

## The Kremlin and the principle of self-determination

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### Abstract\*\*\*

The paper attempts to analyze the principle of self-determination in the international agenda focusing on Moscow's foreign policy since Gorbachev's rejection of the Nagorno Karabagh Autonomous Region constitutional request to separate from the Soviet Socialist Republic of Azerbaijan in February 1988 through the successive crises in Kosovo, the Caucasus and Ukraine.

The central argument sustains that the apparent rejection to the principle of self-determination must be understood in the context of Moscow's continued drive for hegemony in the geopolitical space of Eurasia, and more specifically, in the ex-Soviet space.

**Keywords:** Russia, self-determination, Nagorno Karabagh, Armenia, Azerbaijan

### Resumen

El documento intenta analizar el principio de autodeterminación en la agenda internacional centrándose en la política exterior de Moscú desde el rechazo de Gorbachov a la petición constitucional de la Región Autónoma de Nagorno Karabaj de separarse del Azerbaiyán soviético en febrero de 1988 hasta las sucesivas crisis de Kosovo, el Cáucaso y Ucrania.

El argumento central sostiene que el aparente rechazo al principio de autodeterminación debe entenderse en el contexto de la continua hegemonía de Moscú en el espacio geopolítico de Eurasia, y más concretamente, en el espacio ex soviético.

**Palabras clave:** Rusia, autodeterminación, Nagorno Karabaj, Armenia, Azerbaiyán

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\*\*\* This paper is an English updated version of a paper presented at the XXI Symposium on the Southern Caucasus CEID, Buenos Aires in June 2014.

TRABAJO RECIBIDO: 26/11/2023 TRABAJO ACEPTADO: 14/4/2024



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## **Introduction: The Return of the Principle of Self-Determination to International Politics**

In his column called “The borders again” in *El País* newspaper of Madrid, Spain on May 9, 2014, Francisco G. Basterra sees the Ukrainian crisis of 2014 as a process of redefinition of territorial spaces in Europe. “With the corpse of Ukraine on the table, the question of European borders is reopened. Taking advantage of the European Union (EU)'s clumsy miscalculation in launching the ordeal to gain ground on Russia's mattress, without the necessary cards, a cunning successor to the tsars and communist general Secretaries has seen the time to wash away the supposed humiliation and encirclement suffered by post-Soviet Russia at the hands of the West. Regaining lost imperial space along the way” (Basterra, 2014)<sup>1</sup>. In this perspective, the crisis is explained nearly exclusively in the politics for power and although the Russian president kept his distance from the independence referendum of the “so called Donetsk People’s Republic<sup>2</sup>” on May 11, 2014, his movement was no more than the last tactical feint because no matter what happened, Putin controlled the crisis story (Basterra, 2014).

On February 24, 2022, Russia invaded Ukraine from the North (Belarus) towards Kyiv,

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<sup>1</sup> Original in Spanish, non-official translation into English done by the authors. The same will apply in all original non-English textual quotes in the paper.

<sup>2</sup> The referendum also took place in the Luhansk People’s Republic on the same day.

North-East towards Kharkiv, East in the Donbas (Donetsk and Luhansk) and the South (Crimea) with the declared objective of demilitarizing and denazifying Ukraine as the justifying argument of the aggression. In Marlène Laurelle's opinion:

The West has been struggling for the past three weeks to understand the motivation behind Putin's invasion of Ukraine. Was it a rational move or the reaction of a madman? Some insist he has been inspired by some sort of *éminence grise* — a sort of Rasputin figure. But it's not that straightforward. There is no one "guru". (Laruelle, 2022)<sup>3</sup>

Whether the causes of the Ukrainian crisis are primarily internal with a population geographically divided between a sector identified with the West which formed part of Poland-Lithuania, then Austria and then Poland (Western Ukraine) again until 1939, and another sector which considers itself closer to Russia (Eastern Ukraine which came under Russian control in 1654); or the crisis is a direct consequence of the geopolitical situation created after the fall of the Soviet Union, revealing "a fault line between western civilization and orthodoxy that goes through its very center for many centuries" (Huntington 1997, 197)

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<sup>3</sup> Several ideologies have influenced Putin's thinking. During his Valdai Club address in September 2021, Putin made a reference to three influential authors: the religious philosopher Nikolay Berdyaev, the Soviet ethnologist Lev Gumilev, and anti-Bolshevik jurist Ivan Ilyin. Two of them have been particularly influential. "Putin has borrowed from Gumilev his two most famous concepts: first, the common historical destiny of Eurasian peoples and Russia's genuine multi-nationality, as opposed to Russian ethnic nationalism; and second, the idea of "passionarity" – a living force specific to each people group made up of biocosmic energy and inner force. As Putin stated in February 2021, "I believe in passionarity, in the theory of passionarity... Russia has not reached its peak. We are on the march, on the march of development... We have an infinite genetic code. It is based on the mixing of blood" (Laruelle, 2022). Among the contemporary ideologists of Eurasianism, "Alexander Dugin is also excitedly cited by Western observers as a strong influence on Putin. And Dugin has, indeed, always been a virulent enemy of an independent Ukraine ("Ukraine as a State has no geopolitical meaning," he wrote in his *Foundations of Geopolitics*). He called for its almost complete absorption by Russia, letting just the most western regions of Ukraine remain outside Russia's purview". But Dugin is not very close to the Kremlin (Laruelle, 2022).

is not the purpose of this paper. We will look at the principle of self-determination that the participants of successive referendums beginning with Crimea's on March 16, 2014 claimed as a basis for legitimation as well as Moscow's position on the same principle to determine (a) if since 2008 when Kosovo proclaimed its independence recognized by the United States and some of its allies, the principle has made a come-back to the international dynamic; (b) if it is on Moscow's foreign agenda as a legitimizing argument for interventionist attitudes; and (c) dynamics and consequences in the South Caucasus.

