is a change in the political system. During my research, this was the value which is mostly not achieved in democratic states. Political parties do not like to give the power away and many times they just make the transfer harder with speeches or writing articles to the national newspaper. Next, state affairs should be transparent, and the government should be accountable to the citizens. Also, the separation of power should be provided by the state where execution, legislation and judiciary are working together to maintain the state but still independent of each other and may supervise each other. As there is a democratic government, a multi-party system needs to be used in order to prevent any party or leader from gaining too much control over the state. Finally, democracy will survive if the government can control the abuse of power but unfortunately, we can observe in the European continent too, that many ruling parties try to use abusive measures to maintain their power.[43] Next to, human rights, this is the other concept where the lines are not so clear. The reason for this is that states may strive to maintain democratic values but sometimes they just want to keep up the appearances and behind the walls, they do from what they can profit. This is why these days; many European states have to face the EU Rule of Law process. It usually happens that the ruling party of the state influence greatly the press or public funds distributed in an unfair distribution process. Because of the non-respect of human rights and the lack of democratic values in some states, it establishes controversial situations because newly forming states are ‘obliged’ to respect democratic values and follow these principles. Then the question comes up of how the already

[43] *Democratic values,* Pew Research Center, October 14 2019, https://www.pewresearch.org/global/2019/10/14/democratic-values/

existing states can expect the following democratic values and respect for human rights, from the newly established states, when many of them still do not respect and follow.

4 Scenarios when conditions of statehood are not achieved entirely

'Most of the states strive to become an ideal type of state, this definition was established by Max Weber, which is a type of model of what the purest version of something might be.'[44] But in this section, I would like to highlight the problems when one or more condition of statehood is declining or missing and the situation when a state is in the process of formation and state conditions are not yet fully achieved. There are several terminologies used for states which failed to maintain their statehood conditions. The absence of conditions can occur when a state is in its formation period or when it is already characterised by all conditions but due to some external or internal factors, the state starts missing one or more conditions. Usually, in both processes, the absence of conditions occurs for a longer period, and it is a thorny task to reach all conditions or to gain back the lost conditions. First, there is the proto-state which can be a political, economic or religious-based entity which does yet not have full sovereignty. Proto-state is a status when a newly forming state wants to reach the entirely independent and sovereign state status. On the other hand, failed states, collapsed states and fragile states are types of states which already have all the conditions but now they lost one or more conditions and because of it cannot function normally anymore. Many scientists and politicians use failed and fragile states as synonyms but in my research, I use them as two different concepts and try to examine and identify what can be the differences between them. If proto-states work hard and reach all the conditions and democratic values, finally become a state. While in the other three types, there is a higher chance that the state will be extinct. But in all cases hard to define which conditions are missing or do not reach that level from which other states recognised them as entirely sovereign and independent states.

4.1 Proto state

'A proto-state is a particular type of political unit, one that is organised administratively, given some degree of autonomy, and it is typically(though not always) constructed around a local ethnic group.'[45] Proto-states can be also referred to as quasi-states or state-like entities. This type of state does not meet all the four Montevideo criteria. That is why proto-states are not equal states with limited recognition because in those states the fundamental Montevideo

[44] Orvis, Stephen & Drogus, Carol, Ann, December 2019, p 43
[45] Griffiths, Ryan D.*: Age of Secession: The International and Domestic determinants of State Birth*, Cambridge University Press, 2017, p 219

criteria have already been reached. Forming states is not easy since nowadays every territory belongs to already existing states which means if a new state wants to be created or a proto-state is being established the territory is taken away from another state. In the modern era, the term proto-states is often linked with militant secessionist groups who want to form their own states usually based on religious or ideological theories. Secessionist proto-states are likeliest to form in preexisting states that lack secure boundaries, a concise and well-defined body of citizens, or a single sovereign power with a monopoly on the legitimate use of military force.[46]

The most well-known proto-state was ISIS, the Islamic State of Iraq and Syria, which is the more widely known name or the other name used by states is Daesh. In my research, I will use the name Daesh since it never achieved every statehood condition to be referred to as a state, while the ISIS abbreviation consists of the term state. As most of the international actors did not acknowledge the legitimacy of Daesh as a state they also used this name instead of ISIS. The conditions of statehood which were achieved by Daesh were the population and government. Besides these, the other conditions were missing or could be found at a minimal level. Still, the biggest problem with Deash was the ultimate use of force against anyone who did not agree with their ideas.[47] Daesh had no defined territory but took away some territory from Iraq and Syria and with the sequential wars the borders were rapidly changing which meant they had no defined territories. Because of violence and radical ideologies, other states did not recognise Daesh and did not form relations with it. Another problem was Daesh did not respect human and minority rights and executed many non-Sunny Syrians and Iraqis. It was predictable that Daesh in this form would not live long. Finally, with the cooperation of the international community, Daesh was forced back and lost its last caliphate territory which ended the life of this proto-state.

4.2 Failed state

A failed state appears when its government is unable to govern its population or there is a collapse of government which causes the inability to govern. Consequently, it lost its authority over its territory too. ‘Generally, the expression ‘failed State’ is used when ‘the public authority, the power of a State, has completely broken down.’[48] This means failed states are unable to

[46] Newton, Kenneth; Van Deth, Jan: *Foundations of Comparative Politics*. Cambridge, Cambridge University Press 2016, p 366

[47] Ryan, W. S., Michael: *ISIS: The Terrorist Group That Would Be a State,* Irregular Warfare Studies, number 2, Center on Irregular Warfare and Armed Groups, the United States, 2020, p 57

[48] Classen, C. D: *Failed States and the Prohibition of the Use of Force,* In Société Française pour le Droit International. Journée Franco-allemande: Les Nouvelles Menaces contre la Paix et la Sécurité Internationales. New Threats to International Peace and Security. Paris: Pedone, 2004, p 129

provide basic health care, educational facilities and food supply. Next, even if the state can maintain a minimal level of legal sovereignty, there may be a failure in political power, law enforcement and civil society. Consequently, corruption, criminality, intervention from other states and economic decline are more likely to occur. The effects of the failed states are not just internal but in some cases, they have cross-border impacts too.[49] Besides the ineffective government, some scholars focus on other indicators which may cause the status of a failed state such as the growth of criminal violence, the decline of democratic values or the legitimacy of the state. As there is no effective government, in many states military leaders take over the control by coercive means, leading to the predatory government, genocide and even civil war.

The concept of failed states originated from the time of decolonization when the UN General Assembly started to apply the principle of self-determination, as the newly formed independent states were unable to govern themselves. In this period many African states suffered from the missing capability to govern solely their own state and population.

Somalia is one of the states which was referred to as a failed state. After the decolonization, the state was left in a futureless situation. There was no united government, there were territorial imbalances and major political instability.[50] Even though Somalia was ethnically quite homogeneous different tribes and clans wanted to be in power which caused civil wars. In addition, in the African territories producing food is not an easy task even if there is no civil war, but as in Somalia there were civil wars that led to extreme food shortages and millions of citizens died because of famine and the civil wars. Finally, the UN decided to provide humanitarian help to Somalia because they were not capable of solving the problem alone. Several missions were launched to Somalia such as the Restore Hope and Continue Hope missions. This example shows that most of the time failed states are not capable of restoring peace, security and democratic values by themselves but they need some external help.

