

SERBIA'S FOREIGN POLICY POSITION IN THE UNITED NATIONS REGARDING THE KOSOVO ISSUE

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Abstract: In the paper, the author discusses four key problems related to Serbia's foreign policy course in the United Nations (UN) regarding the so-called *Kosovo issue*. The first problem concerns the current foreign policy dilemma regarding the unilateral act on the declaration of independence of the so-called *Republic of Kosovo* in 2008. In this regard, the author expresses the opinion that this declaration of independence was not adequate to legitimize the state status of the southern Serbian province in international relations. This is reflected first of all in the fact that this territory, which is under international administration, failed to secure membership in the UN, even though it had the broad support of the so-called *allied countries*. The second problem discussed in the paper concerns the meaning of membership in this universal UN organization. The author is of the opinion that the UN does not have a mandate to create or declare some entities that strive for independence for states. All the more, according to his understanding, the orientation of Serbian foreign policy must be directed towards the protection of its own territorial integrity by stopping the admission to the UN membership of the so-called *Republic of Kosovo*. The third problem in this paper deals with the relationship between Serbia as a member state of the UN and the UN itself in the context of the international regulation of the status of the southern Serbian province of Kosovo and Metohija. The fourth problem included in the text is a synthesis of the discussion on the so-called *Kosovo*

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issue. During the research, the author methodologically analyzed contemporary political, historical, and legal literature using the comparative method and analysis of the content of primary sources (acts of competent state authorities, decisions and resolutions of the UN and EU), relying on the realist theory of international relations.

Keywords: United Nations, Serbia, Kosovo issue, foreign policy, international organizations

INTRODUCTION

Although the Republic of Serbia does not have an officially adopted foreign policy strategy (or other doctrinal document of a similar nature) written by the competent institutions (Government or National Assembly), this does not mean that anything is improvised in that regard. The foreign policy of a state is a set of activities that its institutions undertake in an international environment. These are processes in which “states act, react, and interact with each other” (Evans & Newnham, 1992, p. 100). Analyzing the activities of the state institutions of the Republic of Serbia but also following the statements of the holders of the highest state functions, a certain continuity in the foreign policy performance can be noticed. First, Serbia has been a candidate country for membership in the European Union since 2012. The chronology of the institutionalization of relations between Serbia and the EU can be followed since 2000 (Informacioni centar EU, 2015, pp. 6-7). First, in November of that year, the Framework Agreement was signed, which enabled the realization of EU assistance for political and economic reforms in Serbia. Shortly afterwards, during the Zagreb Summit of the Western Balkans and the EU, Belgrade was included in the Stabilization and Association Process (then the Federal Republic of Yugoslavia, a joint state of Serbia and Montenegro). Negotiations on the conclusion of the Stabilization and Association Agreement started in the second half of 2005, and successfully ended with the signing of this document in 2008. In December 2009, Serbia filed for EU membership, and in 2012, the European Council adopted a decision to grant Serbia candidate status. In 2013, the European Commission first recommended the opening of membership negotiations with the Republic of Serbia, and then the Council of Foreign Ministers confirmed that decision and recommended to the European Council that negotiations begin in 2014. Negotiations have been going on since then. However, the result of this cooperation is not as it was originally foreseen or even promised to the officials of the Republic of Serbia. On the one

hand, the multi-layered and multidimensional crisis within the EU has also been reflected in a decline of enthusiasm when it comes to its expansion. Support for further enlargement of the EU is questionable in a number of member states (especially when it comes to public opinion). On the other hand, the negotiation process defined negotiation chapter 35, which was done for the first time in the history of EU negotiations with a potential member (*Ibid.*, p. 41).