The Nagorno Karabagh Autonomous Region (NKAO), Artsakh in its historical Armenian denomination, used the principle of self-determination and referring to the Soviet Constitutional Law asked for changes in its territorial status in February 1988. In the following three years, different territorial entities of the Union of Soviet Socialist Republics (USSR, Soviet Union) including the union republics and autonomous republics and regions used the same procedure to ask for a change in their borders or independence, Moscow systematically rejected these demands and held on the status quo of existing borders in the USSR. Yet in 2008, Russia recognized the independence of South Ossetia and Abkhazia in the Caucasus. Furthermore, since the Maidan Revolution in 2014, Russia encouraged the decision to organize a referendum in Crimea to secede from Ukraine and supported the People's Republics of Donetsk and Luhansk which it formally recognized in February 2022, Putin seems to be ready to use the referendum in defense of the rights of those Ukrainians who no longer identify themselves with the government in Kyiv. But when considering the right to self-determination in the case of Nagorno Karabagh that the Armenian government

supported from 1988, until 2022/2023, within the framework of the Minsk Group<sup>4</sup>, Moscow kept silent. How to explain Moscow's ambivalent support to the right of self-determination?

To answer this question and analyze the dynamics of the principle of self-determination in international politics, this paper starts with the historical evolution since the emergence of the concept in the First World War (WWI) as an axis for the reshaping of the international order to the present day. The purpose is to determine in which systemic conditions, the principle has had more support from the Great Powers in general and Moscow in particular. We consider that this analysis is important for its dual conceptual and conjunctural interest.

With respect to the conceptual interest for the right of self-determination, the Theory of International Relations in general has insisted on the continuity of the political dynamics to determine common patterns of behavior, permanent actions and structures, but less attention has been given to the patterns of change. In this sense, States as prime actors in international politics prioritized territorial integrity and were rather reluctant to the principle of self-determination often characterized as secessionism. Nevertheless, the inclusion of the self-determination principle was important in the delegitimization of the XIX century order, recognizing the nation's right to their own independent State. A second historical moment is the decolonization process and the independence of Third World countries. Finally, the end of the Cold War and the disintegration of the Soviet Union once again showed the relevance of the principle in international dynamics. Of course, in none of these three moments of rupture of imperial structures and emergence of new States in the international stage, the competition between the Great Powers and the balance of power logic lost its significance.

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<sup>4</sup> The Minsk Group of the Organization for Security and Cooperation in Europe (OSCE) led the negotiations for a resolution of the conflict between 1992 and 2020. Its co-chairmen in 2020 were the US, Russia and France (Torres, 2021).

Thus, the power dynamics of the principle of self-determination received scarce attention in the field of International Relations where the focus was rather on politics between States. However, after the fall of the Soviet Union, a renewed interest for the concept emerged in the 1990s and scholars tried to understand it in its relationship to secessionism. Buchanan (1991), Coppieters and Sakwa (2003), Pavkovic and Radan (2007), Moltchanova (2009) combine legal perspectives with international politics and an important emphasis on the Moral Theory and references to a Just War; Bartkus (2004) studies secessionism from the point of view of cost and benefit before discussing the ethics of separatism; Sambanis (1999) argues against partitions showing in a quantitative analysis that secessionism does not provide a solution to the threat of genocide as espoused by its defenders. State building and national identity is the focus of Ferguson (2003) that Hille (2010), among others, also uses to analyze the separatist conflicts of the Caucasus. Finally, the principle of self-determination appears in all the literature that analyses the fall of the Soviet Union from the perspective of the Question of the Nationalities as is the case of, Carrère d'Encausse (1991) and Beissinger (2004).

Within the line of existing literature on the principle of self-determination, our focus in this paper is the place of the principle of self-determination in the Russian foreign policy from 2008 onwards, including the independence of Kosovo in February 2008, Moscow's recognition of the independence of Abkhazia and South Ossetia following its Five-Day War with Georgia in August 2008 and its successive invasions of Ukraine in 2014 and 2022. We argue that the partial recognition by the US and its allies in the first case and Russia's and a few countries in the second reveal that the principle of self-determination is very much alive

in international politics as a tool of manipulation and exercise of power. This power dynamics played again a role in the annexation of the Crimea by Russia in March 2014 after a referendum and Russia's recognition of the Donetsk and Luhansk People's Republics in February 2022, its invasion of Ukraine in the same month and Russia's annexation of Luhansk and Donetsk along with Kherson and Zaporizhzhia *Oblasts* following referendums in September 2022. This power dynamics is what many analysts characterize as a "return of geopolitics (Russell Mead, 2014), the end of the post 1991 order (Posner, 2014), a "Cold War 2.0" (Schindler, 2014) and even a new era for Europe (McCausland, 2014; Fernandes, 2014). We also propose that the focus on the principle of self-determination as an analytical variable could improve the theoretical debate in the process of change in the international order.