4.3 Fragile state

Fragile states are quite similar to failed states so defining the difference is not always easy. Even though some scholars use these concepts as synonyms, but I would like to use fragile state as a slightly different definition and so I would like to find what could be the differences between fragile and failed states. According to the 'European Union fragility refers to weak or failing structures and to situations where the social contract is broken due to the state's

[49] *Crisis, Fragile and Failed States Definitions used by the CSRC*, Crisis States Workshop, March 2006, https://www.lse.ac.uk/international-development/Assets/Documents/PDFs/csrc-background-papers/Definition-of-a-Failed-State.pdf

[50] Venugopalan, Harish: Somalia: *A failed state?,* Observer Research Foundation, 06 February 2017, https://www.orfonline.org/research/somalia-a-failed-state/

incapacity or unwillingness to deal with its basic functions, meet its obligations and responsibilities regarding service delivery, management of resources, rule of law, equitable access to power, security and safety of the populace and protection and promotion of citizens' rights and freedoms.'[51] The conclusion that I can deduct from the EU's definition and as many other scholars and organizations describe is that the main difference is that in a fragile state, there is a government which not failed its task but does not want to perform its tasks or it is too weak to do it.[52] Consequently, fragile states are unable to provide public services, and national security and interact with other states. As the government has declining power or intentionally does not perform its tasks, the state sooner or later will lose the authority to make collective decisions. The next aspect which differentiates failed and fragile states is that while failed states appeared mostly after decolonization or after the breakup of bigger unions such as the Soviet Union, fragile states performed stability for a shorter or longer period and after a change of government or external intervention problems starts to arise and the state will reach the status of a fragile state.

There is a Fragile State Index powered by the Fund For Peace which examines different factors such as social, economic and political, and considering these data they set up a list every year that consists of every state of the world. Yemen was in number one place several times during the years. Yemen's former president Ali Abdullah Saleh led the state in a corrupt and mismanagement way which later burst into civil wars and uprisings. As usually happens after civil wars, Yemen had to face extreme poverty, guerilla movements, dire economic situation, famine and missing health care. In this case, the UN as a universal organization try to prevent any further problems and try to help restore the state to a stable form. For example, UN-led talks resulted in a ceasefire agreement which would be a starting point for creating peace and security again. Later the UN created the Development Assistance Framework is the main guiding strategic framework of the UN system operational activities for development.[53] Both in failed and fragile states without external help the states cannot or do not want to improve or restore the stable situations of the states.

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[51] *Communication from the Commission to the Council, the European Parliament, the European Economic and Social Committee and the Committee of the Regions – Towards an EU response to situations of fragility – engaging in difficult environments for sustainable development, stability and peace*, Commission of the European Communities, COM(2007) 643 final, 25 October 2007, https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2007:0643:FIN:EN:PDF

[52] Nay, Olivier: *Fragile and Failed States: Critical Perspectives on Conceptual Hybrids*, International Political Science Review / Revue Internationale de Science Politique, vol. 34, no. 3, 2013, p. 327. JSTOR, http://www.jstor.org/stable/24573532.

[53] United Nations Development Group: United Nations Development Assistance Framework Guidance, 2017, p 9, https://unsdg.un.org/sites/default/files/2017-UNDAF_Guidance_01-May-2017.pdf

4.4 Collapsed state

A collapsed state means an already existing state has suddenly dissolved because of any internal or external factor. This is an extreme case when a state fails to reach its goals. Stat collapse is a short time process but takes a longer time and it allows turning back the process but it is hard since the signs of a state collapse are not obvious thus reacting to it is difficult. As previously mentioned in failed or fragile states the government had an important role in the problems. In a collapsed state government may have some influence over the breakdown but for a total collapse, additional factors are needed. 'State collapse, as a current phenomenon, is a much more specific, narrow, and identifiable, political cause and effect with social and economic implications, and one that represents a significant anomaly.'[54] Because the functions which are needed to be a state are so interconnected therefore it becomes difficult to perform separately, meaning one weakening factor will affect the others too.[55] When a state is collapsed the borders of the state are no longer secured by one central organisation. Also, the decision-making branch is incapable of making laws or preserving order in the state. 'States suffering from the disintegration of their governmental institutions retain their legal personality and, therefore, their rights and duties under international law.'[56] This is the time when the international community usually intervene when not only the state cannot provide human rights to its citizens but also cannot fulfil international obligations either. Therefore, the problematic state endangers international peace and security.

The Soviet Union is one example of a collapsed state. The Soviet Union consisted of 15 constituent republics which later on gained full independence from the central Soviet influence. The collapse of the Soviet Union took several years, and it started with some internal liberalization reforms which were established by Mikhail Gorbachev but did not reach their aim. Next, liberalization empowered the ideas of the nationalist movement within the Union. By this time the 15 constituencies gained back more or less their power after WWII, and they felt that from that time they were powerful enough to be independent of the Soviet Union and become an independent and sovereign state again. Next to the constituencies, there were satellite states and they also started to fight for their independence by this time. As these states started to emphasize their independence the president and his power started to decline as the opposition started to gain power. Also, in the international community Soviet Union as a unified

[54] Zartman, William: *Collapsed States: The disintegration and restoration of legitimate authority*, the USA, Lynne Rienner Publisher, 1995, p 417
[55] ibid p 418
[56] Advisory Council on International Affairs

superpower loosened its power and the constituencies started to gain more and more recognition. Finally, there was a coup against Gorbachev and a new political party led by Boris Yeltsin. At the same time, declarations on the independence of the constituent states were established and by 1991 all former Soviet states gained independence which meant the end of the Soviet Union.

Table 1: Statehood conditions in problematic types of states

	Proto-state	**Failed state**	**Fragile state**	**Collapsed State**
Population	✓	✓	✓	**X**
Defined Territory	**X**	✓	✓	**X**
Government, Sovereignty	✓	**X**	✓	**X**
Capacity to enter international relations	**X**	**X**	**X**	**X**
State recognition	**X**	✓	✓	**X**
Authority	✓	**X**	**X**	**X**
Autarky	✓	**X**	**X**	**X**
Material elements: human rights, democratic values	**X**	**X**	**undecided**	**X**

(Created by the author)