This negotiation chapter encompasses questions that need to be considered and agreed upon but cannot be included in any other negotiation chapter. "Therefore, there is no pre-defined *Acquis Communautaire* in Chapter 35. In the case of negotiations with Serbia, the European Union has decided that this chapter will include the entire process of normalization of relations with Priština" (European Western Balkans, 2015). Having in mind that 22 out of 27 member states have recognized the unilaterally declared independence of Kosovo Albanians and have established bilateral relations with Priština (plus Great Britain, which has in the meantime exited the EU), it is clear what most member states (and among them the most influential ones – Germany, France, Italy, and Poland) consider by the term "normalization of relations". So, while on the one hand, the enthusiasm for EU enlargement has been declining, which has reflected on a kind of "freezing of status" of the Western Balkan states in this process, on the other hand, Serbia is facing the choice that if it wants to "unfreeze status" and get EU membership, it needs to normalize relations with Priština, which is a euphemism for finding a model for (un) official recognition of the secession of Kosovo Albanians (Janev, 2013, pp. 287-309). One of the ideas for resolving the dispute between Belgrade and Priština was proposed by German diplomat Wolfgang Ischinger, through the so-called "Ischinger Plan", and concerns the option according to which Serbia would not be obliged to recognize the so-called "Republic of Kosovo" but instead would agree to accept this state-like creation into the United Nations, according to the "two Germanys" model (Proroković & Davidović, 2021, pp. 185-194). Interestingly, the first version of the First Brussels Agreement signed between the representatives of Belgrade and Priština in 2013 with the EU mediation contained this point (that Serbia would agree with the admission of the "Republic of Kosovo" into the UN)! After the refusal of Serbian representatives, this point was removed. However, this incident shows that within the EU, the Ischinger Plan is considered as a possible solution. Therefore, in parallel with the "construction of the first EU pillar" of the foreign policy strategy of the Republic of Serbia, the second one was

strengthened as well – the continuous improvement of relations with Russia and China. The reason for that is that these two countries support the territorial integrity of the Republic of Serbia based on UN Security Council Resolution 1244 (1999) (Gobarev, 1999, pp. 1-17). Support of Russia and China to Serbia presents an obstacle to the membership of the so-called “Republic of Kosovo” in the UN. As long as Resolution 1244 (1999) is in force, it is not possible for Kosovo Albanians to fully legalize and legitimize their own status in international relations. Also, thanks to the Russian and Chinese vetoes, a large number of UN member states refuse to establish bilateral relations with Priština or have even withdrawn their original decisions (Stepić, 2018, pp. 27-49).

During 2015, on the website that records the number of international recognitions of Kosovo (*Kosovo thanks you*), it is stated that 116 states gave that recognition. (Proroković, 2019, p. 133). It turned out, however, that this source was not the most reliable, so at one point, “not even the government in Priština knew exactly how many states recognized them. There was everything there. For example, in 2013, the president of Sao Tome and Principe “annulled recognition of Kosovo”. A little later, it turned out that there was no real recognition at all. The decision on the recognition of Kosovo was brought by the former government in 2011, but it was never confirmed in their Parliament. Therefore, it was not valid. Or, the president of Guinea Bissau sent a letter on “recognition” to the then “president of Kosovo”, Behgjet Pacolli, but it is not clear on what he based such a decision or whether any competent institutions confirmed it (Proroković, 2019, p. 134). By December 2018, even the authorities in Priština started to give more modest estimates and “data”, thus confirming that they were “almost certainly recognized” by 102 countries. But, thanks to the diplomatic offensive action of the Republic of Kosovo, from 2013 until 2020, as many as 18 UN members withdrew their former decisions or clarified whether they had or had not established bilateral decisions with Priština. This has helped to “clear up” the situation and led to the decrease in the number of UN members that recognize the so-called “Republic of Kosovo” to 96 (as opposed to 97 that do not recognize it). Nevertheless, the Kosovo issue remains the priority in Serbian foreign policy despite the fact that the first pillar of foreign policy strategy is based on European integrations that are, on the other hand, conditioned by the “normalization of relations” between Belgrade and Priština.

**THE KOSOVO ISSUE AND THE UN:
FROM RESOLUTION 1244 TO THE "SEAT
ON THE EAST RIVER"**

Of course, the UN does not have a mandate to declare states. The example of Switzerland, which became a member of the UN only in 2002, shows that states can function in the system of international relations even without membership in this organization. However, the case of Kosovo cannot be compared to Switzerland by any indicator. This is precisely for two key reasons. The first reason is that the temporary status of Kosovo is regulated by the aforementioned UN Security Council Resolution 1244 (1999). In the meantime, the Parliament of Kosovo declared independence of the so-called "Republic of Kosovo" on February 17, 2008. In the report of the UN Secretary-General on March 28, 2008 (S/2008/211), it is stated that "the Parliament of Kosovo held a session during which it adopted a 'Declaration of Independence' declaring Kosovo an independent and sovereign state." At the same time, the Council of the European Union is applying a creative interpretation of Resolution 1244, trying to get the new EU mission, EULEX, to take over from the UNMIK jurisdiction in the fields of internal affairs and judiciary (Council Joint Action, 2008, pp. 1-7). The problem with this is that it is a strange interpretation of the SC document and a gross negation of its essence. The EU Council rewrote Article 10 of Resolution 1244, quoting only the first part of the sentence, to the point that the UN Security Council "authorizes the Secretary-General to establish an international civilian presence in Kosovo with the help of relevant international organizations". They evaded the rest of the sentence where it says that the UN Secretary-General may seek and request assistance from other international organizations "to ensure interim administration in Kosovo, whereby the people of Kosovo will be able to enjoy substantial autonomy within the FR Yugoslavia, and which will provide transitional administration by establishing and overseeing the development of temporary democratic institutions of self-government, to ensure conditions for the peaceful and normal life of all the people of Kosovo". Institutional completion of the self-governing bodies of Kosovo and Metohija, with the definition of original competencies, began after the NATO aggression on FR Yugoslavia in June 1999, thanks to the actions of the "Western community". In UN Security Council Resolution 1244 (1999) of June 10, 1999, the introductory part explains the principles according to which the further text of the document should be interpreted: "reaffirming the commitment of all member states to the sovereignty and