While the US and its allies have been more prudent when trying to incorporate the principle as a legitimizing factor in the recognition of new sovereign State entities, Putin seems more inclined towards its instrumentalization as it is revealed for instance, when he defended the rights of Russian speaking communities in former Soviet republics in a campaign that Eugene Rumer of the Carnegie Endowment categorizes as an "aggressive expansionist nationalism" (Birnbaum, 2014). As explained above, this tendency was again confirmed in 2022 and has consequences for the Caucasus where Moscow position with regards to the principle of self-determination has been ambiguous even paradoxical, about the same principle. This ambiguity and paradoxical position has manifested in the Second Nagorno Karabagh war of 2020. On the other side, the relevance of the principle of self-determination on the international dynamics in the post 2008 world is not limited to the behavior of the Great Powers and not only to Russia's efforts to rebuild its own sphere of influence in the

Euroasiatic space. Considering the surge of Eurosceptic parties after the global financial crisis of 2008 and their increasing role in European politics with an ideological identity on the far right (Topaloff, 2014; Montoya, 2014; Febbo, 2014), the reaction of the nationalist parties to the crisis in Ukraine (“European Nationalist Parties Respond to Ukraine Crisis”, 2014), and the growing popularity of the separatist campaigns and referendums in Catalonia and Scotland, the principle of self-determination seemed to have reached a new momentum in the European Union (Altares, 2014). Or we can say, that if in the XX century the principle of self-determination expressed itself in the context of the fall of empires, at the beginning of the XXI century, it seems to mobilize masses even in advanced democracies. Despite the failure of the Scottish referendum of September 2014 and the failure of Catalonia’s declaration of independence in October 2017 have put a damper to the principle in Western Europe, at least for a while.

This paper is divided as follows: the first part revises the inclusion of the principle of self-determination in the international agenda with Woodrow Wilson and his Fourteen Points and the Communist perspective for different motives and purposes. The multinational nature of the State that the Bolsheviks established after seizing power in October 1917 made it necessary the inclusion of the principle in the Soviet constitution. The application of the Soviet approach to the principle is discussed in part two. Part three analyses the principle under Gorbachev from the moment the Supreme Soviet of Nagorno Karabagh in the Soviet Socialist Republic (SSR) of Azerbaijan took the initiative in February 1988 as a precursor of similar decisions that would eventually signal the demise of the Soviet Union. Part four explains why the exercise of the principle of self-determination was conflictive in the cases of



the autonomous regions and reveals the political and strategic reasons behind Moscow's tolerance in clear contradiction to Gorbachev's negative to Nagorno Karabagh's request. In part five, we look at the post 2008 dynamic of the principle of self-determination in Kosovo and the Caucasus to further expose Russia's posturing. In part six, we analyze the consequences of the 2020 second war in Nagorno Karabagh, the 2022 Russian invasion of Ukraine and Azerbaijan's suppression of the Artsakh (Nagorno Karabagh) Republic in 2023. In our conclusions, we try to rationalize Moscow's position of greater support to the separatist manifestations in the so called near abroad since 2008 and we argue for the need for a greater conceptualization of the principle of self-determination in International Relations Theory.

### **Part I. Two perspectives of the principle of self-determination for the construction of a world order: Wilson and Lenin**

The principle of self-determination appeared on the international agenda in the context of WWI and the two visions that wanted to radically change the political order conceived by the European Concert of Nations a century earlier. President Woodrow Wilson of the United States incorporated the principle in his Fourteen Points, while Lenin used it to invite the peoples to liberate themselves from the imperial prisons. In both the liberal and the Communist versions, the principle of self-determination was anti-imperialist.

*I.a. The (liberal) order of nations.* The enthusiasm generated in the peoples of Europe at the beginning of WWI in 1914 disappeared after a few years when the increasing number of victims added to the general inability of the governments to put an end to the war either by making peace or achieving victory. In the middle of the war, the monarchy collapsed in

Russia and after an interim provisional government, it was later replaced by the Bolshevik regime; at the end of the war, the Austro-Hungarian empire collapsed, and a revolution put an end to the imperial regime in Germany.

America's entry into the war made total victory technically possible, but it was for goals which bore little relation to the world order Europe had known for some three centuries and for which it had presumably entered the war. America disdained the concept of the balance of power and considered the practice of *Realpolitik* immoral. America's criteria for international order were democracy, collective security, and self-determination – none of which had undergirded any previous European settlement. (Kissinger, 1994, p. 221)

On January 8, 1918, US President Woodrow Wilson announced his famous Fourteen Points in a joint session of Congress. The Fourteen Points can be divided into two parts: eight obligatory in the sense that they had to be fulfilled and six nonobligatory that should be fulfilled. The obligatory included open diplomacy, freedom of the seas, disarmament, removal of trade barriers, settlement of colonial claims, restoration of Belgium, evacuation of Russia and the creation of the League of Nations. The nonobligatory included the restoration of Alsace-Lorraine to France, autonomy for the minorities in Austria-Hungary and the Ottoman Empire, readjustment of Italy's borders, evacuation of the Balkans, recreation of Poland and internationalization of the Dardanelles (Kissinger, 1994, p. 225).