5 Case of Kosovo

The case of Kosovo is a modern example of how a state can gain its independence. 'The process of independence of Kosovo is a unique situation both in international political and international judicial fields which established the *sui generis* characteristics of this precedent.'[57] One of the reasons for the *sui generis* is that previously in the territory of Kosovo, there was no unified medieval or modern state. Therefore, after the end of Yugoslavia Kosovo had no legal claim to recces any territory because it had not been existed before. Yet, Kosovo decided to be an independent state. During its existence, Kosovo was unique. First, it was a province, from 1999 under international control it became an international protectorate[58], finally on February 17, 2008, Kosovo declared unilaterally its independence which makes it one of the youngest states in the world. But still, there are some superpowers like China and Russia, who do not recognize it. Although, the biggest difficulty is that Serbia, from where Kosovo wants to be broken away claims legally that the territory of Kosovo belongs to them but for a temporary period there is a provincial leadership in Kosovo which has more autonomy than the other provinces of Serbia. These factors cause the problem that Kosovo is unable to join the United Nations. Though Kosovo could join the International Olympic Committee, International Monetary Fund, World Bank and UEFA which suggest that even though many UN member states do not recognize it, Kosovo still has limited international recognition.[59] Serbia tried to stop the process of independence of Kosovo because by Serbian request the UN General Assembly requested an opinion from the International Court of Justice.[60] By 2010 the ICJ finished the examination of the political status of Kosovo. It contained that Kosovo did not breach any law which had been established by the 1244 UN Resolution[61] but ICJ did not explicitly write down whether the Declaration of Independence was a lawful or unlawful act. The biggest problem besides the non-recognition from Serbia is the diverse ethnicity in Kosovo. In Kosovo's territory, 92% of the population is Albanian and 6% is Serbian. This is why Kosovo not only has to face political barriers and non-recognition but also internal ethnic conflicts and atrocities that occur daily. The main concern with the independence of Kosovo is the lack of the ability to provide security.

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[57] Márkusz László: Koszovó története: *Dardániától a brüsszeli dialógusig*, Budapest Ludovika Kiadó, 2022, p 11

[58] International Crisis Group: *The New Kosovo Protectorate*, ICG, Sarajevo, 1999, p 2, https://www.files.ethz.ch/isn/27981/069_new_kosovo_protectorate.pdf

[59] Emini, A., Marleku, A.*: The Prospects of Membership in International Organizations: The Case of Kosovo*, Acta Universitatis Danubius. Relationes Internationales, Vol 9, No 2, 2016

[60] General Assembly of the United Nations*: Backing request by Serbia, General Assembly decides to seek International Court of Justice ruling on the legality of Kosovo's independence*, Department of Public Information, News and Media Division, New York, 8 October 2008, https://press.un.org/en/2008/ga10764.doc.htm

[61] Resolution adopted by the Security Council in 1999 which established the legal basis for international help in Kosovo

From the end of Yugoslavia and after the first attempts to be independent the previously mentioned ethnic conflicts escalated and recently the clashes are still ongoing. Due to the security problems, there is a NATO peace mission called KFOR[62], which has been stationed in Kosovo for 25, is trying to reduce the number of atrocities with less and more success. In the next paragraphs, I would like to examine the reasons that led Kosovo to start the process of becoming an independent state, which statehood conditions have been fulfilled and which are not and how the international community reacted to the formation of a new state in the modern era.

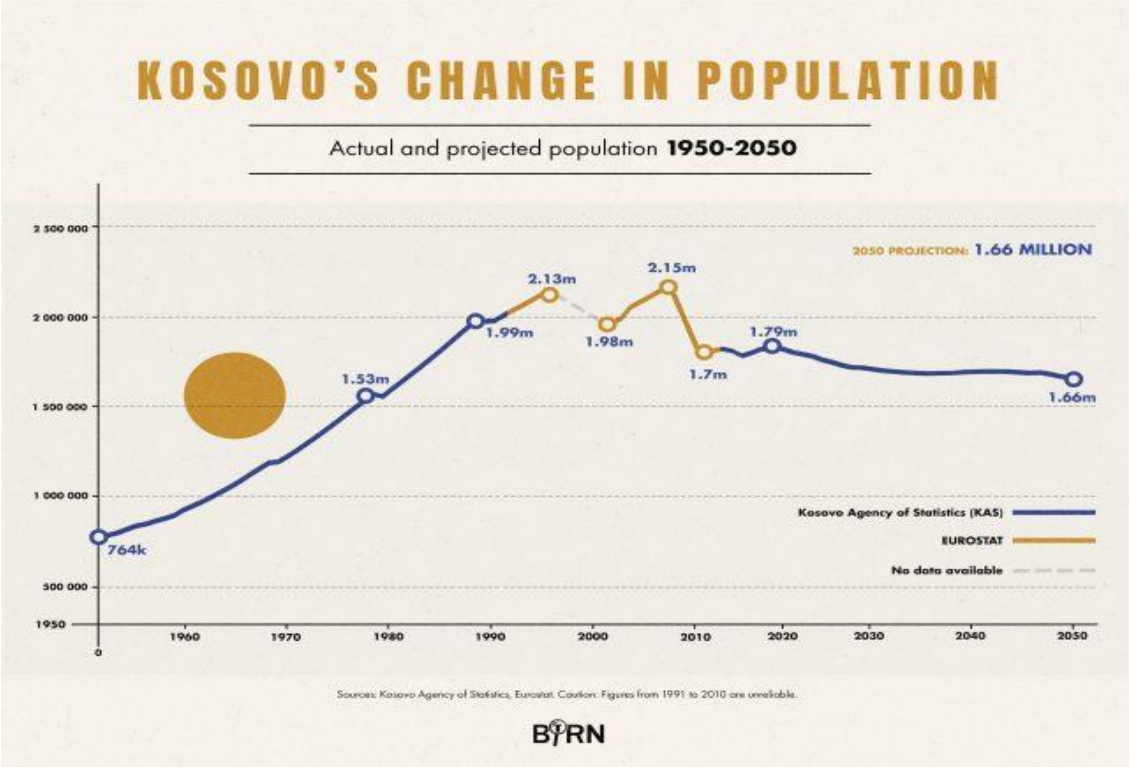
5.1 Population of Kosovo

The population of Kosovo is a mixture of different ethnicities. Today Albanians are living most of the territory, but it was different in the previous centuries. Around the 13th century was the time when the first Albanians arrived there but at that time, they were a minority besides the Serbian people. Over the years the territory, which recently belongs to Kosovo, was part of more empires and kingdoms such as the Serbian Kingdom and the Ottoman Empire. The influence of different nations resulted in the Albanian population slowly converting to the Islam religion while Serbians mostly remained Eastern Orthodox. The difference in religion and consequently difference in custom has caused and still causing many disagreements between the citizens. During the Balkan Wars and the two World Wars, there were casualties and migration waves but back in those times, there were no statistical measurements therefore there were no numbers before the 1950s. In 1945, Josip Broz Tito the leader of Yugoslavia decided to give an autonomous status to Kosovo within Serbian territory. It was important because with a higher level of autonomy, the Kosovo Agency of Statistics was established and since we have statistical data in connection with the population.[63] In *Figure 2* we can observe during the second half of the 20th century there was an instant population growth. The population growth was parallel with the desire to be an independent state. However, in the 1990s problems started when Slobodan Milosevic became the Serbin president, and his goal was to totally integrate Kosovo back into Serbia. The tension culminated in the War of Kosovo which was started by Serbian as an ethnic cleansing. During the War 10 000 Albanians died and around 90% of the Albanian population was expelled from their homes; many of them migrated to another state mostly to Albania.[64] This caused one of the biggest changes in the history of the population of

[62] Kosovo Force
[63] *Population*, Kosovo Agency of Statistics, https://ask.rks-gov.net/
[64] *Ethnic Cleansing in Kosovo: An Accounting*, US Department of State Archive, January 12, 2001, https://1997-2001.state.gov/global/human_rights/kosovoii/homepage.html

Kosovo. At the time of the Declaration, the population was around 2 000 0000 but as we can observe the number of the population slowly started to reduce in the first decade of independence. Many scientists and statistical offices predict that in the next decades, the number will slightly decrease.[65] For now, we do not see how the population change will influence the political status of Kosovo, but it may seem like a weakness if it cannot maintain its population at a decent level.