territorial integrity of the FR Yugoslavia and other countries in the region, as stated in the Helsinki Document and Annex 2” and “reaffirming the appeal from previous resolutions for broad autonomy and substantive self-government for Kosovo”. It states that point 4 says: “It confirms that after the withdrawal, the agreed number of Yugoslav and Serbian military and police personnel will be allowed to return to Kosovo to perform their duties in accordance with Annex 2”. Also, point 11 explains the main responsibilities of the civilian presence, stating: Paragraph a) – “improving the establishment, until the final solution, of substantial autonomy and self-government in Kosovo, having fully in regard the Annex 2 and the Rambouillet Agreement (S/1999/648)”; Paragraph e) – “Facilitating the political process aimed at defining the future status of Kosovo, taking into account the Rambouillet Agreement”. Annex 1, Paragraph 6 further clarifies: “Political process towards the establishment of an agreement on an interim political framework, which will ensure substantial self-government in Kosovo, taking full account of the Rambouillet Agreement and the principles of sovereignty and territorial integrity of the FR Yugoslavia and other countries in the region” (Resolution 1244, 1999, pp. 2-7). Therefore, the unilateral declaration of independence is not in accordance with UN Security Council Resolution 1244 (1999), which provides for essential self-government and guarantees the territorial integrity of Serbia (that is, of the FR Yugoslavia in the text, which then existed as a joint state of Serbia and Montenegro). The statement of the UN Secretary-General and the decisions of the EU in that context were only supposed to serve as a “fig leaf” in order to hide the gross violation of the Resolution by the states that decided to establish bilateral relations with Priština. As long as this Resolution is in force, the issue of status, i.e., unilaterally declared independence, is problematic. Admission of the so-called Republic of Kosovo to the UN would in fact (most likely and formally) repeal Resolution 1244 (1999), as a result of which there would be no further obstacles for all UN members to establishing bilateral relations with Priština. Another reason is that, without admission to the UN, the so-called Republic of Kosovo is not eligible to join many other international organizations. A large number of international organizations (or, for example, international courts) demand that an entity be admitted to the UN first in order to regulate the issue of its own status. Also, even international organizations that do not have that formal condition for admitting new members take this fact into account. The so-called “Republic of Kosovo” cannot fully legitimize its own status in international relations, despite the fact that all key Western

countries have established bilateral relations with Priština (including three permanent members of the UN Security Council)! For these two reasons, it is crucial for Albanian politicians, but also their Western allies, that the so-called "Republic of Kosovo" joins the UN. Although the UN does not have a mandate to recognize or declare states, undoubtedly, such a step-in practice would mean full legitimization of the status in international relations and, in the legal-formal sense, would lead to the repeal of UN Security Council Resolution 1244 (1999). As a result, the position of the Republic of Serbia would become unsustainable in this regard.