Of all the concepts announced by President Wilson, without doubt the most audacious was right to self-determination. It was not clear what Wilson meant by "Autonomous Development", "right of those who submit to authority to have a voice in their own

governments”, “rights and liberties of small nations”, “a world made safe for every peace-loving nation which, like our own, wishes to live its own life, determine their own institutions”. “Did Wilson merely mean, as sometimes appeared, an extension of democratic self-government? Did he really intend that any people who called themselves a nation should have their own State?” (MacMillan, 2003, p. 11, 13)

*II.b. Lenin and the linking of the principle of self-determination to class struggle.* Lenin spoke of the principle of self-determination as early as 1896, and the concept appeared in the final declaration of the Third Congress of the Second International held in London:

This Congress declares that it stands for the full right of all nations to self-determination and expresses its sympathy for the workers of every country now suffering under the yoke of military, national or other absolutism. This Congress calls upon the workers of all these countries to join the ranks of the class-conscious workers of the whole world in order jointly to fight for the defeat of international capitalism and for the achievement of the aims of international Social Democracy<sup>5</sup>.

(Marxist Internet Archives, s.f.)

This resolution of the Congress of the Second International established a relationship between self-determination and class struggle, without knowing well what was to be its scope.

Paragraph 9 of the Program of the Russian Social Democratic Workers Party -adopted in the second party conference of 1903- affirmed the right to self-determination of all nations that are part of a State, although it did not specify exactly its implementation. Lenin referred to in numerous writings explaining to those who asked for further clarification about the meaning of the right of self-determination that it was defined as the right of every nation to secede and

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<sup>5</sup> Text sourced from Lenin’s archives, *Marxists Internet archives*.

form an independent nation-state. Although he restricted it by clarifying that every demand for self-determination did not derive from the recognition of the right of self-determination but should be subordinated to the interests of class struggle. Lenin also clarified that national struggle should be supported if it was led by an oppressed nation against an oppressor nation, always in the interests of the class struggle (Asenbauer, 1996, p. 127-28).

In September 1913, the meeting of the Central Committee of the Russian Social Democratic Workers' Party adopted a Resolution on the National Question. In its fifth point says:

The question of the right of nations to self-determination should not be confused with the question of the expediency of the secession of this or that nation. The latter question must be resolved by the Social Democratic Party in each individual case completely independent of the perspective of the interests of the entire social development and of the interests of the class struggle of the proletariat for socialism. (Asenbauer, 1996, p. 128-29)

*I.c. Stalinist implementation.* Following Lenin, Stalin defined the right of self-determination as follows:

The nation can order itself as it wishes. It has the right to organize its life according to the principles of autonomy. It has the right to enter federative relations with other nations. It has the full right of secession. The nation is sovereign, and all nations have equal rights. (Asenbauer, 1996, p. 128)

However, he conditioned it with the objective of ending the policy of national oppression.

In 1920, the Bolsheviks, concentrated on the organization of the new Soviet State, trying to replace the normal relations of good neighborliness with contractual relations, among the

nations that emancipated from the Russian Empire and accepted the Soviet dominion. In 1921-22, the Russian Soviet Federative Socialist Republic (RSFSR) which was proclaimed in 1917, signed bilateral treaties with all the neighboring Soviet Socialist Republics, creating close military and economic ties between the signatories and defining domains of common action. In 1922, the Bolsheviks passed to a second phase by setting in motion a federation project. Although there were different views on the organization of the new State, Stalin, in charge of preparing the federation project, wished to extend the model of the RSFSR organized according to the 1918 Constitution with 8 autonomous republics and 13 autonomous regions and a highly centralized scheme for the entire Soviet space, through the incorporation of the Soviet Socialist Republics into the RSFSR. Having learned of Stalin's project and seriously ill, Lenin, to counteract what he perceived as Russian chauvinism, imposed a new project of union between legally equal union republics, although in practice subject to the influence of the RSFSR, which would be the heart of the new scheme. Thus, the Union of Soviet Socialist Republics (USSR) was born through the pact of December 30, 1922, embodied in the constitution of 1924 (Carrère d'Encausse, 1978, p. 14-25).

The new Constitution of 1936, which replaced that of 1924, was truly federal. The national formations multiplied and the hierarchy of nations and nationalities with their rights and theoretical competences was fixed by the constitution (Carrère d'Encausse, 1978, p. 30).

As for the right to free secession of the union republics, both the 1924 and 1936 Constitutions provided for it in Articles 4 and 17 respectively. However, neither document provided the mechanism to implement it. For Unger "the right to secession although implicit in the Soviet constitutions is merely declaratory and lacks an institutional mechanism" (Unger, 1981, p. 143).

As can be seen, the two ideologically opposed visions of a Liberal international order on the one hand and Communism on the other, embraced the principle of self-determination. But only the Soviet Constitution included it as a right. With the advent of Gorbachev and his ambitious project of political reforms, the decision not to repress the emerging demands of society created the opportunity for the principle of self-determination to appear along with the outbreak of the Question of the Nationalities.

## **Part II. A Constitutional Law in the Soviet Union**

The principle of self-determination was one of the bases for the legitimization of the process of institutionalization of the new multinational State after the consolidation of the power of the Bolsheviks. It was Stalin, Party Commissar for the Nationalities Question, who oversaw its implementation, manipulating the concept according to two strategic objectives: the security of the territorial extension of the Revolution, which was identified with the Eurasian space reconstructed from the former Tsarist Empire, and the centralized control of the Communist Party.

Article 70 of the 1977 Soviet Constitution states:

"The Union of Soviet Socialist Republics is a unitary multinational federal State which was formed on the basis of the principle of socialist federalism as a result of the self-determination of nations and the voluntary union of equal socialist Soviet republics".