Figure 2: Population change in Kosovo 1950-2050



Created by: Ewelina Karpowiak / Klawe Rzeczy,, Kosovo's Demographic Destiny Eerly Familiar, https://balkaninsight.com/2019/11/07/kosovos-demographic-destiny-looks-eerily-familiar

The recent ethnic distribution of Kosovo is quite similar to the case when they declared their independence. In 2008, 92% of the population were Albanians, recently it 92,9% but in the case of the minorities, there were some changes because back in 2008 the biggest minority was the Serbians but now, they are only 1.5% of the population and Bosniaks are the biggest minority with 1.6%.[66] The harsh differences between the ethnicities are the originator of the riots and

[65] *Kosovo Population: Projection: Kosovo Agency of Statistics*, CEIC, https://www.ceicdata.com/en/kosovo/population-projection-kosovo-agency-of-statistics
[66] *Kosovo-Country Summary*, The World Factbook, CIA, October 03, 2023, https://www.cia.gov/the-world-factbook/countries/kosovo/summaries/

uprisings between the citizens. It hindered the process of the aspiration to become independent but since the Declaration of Independence in 2008, it has not been possible to improve the differences. It not only affected the citizens' everyday lives and the semblance of a stable state but also affected the behaviour of international actors towards the case of Kosovo. Recently, one of the biggest concerns in connection with Kosovo is that does not have the monopoly of power and consequently cannot protect the lives of its citizens which may cause migration waves and riots.

5.2 Kosovar territory

Kosovo has no long-standing history and until the 20th century, it did not have any defined borders or territory. The recent borders of Kosovo were decided by Josip Broz Tito, Yugoslav president, in 1945 and since there were only minor changes in connection with the area. Since its territory was defined it did not mean that it automatically became independent. 'At that time Kosovo was an autonomous district and had a local administration but did not have autonomous legal competence.,[67] Before the decisions of Tito, Kosovo's territory was called as Vilayet of Kosovo, and it was a little bit larger. However, I would not refer to it as the ancestor territory since the population was ethnically and nationally largely mixed. We can observe that Kosovar people lived in the centre part of the Vilayet and later on this part evolved into the territory of the Republics of Kosovo which was the area between the Sharr Mountains and Kopaonik Mountains inhabited mostly by Albanians.[68] The Kosovar aspiration was to be independent and to have its own territorial integrity. From the 1990s when the issue of the independence of Kosovo came to light it quickly became clear that they could not set up and maintain a satisfactory police office and military; they were highly dependent on international missions and actors. It consequently led to the question of if the international actors stopped their missions could Kosovo protect its territory if someone might try to annex it? Up to this point, no other states tried to annex territory from Kosovo by military force but it would happen that someone will try it. After the Declaration of Independence, Kosovo slowly started to reduce international military missions within the state.[69] Despite their effort to be able to maintain peace and security solely within the borders of the state, KFOR is still there to help the Kosovar police officers.

[67] Márkusz László, 2022, p 329
[68] Allcock B & John, Young, Antonia & Lampe R. John: *Kosovo,* Britannica Encyclopedia,, October 12 2023. https://www.britannica.com/place/Kosovo#ref296707
[69] Summers, James, 2011, p 134

Besides the inability to provide peace in its territory, the Northern provinces caused many problems in the endeavour to create a united territory of Kosovo.[70] As most of the Serbians live there and there is a common border between Serbia and Kosovo, there is a fear that these provinces will eventually join Serbia. The ethnic tension resulted in that after the Declaration of Independence in 2008, next to the ‚normal' provinces ethnic-based provinces were created, four Serbian and one Turkish province to satisfy the minorities who were living in those provinces.[71] Lately, there was an attack against a village, called Banjaska, which the Kosovars refer to as a piece of evidence showing the Serbians intended to annex northern Kosovo.[72] If it is true and they will successfully annex these provinces it would represent Kosovo's weakness in protecting its territory. Also, it would be a sign of a breach of Kosovo's territorial integrity in the international sphere. Still, Serbia may claim they do not annexe provinces from another independent state since they do not recognise Kosovo an independent state. The territorial dispute between Serbian Kosovars and Albanian Kosovars had previously many challenges too, but it seemed that with the start of the Belgrade-Pristina Dialogue in 2011, the Kosovar Government was provided with better opportunities to implement their structure and footprint.[73] But as the latest events show the Serbian Kosovars are not entirely satisfied with the changes made by the Kosovar authority.

[70] Prelec, Markus: *Behind the Renewed Troubles in Northern Kosovo*, International Crisis Group, 07 June 2023, https://www.crisisgroup.org/behind-renewed-troubles-europe-balkans-northern-kosovo

[71] Reményi Péter: *Koszovó politikai rendszere*, Délkelet-Európa politikai rendszerei(1990-2017), Budapest, Dialóg Kiadó, 2019, p 149

[72] RFE/RL's Balkan Service*: Pristina Says Evidence Shows Serbia Planned To Seize Northern Kosovo After Attack*, RadioFreeEurope RadioLiberty, October 01, 2023, https://www.rferl.org/a/kosovo-serbia-troops-border/32617825.html

[73] *Belgrade-Pristina Dialogue*, European Union External Action, https://www.eeas.europa.eu/eeas/belgrade-pristina-dialogue_en

Figure 3.: Territorial changes of Kosovo

The territory of Kosovo Vilayet from 1877 to 1913

Source: History of Kosovo Wikipedia, https://en.wikipedia.org/wiki/History_of_Kosovo

The territory of Kosovo from 1945

Created by John B. Allcock, John R. Lampe, Antonia Youn:, Kosovo, Britannica Encyclopedia, https://www.britannica.com/place/Kosovo

5.3 Government of Kosovo

During the 20th century, Albanian Kosovar political parties were created but as Kosovo was a province of Serbia in Yugoslavia from 1918, they were only able to establish a Socialist Autonomous Province of Kosovo's Government within Serbia. During the Tito regime, in 1974 Kosovo got the chance to create its Constitution. Kosovar people hoped that this action would help the process to be independent. Unfortunately, the next president of Yugoslavia was Slobodan Milosevic who decided to annul all the concessions which were provided to Kosovars by Tito.[74] The Albanians' participation in public offices was mainly discouraged. Yet, as a response to the loss of autonomy, Albanians formed a parallel administrative structure and one of the most influential political parties the Democratic League of Kosovo (LDK) was formed.[75] After the international community decided to intervene in the dispute between Serbia and Kosovo, the first Kosovar was established under the international protectorate system with the help of the United Nations Interim Administration Mission in Kosovo (UNMIK) in 1999.[76] Two years later, still with the help of the UNMIK, the first national election was held and the LDK won the election with the majority of the votes; so they could appoint the president, and

[74] Márkusz László, 2022, p 353
[75] Allcock B & John, Young, Antonia & Lampe R. John, October 12 2023.
[76] *United Nations Security Council (UNSC) Res. 1244*, 10 June 1999, https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244ENG.pdf

Ibrahim Rugova was chosen for this position. He had established LDK and had been the president of Kosovo previously when it was partially recognised and before the intervention of the international community.

