



SOFIMUN
Sofia International Model United Nations

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Period: 18-25 July 2009
Location: Sofia, Bulgaria

Website: www.sofimun.org
Forum: www.forum.sofimun.com
E-mail: info@sofimun.org

"Search Of Future Ideas, Models Us Now"

COMMITTEE:
HUMAN RIGHTS COUNCIL

CHAIRPERSON:
LENA BORTH & ALBENA PETKOVA

TOPIC: (B)
THE RIGHT TO SELF-DETERMINATION IN
PRACTICE – THE CASE OF KOSOVO AND
ABKHAZIA/ SOUTH OSSETIA

UNITED NATIONS HUMAN RIGHTS COUNCIL (HRC)



The United Nations Human Rights Council is created in March, 2006 and is the successor to the United Nations Commission on Human Rights, which was often criticized for the high-profile positions it gave to member states that did not guarantee the human rights of their own citizens. The Council is considered an international body within the United Nations System and its purpose is to address human rights violations.

The Council assumes all the mechanisms, mandates, functions and responsibilities of the Commission for Human Rights. At the same time, it is tasked with the review, rationalization and improvement of these. This makes up the bulk of the Council's work in its first year.

"Special procedures" is the name given to the mechanisms established by the former United Nations Commission on Human Rights and continued by the Human Rights Council to monitor human rights violations in specific countries or examine global human rights issues. Special procedures can be either individuals who are leading experts in a particular area of human rights, or working groups usually composed of five members. In order to preserve their independence they do not receive pay for their work.

More at:
www.un.org/rights



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Topic B: The right to self-determination in practice – the case of Kosovo and Abkhazia/ South Ossetia - summary

Balancing the human right to self-determination and the territorial integrity of states;

Finding an equitable solution in order to ensure stability and thereby prevent otherwise pre-assigned conflicts that will further cause human rights violations.

In some ways, 2008 could be described as the year of the right to self-determination with two crucial events happening in February and August.

On 17th February, the Assembly of Kosovo approved the declaration of independence. On 26th August, Russian President Dimitry Medvedev announced Russia's formal recognition of the independence of South Ossetia and Abkhazia, both regions within the independent state of Georgia.



Even though the peoples from Kosovo, Abkhazia and South Ossetia celebrated these days, having made an important step in their struggle for self-determination and independence, the international community could not happily celebrate with them.

Quite the contrary, the events on those two days lead to a division of the international community, causing disputes and severe conflicts.

The Proclamation of Independence in Kosovo, strongly rejected by Serbia, found the support of 55 out of 192 Member states of the United Nations.

Abkhazian and South Ossetian people's declaration of independence on the other hand was only recognised by two states.

It is curious that those two seemingly comparable cases were treated so differently by the international community, with countries recognising one case to be legitimate, but not the other.



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Topic B: The right to self-determination in practice – the case of Kosovo and Abkhazia/ South Ossetia - background guide

KOSOVO – precedent or case “sui generis”?

Although 55 UN member states have so far recognised Kosovo's statehood, much resistance has been shown by some of the other 137 states.

Fears of creating a precedent that could spark a chain-reaction of secession across the world thus leading to instability and causing violence were voiced. As the Serbian President, Boris Tadic put it: “Are we all aware of the precedent that is being set and are we aware of the catastrophic consequences that it may lead to”?

Arguing from a different perspective, countries that had not hesitated in recognising Kosovo as a state identified it to be a case sui generis that could not be compared with other claims for secession. To their opinion, the possibility of a chain-reaction was and is unlikely.

The Kosovar parliament, having foreseen the problem, had put the following phrasing in its proclamation of independence:

“Observing that Kosovo is a special case arising from Yugoslavia's non-consensual breakup and is not a precedent for any other situation, Recalling the years of strife and violence in Kosovo, that disturbed the conscience of all civilized people...”

Thereby it was made clear that Kosovo should not serve as a case of precedence with regards to a possible right to secession

However, states objecting to Kosovo's statehood were not convinced. Especially for those with their own disgruntled minorities recognising Kosovo poses the threat of instability.