The Soviet theory states that the principle of equality and sovereignty of nations is peculiar to the federal State of the USSR as a Socialist State. According to Grigoryan (1971), the Soviet federal State is "a constitutional means whereby the nations inhabiting the territory of the

Soviet State exercise their right to self-determination" and "the free development of the Soviet nationalities, based on their sovereignty, provides the conditions, whenever the need arises, for modifying national State forms and establishing new ties between freely determined Soviet socialist nations" (Asenbauer, 1996, p. 124).

*II.a. The (Stalinist) nation in its constitutional definition.* The USSR always recognized the principle of self-determination of peoples as a principle of international law and as an international legal norm. The USSR was a member of the UN and had ratified the two UN conventions on human rights. Boris Meissner, quoted by Asenbauer, has analyzed the Soviet position on the right of self-determination in theory and practice. According to Meissner, (1962, 1964, 1967, 1985, 1987) the exercise of the right of self-determination corresponds to the nation (the Soviet concept of nation differing from the French or British) which represents a community distinct from the State. The definition of nation, is the one developed by Stalin in 1913:

A nation is a historically produced stable community of people originating on the basis of a community of language, of territory, of economic life, and of a psychological form of existence which reveals itself in the community of culture. Only the existence of these features together constitutes a nation. (Asenbauer, 1996, p. 121)

*II.b. The hierarchy of autonomies and the reality of the central power.* The 1977 Constitution, defined the USSR as a multinational federal State with more than 100 nations and 53 regional national units (Articles 70-88), composed of 15 union republics, with autonomy (Article 76, paragraph 3), defined territory (Article 78), a nation and its own

Powers. They also have the right to exchange diplomatic and consular representatives with other States (Article 80) and to secede from the Union (Article 72) (Asenbauer, 1996, p. 118-119).

Based on Article 87, section 3 of the 1977 Constitution defining autonomous regions, Grigoryan (1971) argues that autonomous regions are based on the concept of nation:

...the sovereign nation is free to choose its own form of State structure and to decide whether it is to be unitary or federal, whether it is to be a national State or a national-state entity and accordingly, whether it is to be a union or an autonomous republic, in the case of a State or an autonomous region or national area in the case of a national-state entity. (Asenbauer 1996, 121- 122)

In the decree on peace of October 26, 1917, the Soviet government declared: "If a nation is forcibly held in the borders of a given State, then such attachment is an annexation, that is, conquest and violation". Barsegov analyzes these concepts and argues that the determination of State boundaries against the wishes of the population is a violation of the principle of self-determination and that the idea of self-determination excludes such annexation. He argues that annexation should not only be defined as forced incorporation but also as the forcible maintenance of a nation within State boundaries. He also argues that *de facto* domination over a region against the will of the nation regardless of when it took place is not a legally significant event. Consequently, according to Barsegov, such domination is not *de jure* but *de facto*, which finds no legal justification (Asenbauer, 1996, 122-123).

*II.c. The ambiguous complexity of the secession mechanism:* The latest version of the Soviet Constitution also includes the options of secession of the union republics and territorial



alterations in their territories in two Articles. Article 72 recognizes that each of the union republics has the right of secession from the USSR. The possibility of territorial alterations is discussed in Article 78. Art. 78 sentence 1 repeats the concept of Art. 86 sentence 1 that the territories of the union republics cannot be altered without their consent. Art. 78, sentence 2 discusses the possibility of territorial changes between the union republics after bilateral agreements of the republics involved and with the approval of the USSR (Krüger, 2010, p. 28).

The territorial integrity of the autonomous republics is guaranteed by Article 84 of the 1977 Constitution, but, according to Grigoryan (1971), also autonomous regions and national areas enjoy that right. Asenbauer further argues that despite the territorial integrity of the union republics guaranteed by Article 78, sentence 1 the territorial protection only refers to territorial claims of other union republics as indicated by sentence 2 of the same Article, but in no way prevented the self-determination of a nation within a union republic (Asenbauer, 1996, p. 125).

The USSR introduced for the first time a Law on Secession on April 3, 1990. Article 3 paragraph 1 sentence 2 of the law allows autonomous regions to decide to remain in the union republics or to secede from them in case the latter choose to secede from the Union (Krüger, 2010, p. 30-31).

The process of disintegration of the USSR began with the initiative of a small autonomous region in the Caucasus where for the first time the Kremlin faced a constitutional demand for a change of status as an exercise of the right of self-determination, and ended with the disintegration of the USSR by demands for secession and independence using more or less

the same constitutional mechanism.

### **Part III: The Right of Self-Determination in Action in Nagorno Karabakh at the end of the USSR**

Gorbachev's coming to power in 1985 and his reform agenda generated conditions conducive to the public expression of demands that had hitherto been subject to repression. After overcoming doubts about the credibility of the new General Secretary 's promise and gaining confidence that repression would be exempted, various demands were made publicly and massively in different parts of the Soviet Union that were not exactly what the Kremlin expected, betting on the support of civil society to reform the economy against the resistance of a stagnant party apparatus and leaderships conforming to a status quo that ensured their privileges.

Of all these requests the most unexpected and unwanted by Gorbachev and his entourage were the national conflicts and territorial disputes frozen in the supposed solution that Article 70 had provided the parties and the security apparatus had been charged with implementing and reinforcing through repression. Gorbachev's assumption was that the greatest achievement of seventy years of coexistence in the multinational State had been the overcoming of national disputes and the construction of the common Soviet identity. Subsequent events proved not only his mistake, but also the absence of the Kremlin's ability to address the so-called Nationalities Question beyond the irritating "*niet*" to demands for revision of the status of the borders imposed by Stalin and almost never changed in seventy years of history. The riots in the capital of Kazakhstan in December 1986 were a first signal, but the formal demand for a territorial revision came in February 1988 from Stepanakert,

capital of the Nagorno Karabakh Autonomous Region (*Oblast*), a historically Armenian-populated enclave that by Stalin's decision in 1921 was incorporated<sup>6</sup> into the Azerbaijan Soviet Socialist Republic.