Since 2001 when the first national elections were held, the official form of government of Kosovo has been the Parliamentary Representative Republic. Problems arose in many forms within the government. In the first few years, until the Declaration of Independence, the international influence made it impossible to decide without their consent.[77] On one side, the assistance of international actors can be interpreted as a help to establish a democratic government. On the other side, it had some disadvantageous effect on the government. First, the local politicians could not decide independently on their local issues. Next, the international actors always tried to push the decision in a direction from which they could also benefit. After 2008, the influence of the international community was reduced, but other problems came up. First, the local politicians did not really like the idea of coalition government which resulted in that none of the governments could live through the four years of its mandate. Besides the problems with the maintenance of governments, the heritage of the Kosovo Liberation Army was a political party, the Democratic Party of Kosovo (PDK) which led the state for the longest time.[78] But it caused the appearance of corruption and the transparency of spending money could be questioned too. Another problem which had to be solved by the infancy statehood period was that politicians tended to set short-term goals instead of long-term ones. It means many of them were ambitious until the point they got into power but their reality, their aim was rarely to make Kosovo function better and to improve economic and political relations with other states. The relationship between the Serbian Government and the Kosovar Government has many difficulties nowadays too. After the Declaration of Independence, the Kosovar Government had to be established in a way that minister(s) from the Serbian minority should be presented in the Government.[79] But during the first decade of independence, many Serbian politicians were assassinated in Kosovo and in many cases when Serbian politicians visited Kosovo they were arrested. 'In addition, the Northern part of Kosovo, inhabited by Serbs is not under the control of the central government of Kosovo. But the Provisional Institutions of Kosovo in collaboration with the UNMIK institutions have been in control of the territory before and since the declaration.'[80] These events did not support the democratic and well-

[77] Márkusz László, 2022, p 473
[78] Márkusz László, 2022, p 474
[79] Márkusz László, p 478
[80] Efevwerhan, I. David: Kosovo's Chances of UN Membership: A Prognosis, Goettingen Journal of International Law 4,2012, p 111 https://www.gojil.eu/issues/41/41_article_efevwerhan.pdf

functioning picture of the Kosovar Government. By the end of the 2010s, Albanian radical politicians strengthened within the political sphere in Kosovo, but the USA started to pressure them to reduce the radical influence within the state. Radicalism was eventually abolished, and recently the Prime minister is Albin Kurti (Self-determination Movement party) from a left-wing party while the President of Kosovo is Vjosa Osmani coming from the Guxo party (centre-right political party). Hopefully, the recent government can live through its mandate and will show the world that they can be more united and can work together to develop a better status for Kosovo.

5.4 Capacity to enter into international relationships

Before the 1990s Kosovo had no real international relations since it was treated as an autonomous part of Serbia but not an independent state. But when the international community realised its worrisome status, many Western states started to help. In the 2000s the relationship between Kosovo and other states was not equal in the sense that Kosovo was weak and needed a lot of help and effort from the international community to achieve some level of independence from Serbia. This presupposes that Kosovo was highly dependent on the will of the international actors and what they dictated Kosovo had to follow. The international relationships were politically done under the leadership of UNMIK and NATO. As the Republic of Kosovo declared unilaterally its independence in 2008, it supposed Kosovo was able to establish and maintain international relations. Even though Kosovo became able to create relations, the problem came that many other states did not want to establish relations with Kosovo even if Kosovo wanted to. Although in 2010, ICJ did not express whether Kosovo is eligible for statehood, it highly implied it in its advisory opinion. This means Kosovo is able to enter into a relationship with other states. But in connection with the uncertain political status which is derived from the unilateral declaration of independence; many other states do not recognize Kosovo as an independent state and; consequently do not want to enter into relations with it. And since half of the UN member states do not recognise Kosovo, smaller and less powerful states are more careful with their diplomatic relations with Kosovo because it may have an impact on their relations with other more powerful states such as Russia and China.

5.5 International Recognition

International recognition and the lack of recognition is the most frequently mentioned statehood condition in connection with Kosovo in the media and the international sphere. Before 2008 we could not speak about recognition because Kosovo could not be referred to as an independent state. But this changed in 2008 when the Kosovar Parliament voted in favour of independence.

'The legal basis for this act was provided by the 8th principle of the Helsinki Final Act which allowed for a peaceful change of state borders based on democratically expressed self-determination.'[81] The transition of Kosovo was peaceful which was unique if we look at other Balkan states positions after the end of Yugoslavia. The transition created a *de facto* political situation in Kosovo. Most Western governments were quick to recognise Kosovo as a new state, but still, there were superpowers like Russia and China who opposed this declaration. The biggest problem was and still is that Serbia does not recognize Kosovo as an independent and sovereign state. The reason for the importance of Serbian recognition is that Kosovo wants to break away from Serbian territory and authority. I have already mentioned that Russia does not recognize Kosovo. One explanation can be that from the period of the Cold War, there has always been a kind of Western and Eastern opposition in the world. In this case, the starting point of the escalation of the Russian opposition originated from the NATO intervention in the Kosovar War in the 1990s. Russia expressed their resentment that they had been already in the Balkan territory for over a century and helped the formation of Balkan states and now the USA tried to impose their recommendations without consulting Russia.[82] Also, Serbian and Russian people originated from the Slavic people and both nations have orthodox religions, so it was clear which side Russia would choose. In addition, Russia did not recognize Kosovo for fear that it would set up a precedent and more and more separatist movements would be organized. Unfortunately, this opposition has not improved over the years, and today Russia is one of the biggest supporters of the Serbian viewpoint.