SERBIA'S POSITION IN THE UNITED NATIONS REGARDING THE KOSOVO ISSUE

Having in mind the unfavorable events that led to the withdrawal of the institutions of the Republic of Serbia from the territory of Kosovo, ethnic cleansing of the Serb population (especially in all urban areas), and the fact that the territory of Kosovo is largely controlled by international administration (through the international military presence – KFOR, international civilian presence – UNMIK, and EU missions – EULEX), and that self-government bodies have been thoroughly developed in the last two decades, relying on the arguments offered by Resolution 1244 (1999) is crucial for further insistence on maintaining the territorial integrity and constitutional order of the Republic of Serbia (Yannis, 2004, pp. 67-81). In the context of Serbia's foreign policy, this has gained a significantly broader dimension over the years. "The cessation of insistence on Resolution 1244 is dangerous for the Republic of Serbia and can have long-term consequences. This concerns not only the possible loss of part of the territory, which would cause a dramatic deterioration of the overall geopolitical position, but also the danger of losing allies. Bearing in mind that the foreign policy positioning of a country or taking a certain place in the world political system is very much about its identity, i.e., the perception of how others look at it and how they understand it, we must consider the Kosovo issue as one of Serbia's foreign policy resources" (Proroković, 2019, p. 131). Because it was bombed without a UN Security Council decision, and because Western countries have invested significant political capital in legitimizing and legalizing the status of the "state of Kosovo" in international relations, Serbia is anticipated in the non-Western part of the international community as a country trying to maintain territorial sovereignty and integrity despite aggressive attempts by leading Western countries to deny her that right. The Ministry of Foreign Affairs of the

Republic of Serbia states that “the Republic of Serbia seeks to further increase its visibility and contribute to the work of the Organization by presenting candidacies for various governing and expert bodies within the UN system” and the first goal of the UN is defined as “preservation of territorial integrity and sovereignty”. “The activities of the Republic of Serbia in this area are a reflection of efforts to defend the principles of international law, the UN Charter, and legally binding UN Security Council Resolution 1244 (1999), which guarantees the sovereignty and territorial integrity of the Republic of Serbia. In addition to constantly emphasizing the importance of respecting UN Security Council Resolution 1244 (1999), the role of UNMIK and the rest of the international presence in Kosovo and Metohija, the Republic of Serbia attaches great importance to UN Security Council meetings on UNMIK’s work, in order for the international community to be continuously informed about the political and security situation in Kosovo and Metohija, especially regarding the position of Serbs and other non-Albanians, the rule of law, human rights, sustainable return of internally displaced persons, and protection of cultural and religious heritage.” (Ministarstvo spoljnih poslova, 2022) Action in the UN is an important tool for the Republic of Serbia, which relies on international law, strategic partnership with two permanent members of the UN Security Council and a large number of member states (97), which either in principle or because they have similar problems with separatism, support the position of official Belgrade (Proroković, 2018).

CONCLUSIONS

The UN remains a strong stronghold for the defense of the territorial integrity and constitutional order of the Republic of Serbia, both due to the maintenance of Resolution 1244 (1999) in legal and political circulation, and due to the fact that it is easier to find allies in the UN. In this regard, it should be emphasized that despite the fact that the first pillar of Serbia’s foreign policy strategy was built through its relationship with the EU, the so-called *Kosovo issue* absorbs all the unpleasant and unprincipled pressures coming from the EU (where Germany is leading the way). For the sake of illustration, the negotiating Chapter 35, as well as the attempt to insert a clause on the membership of the so-called *Republic of Kosovo* in the UN during the negotiations on the First Brussels Agreement, is a clear example of what Brussels specifically means by “normalization of relations”. However, such a “normalization of relations” cannot occur as long as there is another pillar of the foreign policy strategy, which

concerns reliance on Russia and China, which is primarily manifested in the work within the UN. Thanks to the threat of the Russian and Chinese veto, the western countries did not even try to put the topic of joining the so-called Republic of Kosovo on the agenda. Active participation in the work of the UN, lobbying and connecting with other members of this international organization, prevents the legitimization of the status of the so-called Republic of Kosovo in international relations. Certainly, the question is how long this kind of multilateral approach based on two pillars could last, since negotiating Chapter 35 essentially puts Serbia before the choice of joining the EU or Kosovo?!

However, due to the internal problems facing the EU and the consequent decline in enthusiasm for further expansion (including in the Western Balkans), asking this question in political practice cannot have much effect. Namely, Serbia is not offered EU membership for the sake of "giving up" Kosovo, but is asked to "give up" Kosovo for the sake of continuing European integration with a very uncertain end (or, in a certain development, it is possible that European integration will not have the expected end). So, looking from the angle of the Kosovo issue as a foreign policy priority of the Republic of Serbia, Serbia's orientation towards the UN certainly remains one of the pillars in conducting foreign policy. It is therefore important for the Republic of Serbia that the UN maintains the status of the most important international organization and that its role in overall international relations is strengthened. Serbia, with its limited military, economic, and political power, cannot have a decisive influence. The fate of the UN depends primarily on the position of the largest and most powerful countries. But what Serbia can do in this regard is to join the initiatives of larger and more powerful actors aimed at that goal.

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