*III.a. Nagorno Karabagh: The first manifestation of the principle of self-determination.* On February 20, 1988, the Nagorno Karabagh Regional Soviet passed a resolution requesting the Supreme Soviets of Armenia and Azerbaijan to intervene to facilitate the reunification of Nagorno Karabagh with Armenia. In response to the request, in Yerevan, the Karabakh Committee was formed which, in addition to the reunification of Nagorno Karabagh with Armenia, included in its agenda requests concerning language, pollution, democratization and the recognition of April 24 (anniversary of the 1915 Genocide) and May 28 (anniversary of the first republic of 1918-1920) as official holidays. From February 20, 1988, massive demonstrations began to take place in Yerevan's Opera Square (Chorbajian, Donabedian & Mutafian, 1994, p. 149).

The Azeri response to the Nagorno Karabagh request was reflected in the massacres of Armenians in the industrial city of Sumgait on February 26 – March 1. It was to be the first episode of the intercommunal violence that over the next two years would lead to the forced exodus of the Armenian population from Azerbaijan and the Azeri population from Armenia. On March 17, the regional committee of the Nagorno Karabagh Communist Party in Stepanakert confirmed the February 20 decision of the Regional Soviet and requested the intervention of the Politburo of the Communist Party of the Soviet Union. On March 23 the Presidium of the Supreme Soviet of the USSR rejected the Nagorno Karabagh request

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<sup>6</sup> Nagorno Karabagh was incorporated into Azerbaijan on July 5, 1921, by the Caucasian Bureau of the Russian Communist Party, after having agreed the day before to give it to Armenia (Chorbajian, Donabedian & Mutafian 1994, 134-136).

(Chorbajian, Donabedian & Mutafian, 1994, p.150-153), and the next day the Presidium declared the Karabakh Committee illegal (Asenbauer, 1996, p. 84)<sup>7</sup>.

In retrospect it can be stated that between February 20, 1988, the date of the Nagorno Karabagh Regional Soviet's request, and March 23, Gorbachev's '*Niet*' to any modification of borders within the Soviet Union, the future process of disintegration of the Soviet Union had been determined between on the one hand the manifestation of the principle of self-determination and, on the other hand, Moscow's inability to understand its significance. The Nagorno Karabagh request did not aim at the collapse of the Soviet multinational State, only its reform. The Kremlin had no answer because it assumed that the great achievement of the 1917 revolution had been the overcoming of the Nationalities Question. In the next three years the Nationalities Question would manifest itself in terms of independence and separation of union republics from the Soviet Union and would end up provoking its downfall. It would be too much to claim that the Nagorno Karabagh request was the source of inspiration for the demands for independence of the union republics; however, it was the first attempt to resort to the Constitution and make use of the right of self-determination, revealing, at the same time, the ambiguities of Soviet law and the inability of the regime to provide an answer to the Nationalities Question which in the past consisted exclusively in the denial of their existence through repression.

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<sup>7</sup> The Supreme Council of Nagorno Karabagh proclaimed its independence on September 2, 1991, and held its own referendum on independence on December 10, 1991, based on Articles 1, 3, 4, 5, 6, 7, 8, 13, 14, 15 and 16 of the Soviet Law on Secessions. The Supreme Council of Nagorno Karabagh adopted the Declaration of State Independence on January 6, 1992 (Avakian 2015, p. 23-4). Azerbaijan was the only Soviet republic whose borders were determined by international treaties (Moscow and Kars in 1921). "When Azerbaijan rejected upon independence, the Soviet legal heritage in 1991, the international subject – Soviet Azerbaijan – to whom the territories were passed in 1920 ceased to exist... Azerbaijan lost all claims to the territories passed to Soviet Azerbaijan in July 1921 – namely Nagorno Karabagh – even if the latter's act of transfer was legitimate" (Avakian 2015, p. 21). Nagorno Karabagh's independence was not internationally recognized by a UN (United Nations) member State, not even by Armenia.

*III.b. The battle of interpretation.* Both Nagorno Karabagh and Azerbaijan defended their positions by relying on the Soviet Constitution. In this way they revealed the ambiguities and contradictions inherent in the document. Thus, the bases for Nagorno Karabagh's self-determination, as formulated in the request, were a) the universal principle of self-determination, b) the Soviet constitution (Article 70) and Lenin's nationalities policy (Asenbauer, 1996, p. 125). Azerbaijan, for its part, referred to Art. 78 of the Constitution to reject the separation of Nagorno Karabagh, which, it argued, could not take place without its consent. Article 78 reads: "The territory of a Union republic cannot be changed without its consent. The boundaries of the Union republics may be changed after bilateral agreement of the corresponding republics and ratification by the USSR" (Asenbauer, 1996, p. 125).

While Article 78 sentence 1 of the Soviet constitution would seem to uphold the Azerbaijani view of granting full protection against loss of territory, but the second sentence indicates that territorial protection is expressed only against territorial changes by another union republic. In Asenbauer's opinion, Article 78 protects against external changes, but does not affect the right of self-determination of a nation within a union republic (Asenbauer, 1996, p. 125). Article 3 paragraph 1, sentence 2 of the 1990 secession law is also used as a basis for justification by guaranteeing autonomous regions the right to decide their future in the face of secession from the union republics (Krüge, 2010, p. 36-7).