On the road to independence, Kosovo had many supporters and oppositional. In the year of the Declaration of Independence, 55 states recognised Kosovo.[83] Recently, the number of states that recognise Kosovo is around 100. We do not have the exact number because some states withdrew their recognition or implied that they want to withdraw and some of them do not express directly only implied that they recognise Kosovo. Kosovo's biggest problem which originated from the unrecognition by Serbia, is that at the moment it is unable to join the United Nations. Generally, the UN does not admit a new entity that came into existence as a result of unilateral secession unless the parent State acquiesces.[84] In 2012, a Belgrade-Pristina

[81] Bebler, Anton: *The Serbia-Kosovo Conflict." In "Frozen Conflicts" in Europe,*1st ed., Verlag Barbara Budrich, 2015, p 161

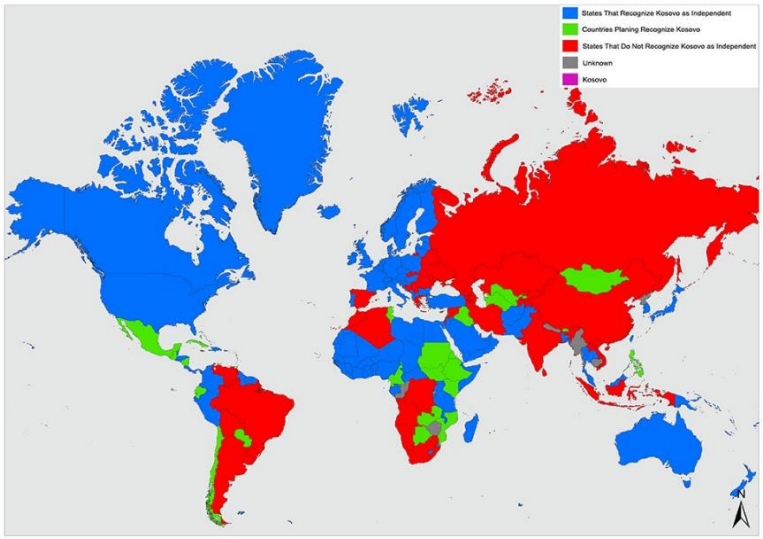
[82] Jashari, Muhamed: *The Position of Russian Diplomacy toward the Kosovo Issue (1998-1999),* International Journal of Historical Researches, Vol. 7, 2022

[83] *Countries that have recognised Kosovo as an independent state,* Be in Kosovo, https://www.beinkosovo.com/countries-that-have-recognized-kosovo-as-an-independent-state/

[84] Efevwerhan, I. David, Journal of International Law 4,2012, p 102

Dialogue[85] started, in which Kosovo's final aim was that Serbia would eventually recognise it and then it would have a higher chance of being accepted by the UN. As I mentioned previously Russia is against the independence of Kosovo and besides the unrecognition of the parent state, Russia in the Security Council vetoed the resolution which would prove that Kosovo is a peace-loving state consequently the General Assembly cannot accept Kosovo.[86] Unfortunately, both the Belgarde-Pristina Dialogue and the unacceptance of Kosovo by the UN became a political issue. I assume that if Serbia would recognise Kosovo, for which I see very little chance, Russia may not use the right of veto during the decision-making process in the Security Council.

Figure 4.: International Recognition of Kosovo



Source: International Recognition of Kosovo, Mappr, https://www.mappr.co/thematic-maps/international-recognition-of-kosovo/

5.6 Kosovar sovereignty

During the 20th century, Kosovo did not have full sovereignty because it was a province within Serbia but when Kosovo decided to break away from Serbia, international organizations and missions arrived to the state to help to set up a modern and well-functioning state. Although the 1990s Western governments were reluctant to speak about a fully sovereign Kosovo. They fear that the example of Kosovo would encourage other minorities to press for independence.[87] The

[85] The EU-facilitated Dialogue aims to achieve a comprehensive legally-binding normalisation agreement between Kosovo and Serbia addressing outstanding issues in order for both Parties to progress on their respective European path, create new opportunities and improve the lives of their citizens.
[86] Gómez, Katia Fach & Gourgourinis, Anastasios & Titi, Catharine: International Investment Law and the Law of Armed Conflict, SpringerCham, 2019, p 115,
[87] International Crisis Group (ICG*): Intermediate Sovereignty as a Basis for Resolving the Kosovo Crisis*, 9 November 1998, https://www.refworld.org/docid/3ae6a6e94.html

solution for this situation was a so-called intermediate sovereignty. Intermediate sovereignty required that Kosovo could have exercised some specific rights but the specific link remained between Kosovo and Yugoslavia and Kosovo needed to follow the international laws too. This process was proposed for 3-5 years and at the end of this period with a popular referendum Kosovo could be independent. The international monitoring groups and missions came from NATO, from the EU and from the OSCE. As it was promised that after all Kosovo could be independent, in 2008 the Kosovar Parliament decided to declare its independence after a decade of intermediate period. However, the situation of Kosovar's internal functioning was not ready for this transition. The unpreparedness can be seen in that many international missions and groups left the state some years after the declaration and there are missions which are still ongoing in Kosovo. Firstly NATO-led KFOR and UN-led UNMIK missions from 1999 started to help the functioning of Kosovo. KFOR is a peace support operation whose aim is to build peace and security, and back in the 90s to support humanitarian help and demilitarise the Kosovo Liberation Army.[88] After 2008, additional tasks were added to KFOR such as setting up relevant local and international authorities. Recently, the KFOR has had an important role in the northern provinces where Kosovar authorities still do not have control. The need for the presence of KFOR is that it shows that Kosovo is unable to maintain internal sovereignty over the whole territory and its population.[89] On the other hand, UNMIK's initial tasks were to provide conditions which ensure a peaceful and normal life for the Kosovar citizens.[90] In 2008when EULEX (European Rule of Law Mission in Kosovo) was established most of the UNMIK tasks were handed over.[91] We have to highlight that after the Declaration of Independence, the international community was not convinced by the Kosovar Government that they could solely maintain the peace and order in the state, so instead of ceasing all the international missions, they established the EULEX to oversee the rule of law in Kosovo. EULEX has a mission to support the rule of law and support legal institutions to be more effective work in line with human rights and be free from political influence.[92] EULEX is also present next to KFOR. These missions show not even Kosovo is struggling to maintain authority over its state but the system-wide corruption, which flourished during the 2000s, has

[88] *NATO's role in Kosovo*, North Atlantic Treaty Organisation, last updated 13 Oct. 2023, https://www.nato.int/cps/en/natohq/topics_48818.htm

[89] Denk, Thomas & Lehtinen, Sarah: State-Formation and Democratization, Palgrave Macmillan Cham, 2019, p 57

[90] *Mandate*, UNMIK, UN, https://unmik.unmissions.org/mandate

[91] Radeljić, Branislav: *European Union approaches to human rights violations in Kosovo before and after independence*, Journal of Contemporary Central and Eastern Europe, 24:2, 2016, p 136 10.1080/0965156X.2016.1219162

[92] The Mission, EULEX, https://www.eulex-kosovo.eu/?page=2,16

not yet disappeared. Looking at the fact that after 15 years of independence and there is still a need for the help of the international mission, it is not an issue which can be omitted in connection with the process of becoming totally independent.