ABKHAZIA / SOUTH OSSETIA – following the example of Kosovo or just another special case?

Russia had long supported separatist provinces Abkhazia and South Ossetia, but stopped short of recognising their independence – until 26th August 2008.

To justify this act, the Russian Federation drew on the case of Kosovo, but controversially also insisted the secession of Abkhazia/ South Ossetia being a special case that could not be compared with others.

Especially the EU, NATO, OSCE and US voiced their displeasure over the actions taken by Russia, claiming that it posed a violation of





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Georgia's sovereignty and territorial integrity.

Russia, on the other hand criticised western powers for not taking into account the wishes of the minorities in the disputed areas, but rather wanting the strategically important Georgia tied into their military network

PARALLELS, DOUBLE STANDARDS OR JUST SPECIAL CASES?



Without doubt, there are parallels between the cases of Kosovo and Abkhazia/ South Ossetia.

In both cases, the host State rejected the independence claims; the international community was divided on each issue and both situations involved regions seeking to secede from states which themselves were created when socialist federations fragmented.

In both cases, prior human rights violations were (at least to a great part) responsible for the decision to proclaim independence and invoked as the main justification for the secession.

Despite these comparable elements, the fashion the cases were treated by the international community differs greatly.

Western leaders have labelled Russia's move to recognise Georgia's regions as hypocrisy, while Russian leaders hit back with the accusation that a double standard has been applied in the case of Kosovo.

The question was asked, how we could explain to Abkhazians and Ossetians that what was good for the Kosovo Albanians was not good for them.

Or to put in the words of a famous writer: is everyone equal, but some are more equal than others?

SOLVING THE PROBLEM

According to international law, the right to self-determination is an absolute. An ultimate right to secession, however, is supported by neither state practise nor opinio juris.



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Nonetheless, the right to secession can under some circumstances be considered legitimate.

In the cases of Kosovo and Abkhazia/ South Ossetia, people claimed their right to self-determination by secession. The reactions were, as described above, mixed. Some stability has been reached in all three regions, but there are still smouldering embers underneath that might burst into fire anytime.

Therefore, it is imperative for this year's members of the UNHRC at SOFIMUN to find equitable, and equally important, lasting solutions that will guarantee the right to self-determination of the Kosovarian, Abkhazian and South Ossetian people but at the same time do not neglect the right to territorial integrity and sovereignty of the host states.

Delegates should determine a single principle that is valid for both cases, thus, when comparing the cases, avoiding double-standards that could cause a loss of credibility in the eyes of the world.

Consider that if you fail, due to an unstable situation and unclear status, human rights violations on both sides will continue eventually.





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Suggested Reading and Additional Sources

Topic B: The right to self-determination in practice – the case of Kosovo and Abkhazia/ South Ossetia

For a better understanding of the issue, the following sources should be consulted, but they are not exhaustive, therefore it is recommended that the delegates research the topic on their own, both through academic sources, as well as informal channels.

Mandatory

1. [Security Council Resolution 1244, \(establishing UNMIK\)](#)
2. [United Nations Observer Mission in Georgia \(UNOMIG\)](#) and its resolutions [1808 \(2008\)](#), [1839 \(2008\)](#), [1866 \(2009\)](#)
3. [Unrepresented Nations and Peoples Organisations](#)
4. [The Yale Journal of International Law: The Exceptions That Disprove the Rule? The Impact of Abkhazia and South Ossetia on Exceptions to the Sovereignty Principle \(By Gregory Dubinsky\)](#)

Suggested

5. [BBC – Reactions to Kosovas Declaration of Independence](#)
6. [Huryiet – Reactions to Russias Recognition of South Ossetia and Abkhazia](#)
7. [The Right to Self-Determination and Statehood: The Case of Kosovo \(Master Thesis by Besfort Rrecaj\) 2006](#)
8. [From the Fall of Yugoslavia to the Kosovo declaration](#)
9. [Conflict resolution in Georgia - A synthesis analysis with a legal perspective \(by Antje Herrberg\), 2006](#)