It was clear that the disputes could not be overcome without political will from the Kremlin, which is precisely what was lacking at the time due to the inability to provide a solution to a situation never contemplated in the seventy years of the USSR's existence.

*III.c. The principle of self-determination and independence of the former Soviet republics.*

Moscow's inability to provide an answer to the Nationalities Question within the borders of the Soviet Union unleashed the process of disintegration with separatist demands and declarations of independence. Incidentally, the process reached its culmination with the refusal of the Russian Federation (RSFSR) to renew the union treaty on December 12, 1991, after the signature of the Belavezha Accords between Russia, Belarus and Ukraine 4 days earlier proclaiming that the USSR had ceased to exist. However, the decision in Moscow not to renew the union treaty was almost the inevitable consequence of the rush of declarations of independence, popular referendums and parliamentary decisions in 1991, especially after the failed *coup d' état* in August. Hence, it is correct to assume that the “profound force” (Renouvin & Duroselle, 2000, p. 9-10) of the disintegration of the USSR was the principle of self-determination that was presented as the legitimization of separatist demands as a solution to the Nationalities Question. Incidentally, the process of disintegration did not follow the same pattern for all republics.

The separatist processes of the USSR republics were carried out in five different ways that can be summarized as follows:

- Declaration of independence; popular referendum (Lithuania, Latvia, Ukraine, Azerbaijan, Uzbekistan).
- Popular referendum; declaration of independence (Georgia, Estonia, Armenia).
- Declaration of independence (Belarus, Moldova, Tajikistan, Turkmenistan, Kazakhstan, Kyrgyzstan).
- Legislative declaration of sovereignty (Russia).

The Nagorno Karabagh antecedent of 1988 distinguishes itself from the separatist initiatives

of the union republics with the evocation of Article 72 of the Constitution claiming a territorial change without declaration of sovereignty, nor perspective of separation from the USSR. The Nagorno Karabagh conflict was with the Azerbaijan SSR; and, as the next part will relate, it was not the only case within the USSR. If after the fall of the USSR the exercise of the principle of self-determination on the part of the republics has been greeted in the international arena with the recognition of the sovereignty of fifteen new entities, the same exercise, the same right has been problematic in the case of the regions. It remains so.

#### **Part IV: Conflicting Self-Determination**

As in the case of Nagorno Karabakh, the exercise of the right to self-determination in the Russian North Caucasus (Chechnya), in Georgia (Abkhazia and South Ossetia) and in Moldova (Transnistria and Gaguzia) generated conflicting situations. In this part we present a brief overview of the evolution of the main conflicts.

*IV.a. Chechnya: Two wars for one 'Niet'*<sup>8</sup>. After the failed *coup d'état* against Gorbachev in August 1991, popular demonstrations forced the resignation of the Communist government of the Checheno-Ingush Autonomous Soviet Socialist Republic. The government resigned and the Ingush seceded and maintained their links to Russia. Dzhokhar Dudayev was elected President of the new Chechen republic (Nokhchi-cho) in October and proclaimed its independence on November 1. Between 1991 and 1994, Chechnya was a *de facto* independent country, the country changing its name to the Chechen Republic of Ichkeria in January 1994. By 1993, the economic situation, education and welfare state had collapsed, and about 90,000 Russians and Russian speakers had left the territory. After the Russian parliamentary elections of 1993, President Yeltsin decided to intervene militarily in

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<sup>8</sup> International Crisis Group Europe (2012). BBC Chechnya profile – timeline (2018).

Chechnya whose independence he never recognized. On December 11, 1994, Russian troops entered Chechnya. The war lasted until August 1996, nearly 50,000 civilians were killed. Human rights organizations informed that half a million people fled the war. Military casualties were estimated to be between 3,500 and 7,500 for the Russian military and between 3,000 and 17,000 between dead and missing for the Chechen military. In August 1996 the war ended without a clear winner. The August 1996 Khasavyurt (Dagestan) Accords and the May 1997 Moscow peace treaty ended the fighting, Russian forces withdrew, and a decision on the political future of the former autonomous republic was postponed until 2001. The agreement gave Chechnya an autonomous status within Russia. However, while for Russia, Chechnya remained part of Russia, Chechnya maintained that it was already independent.

By the summer of 1999, military clashes on the border between Chechnya and Dagestan were a regular occurrence. Islamist attacks outside Chechnya gave Russia the ideal excuse to re-intervene in Chechnya in September 1999 in what was defined as an anti-terrorist operation, enjoying widespread support in Russia. This new war paved the way for Putin's ascendancy to the Presidency of Russia. With the Russian intervention, began the second Chechen war whose level of brutality on the part of both Russian and Chechen forces would surpass the first. In January 2000, Russian forces occupied Grozny, the capital of Chechnya. By the spring of 2000, Russian forces controlled almost the entire republic. Chechen forces responded with a massive terrorist campaign. In response, Russian forces conducted mopping-up operations by isolating villages and indiscriminately arresting suspects. From 2002 onwards, the mopping-up operations were replaced by targeted operations, reducing the



number of casualties. In 2004, the refugee camps in Ingushetia were closed. On March 23, 2003, a new constitution was adopted, transforming Chechnya into an autonomous republic within the Russian Federation. The total number of deaths between civilian and military is estimated around 60,000.