As I already explained, sovereignty has two types, internal and external sovereignty. Observing the external side, from 2008 Kosovo can frame its own foreign policy and create international relations without any major difficulties. However, external sovereignty supposes no other states intervene in the internal affairs. But as Serbia claims that Kosovar territory belongs to the Serbian state, they believe they have the right to intervene in the decisions made by the Kosovar authority.[93] On the other hand, the USA is the biggest supporter of Kosovo's independence but in 2018 a radical politician Ramush Haradinaj got the power and started to make radical decisions, such as placing Serbian products under 100% punitive duty, the US Government started to pressurize Kosovo to withdraw these decisions.[94] This example shows perfectly that even if the Kosovar Government claims it has had total sovereignty, recently we can see examples which prove the opposition. Problems arise in internal sovereignty too. Most of the Kosovar Serbians do not want to follow the orders of the Kosovar authority which means Kosovo cannot exercise its power and control over the whole population in addition as Kosovar Serbians mostly live in the northern part of Kosovo, Kosovo cannot exercise power over its full territory.[95]

5.7 Economy of Kosovo

Throughout the first years of independence, it became clear that reducing the tension between Kosovo and Serbia would remain a critical problem. Because of the pressure from the EU, Serbia agreed to start negotiations with Kosovo. Negotiations started in 2011 and they are still ongoing today. It was obvious that there would be no quick solution for the status of Kosovo but at least started to have debates about practical questions. In 2013 the First Agreement of Principles was signed by Serbia and Kosovo in order to start to normalize their relationship. It was the first step in the process of stabilizing the status of Kosovo and rebuilding a normal relationship between Kosovo and Serbia. One of the consequences of the First Agreement was that Kosovo could extend governmental control to the northern districts. As control was gained

[93] Di Lellio, Anna & Hajrullahu, Arben & Hamilton, S. Daniel: *Consolidating Kosovo's Sovereignty Why it Matters, and What Must Be Done,* Wilson Centre, August 1 2021, p 6, *https://www.wilsoncenter.org/sites/default/files/media/uploads/documents/WC%20Consolidating%20Kosovo%27s%20Sovereignty%20report%208.3.2021.pdf*

[94] Márkusz László, 2022, pp 489

[95] Dr Bastian, Jens: *Kosovo's Independence and International Repercussion,* European Institute of the Mediterranean, IEMed Mediterranean Yearbook 2009, https://www.iemed.org/publication/kosovos-independence-and-international-repercussions/

the northern borders came under their control. It was important since Kosovo had struggled to maintain itself and in economic terms it showed slow improvements during the first years of independence but to prove to the international community it could provide every need for its citizens, Kosovo needed to take steps quickly to solve economic problems. With the northern borders new amount of money came from tariffs which was promised to turn in the development of the northern province. In recent years, Kosovo has shown a positive change in economic growth, but the economy is still characterized by a large informal economy, political influence and the marginal level of rule of law.[96] Autarky may not seem to be a significant statehood condition nonetheless to have a well-functioning state it is necessary to have a good economic situation. 'Kosovo has successfully transitioned away from a growth model based on high dependence on foreign aid inflows, outperforming peer countries of similar per-capita income thanks to a steady expansion in consumption and investment, with a strong impetus from diaspora inflows, public investment in infrastructure, and financial deepening, and a stable fiscal stance and an environment of low inflation.'[97] Indeed, Kosovo transitioned away a little bit more foreign capital but the recent dependence on Western financial assistance is even now too high compared to other well-functioning states. According to the OECD, Kosovo is dominated by the services sector, and they have planned goals in the economic field like planning a developed innovation policy and plans for education-business cooperation, indicating that Kosovo is trying to catch up with the economies of other Balkan states.

5.8 Existence of human rights and democratic values

Speaking about riots and the subsequent migration waves we have to point out that they were not only caused because of the lack of ability to provide security but also the lack of recognition of human rights especially the rights of minorities.[98] Resolution 1244 did highlight that the Kosovar Government has to respect the rights of the Serbian minority and they can use their language, set up Serbian language schools and also provide the opportunity to be involved in domestic affairs.[99] However, Kosovar people did not forget about the atrocities they had been through during the Milosevic and previous Serbian regimes. Now, when they could finally break away from the pressure and influence of Serbia, Kosovar political parties easily turned a

[96] *Kosovo*, 2023 Index of Economic Freedom of Kosovo, The Heritage Foundation, 2023, https://www.heritage.org/index/country/kosovo

[97] *The World Bank in Kosovo*, The World Bank, https://www.worldbank.org/en/country/kosovo/overview

[98] Radeljić, Branislav: *European Union approaches to human rights violations in Kosovo before and after independence*, Journal of Contemporary Central and Eastern Europe, 24:2, 2016, p 138 10.1080/0965156X.2016.1219162

[99] *United Nations Security Council (UNSC) Res. 1244*, 10 June 1999, https://unmik.unmissions.org/sites/default/files/old_dnn/Res1244ENG.pdf

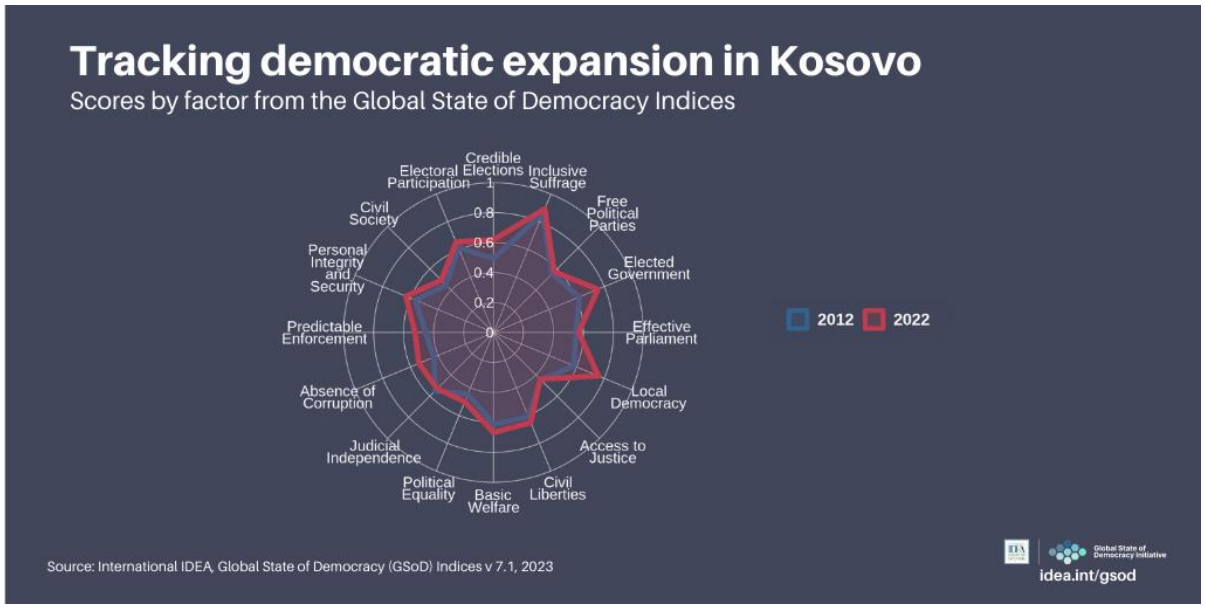
blind eye when crimes and atrocities happened with the Serbian Kosovars. Many crimes happened behind doors so it cannot be estimated how many people were sentenced or even killed before and since the Declaration of Independence. Even, though the Kosovar government reduced the scope of international organizations, in 2010 in the Council of Europe the Marty report was written about the organized crimes in Kosovo and the involvement of the politicians too.[100] A special investigation team was set up and they discovered that the data which were written down in the report were true. The scandal grew and grew, and it started to endanger diplomatic relationships which were already in a risky position. Kosovo was forced to set up an independent court, Kosovo Specialist Chambers and Specialist Prosecutor's Office, whose headquarters was in the Hague. In many cases, corruption, money laundering and organized crimes were protected by the political elite of Kosovo. Kosovo Specialist Chambers and Specialist Prosecutor's Office exposed several crimes, and, in many cases, criminal proceedings were started against politicians who were involved in organized crimes. The report of Amnesty International[101] 2022 shows that besides the lack of prosecution of Albanian leaders during wartimes, many basic human rights have in a rankling level recently. In Kosovo still, 1,600 people are missing and the enforced disappearances are ongoing, the percentage of domestic abuse against women and girls is very high and the freedom of expression and speech does not entirely exist in connection with the Serbian minority.[102] I believe that the improvement of the rights of Serbian minorities may have a positive effect a positive judgement in the process of the formation of Kosovo's political status.

As we can see in *Figure 5* during the last 11 years only minimal changes have been reached in the improvement of democratic values. As in most of the democratic values, there have been improvements, we can assume that the assistance of the international missions and groups had been right when they stayed in Kosovo to help the development of the state. On the other hand, these minimal-level changes did not satisfy the international community, I assume that Kosovo realized it and therefore The Republic of Kosovo's Written Statement for the Summit for Democracy Commitments document was published by the President of the Republic of Kosovo, Dr Vjosa Osmani in 2022. 'It is written that working harder than ever to ensure the principles and values that the people of the country desire are not only maintained but also strengthened.' In addition, it emphasizes that they learnt from history and try to encourage people to treat

[100] Marty, Dick*: Inhuman treatment of people and illicit trafficking in human organs in Kosovo*, Committee on Legal Affairs and Human Rights, Council of Europe, 12 December 2010
[101] *Kosovo 2022*, Amnesty International, 2022, https://www.amnesty.org/en/location/europe-and-central-asia/kosovo/report-kosovo/
[102] *ibid*

everybody equally.[103] But as recent events show, in reality, Kosovar authorities are struggling to maintain democratic values in the state. In the spring of 2023, there were four municipal elections in the northern provinces. However, as the Serbian minority boycotted the events, 3 Albanian and 1 Turkish mayor were elected. This boycott was the result of the increasing tension between the Kosovar Government and Serbin Kosovars after the Government tried to force the Serbian minority to change their Serbian issues car plates to Kosovar car plates. The vote resulted in less than 4% of these provinces and most of the voters were Albanians. But when the new mayors tried to take their office protests and riots started by the Serbians.[104] One way it is a democratic step is to hold elections but as the example shows the quota of the voters was so little it cannot represent the will of those municipalities. Then, when the EU and other states started to pressure Kosovo, the Prime Minister offered new municipal elections. From this example, I can conclude that it is true that democratic values can be found in Kosovo but the level of values is not pleasing and again international pressure can highly influence the happening in Kosovo.

Figure 5.: Alteration of Democratic Values in Kosovo 2012-2022



Source: International IDEA, Global State of Democracy, 2022, https://www.idea.int/blog/kosovos-democracy-has-come-long-way-it-needs-support

[103] Dr. Osmani, Vjosa: *The Republic of Kosovo's Written Statement for the Summit for Democracy Commitments*, Summit for Democracy, 7 January 2022, https://www.state.gov/wp-content/uploads/2022/02/KOSOVO-Summit-for-Democracy-Written-Statement-Acessible-Final-Feb-2022.pdf

[104] *Kosovo Serbs reject Pristina's municipal elections in the north*, Euronews, 23 April, 2023, https://www.euronews.com/2023/04/23/kosovo-serbs-reject-pristinas-municipal-elections-in-the-north

6 Conclusion

Searching for the relevant and fundamental statehood conditions is not easy since there is no international law for it. Therefore, one of my hypotheses, that there is a generally accepted legal document on statehood conditions proved to be false. The only document we can refer to in connection with the statehood conditions is the Montevideo Convention but it contains only four basic criteria which I presume is small in numbers if we think about that all states have to adapt to the rapidly changing political and economic situation. Hence as my research proved, we cannot use a general and worldwide accepted interpretation for modern states and cannot legally define what state conditions should be reached and maintained to qualify as a full and sovereign state. Every state prioritizes some conditions which are beneficial for them in case of the formation of a new state. The problem with the different prioritized statehood conditions is that until they do not make a compromise there will be no basic and universal interpretation of modern states and statehood conditions.

My hypothesis about the recent political status of the Republic of Kosovo proved to be true and in my final conclusion, I can refer to Kosovo as a partially sovereign state. The explanation for my conclusion is that Kosovo has a higher position than a proto-state but does not reach the level of a full state. I would name a partially sovereign state because even if it declared itself independent until KFOR and EULEX missions are functioning there, it cannot have full governmental control over its whole territory and in my perspective, it cannot be labelled as a full state. My outcome is supported by several organizations that have the same point of view such as the Freedom House, which is making reports about states in connection with human rights and democratic measurements. However, again I faced the problem that there is no legal definition of partial sovereign states, and we can observe that every partially free state is missing different statehood conditions.

However, I intended to classify Kosovo as one of those groups where not all statehood conditions are presented. The closest definition for Kosovo is the proto-state but as I studied proto-states I was not able to entirely affirm all the similarities. As I learnt proto state's biggest problem comes from the inability to provide one of the Montevideo conditions while in Kosovo the hindrance comes from the lack of recognition. Kosovo indeed has some territorial problems since Serbia claims their territory to be his and over in the northern provinces Kosovo is unable to exercise authority, but this is a minor problem than the unrecognition. Most previous examples of proto-states were religious-based, in some cases terrorist, communities. Some would say that the Kosovo Liberation Army was similar to a terrorist group but after my research, I would refer to KLA as a separatist movement. On the other hand, proto-state and

Kosovo have a few similarities such as they are both in a state form which is above the non-state but remains below the state level. Next, they both struggle to maintain some statehood conditions but while in proto-stets they are more likely to be dispersed in the case of Kosovo we may assume that almost all problems originate from the non-recognition. Non-recognition may be another similarity, but the level of recognition is different as I learned because in the case of proto-states recognition was quite minimal but in the case of Kosovo the number of states which recognised it is around 100. Serbian resistance is supported by Russia in this endeavour, as it is largely a political matter in the competition between Western and Eastern powers.

All in all, one of the main reasons for the lack of instability in Kosovo's situation is the political actors. This resulted in that nowadays Kosovo being in an in-between situation and the case of Kosovo is called the *sui generis* case. 'The sooner the full normalization of relations between Serbia and Kosovo happens the better it would be for the entire region and for Europe' would be a good motto for solving the problem but as we can see international actors are unable to reach any cardinal changes.[105] My prediction is that in the next few decades, there will be no compromise between Serbia and Kosovo but we only may hope that the recent variance will be improved.

[105] Bebler, Anton, Verlag Barbara Budrich, 2015, p 168

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