The exercise of the right to self-determination in Chechnya presented the greatest challenge to the territorial integrity of the Russian Federation. Moscow's fear probably consisted in a process of unstoppable fragmentation spreading to all its European and Asian provinces of Turkic-Muslim population starting with Dagestan. With respect to the right of self-determination, Moscow's persistent refusal to admit the exercise of the right of self-determination was clear. Especially when its own territory was threatened by separatism. But Moscow's refusal to admit the exercise of the right of self-determination was not so intransigent in other cases of separatist regions in peripheral countries of the former USSR.

*IV.b. Abkhazia: to be or not to be Georgian (I)*<sup>9</sup>. The conflict between Georgia and Abkhazia is due to antagonistic interpretations of their historical relationship .

The first clashes took place in 1989, sparked by the creation of a branch of Tbilisi State University in Sukhumi. While the Georgians accelerated their process of separation from the USSR, the Supreme Council of Abkhazia proclaimed the sovereignty of Abkhazia (an autonomous republic within Georgia) on August 25, 1990. The March 17, 1991, referendum on the new version of the Soviet Constitution marked the differences: Georgians boycotted it, Abkhazians supported it along with the maintenance of the Union treaty as allowed by Soviet Law. Thus, the Abkhazians expressed their desire to cease to be part of Georgia and remain

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<sup>9</sup> International Crisis Group Europe (2006); BBC (2023); Ministry of Foreign Affairs of Abkhazia (1999); International Crisis Group Europe (2010a).

in the USSR. When the USSR disappeared, the Abkhazians considered that they had achieved independence. In September and October 1991, a new Abkhazian parliament was elected. In February 1992, after the deposition of President Gamsakhurdia in Tbilisi, the provisional military council of Georgia announced the validity of the pre-Soviet constitution of Georgia of 1921. Considering that the 1921 constitution did not offer sufficient guarantees, the parliament in Abkhazia sent a project of federal or confederal association. Georgia did not respond to the proposal. On July 23, 1992, the parliament reinstated the Abkhazian constitution of 1925. Between the summer of 1992 and the summer of 1993, Georgian armed forces controlled most of Abkhazia including the capital. On July 27, 1993, a Russian-mediated armistice was signed, but on September 16, the Abkhazians broke it with the support of volunteers from the North Caucasus, and after eleven days of fighting, managed to control Sukhumi and then almost the entire territory of Abkhazia, except for the upper canyon of the Kodori River, causing a massive exodus of Georgians. Independence was effectively declared on September 30, 1993, at end of war and liberation of the territory from Georgian troops. In May 1994 the Moscow agreement was signed under the auspices of the UN and the intervention of Russia, and the deployment of a Russian peacekeeping force under the mandate of the Commonwealth of Independent States (CIS) monitoring a territory 85 km long and 24 km wide between Abkhazia and Georgia. At the same time a UN monitoring mission was established in Abkhazia. Peace negotiations between Georgia and Abkhazia took place in Geneva under the auspices of the UN with the participation of Russia, the Organization for Security and Cooperation in Europe (OSCE) and the Group of Friends of the Secretary General of the UN (USA, Germany, UK, France and Russia). But these

meetings that sporadically took place had no effective results.

On October 12, 1999, the parliament of Abkhazia passed the Act of State Independence following a referendum. In August 2008, Abkhazia requested the withdrawal of UN observers from Kodori during the war between Georgia and Russia. Russian troops crossed the Georgian Abkhazian ceasefire line on the Inguri River and occupied several locations. Georgian forces and the Georgian population left Kodori on August 11-12, 2008. As part of the agreements between Sarkozy, Medvedev and Saakashvili of August and September 2008, Russian forces should have withdrawn to their pre-conflict positions, but it did not happen. Russia stated that the new reality of Abkhazia determined the deployment of their forces.

*IV.c.South Ossetia: to be or not to be Georgian (II)* <sup>10</sup>. The Ossetians claim to be descended from the Alans and Scythian tribes that migrated from Iran to the Caucasus 5,000 years ago. The Bolsheviks, who occupied Georgia in 1921, created the South Ossetian Autonomous Region (*Oblast*) in 1922 as part of Georgia. The Ossetians attempted in 1988 to change the status of the autonomous region to that of an autonomous republic. In November 1989, the Regional Soviet of South Ossetia sent a request to that effect to the Supreme Soviet of Georgia, which rejected it. South Ossetia proclaimed its full sovereignty on September 20, 1990. The Ossetians boycotted the Georgian presidential election and organized their own election in December. The government of President Zviad Gamsakhurdia suspended South Ossetia's status on December 11, 1990, and appointed an interim mayor in the capital Tskhinvali. On December 21, 1991, the Ossetian parliament proclaimed the independence of South Ossetia which was confirmed by a popular referendum on January 19, 1992.

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<sup>10</sup> International Crisis Group Europe (2004). BBC South Ossetia profile (2023); EUI Global Citizenship Observatory (2022); International Crisis Group Europe (2010b).

Military action began in January 1991, when Georgian troops attacked Tskhinvali. In the spring of 1992, military tension increased with Russian involvement. On June 24, 1992, in Sochi, Russia, the presidents of Russia and Georgia, Boris Yeltsin and Eduard Shevardnadze signed an armistice. The war left 1,000 dead, 100 missing, numerous internally displaced persons and great economic destruction. Additional protocols were signed in this agreement. One of these protocols defined the conflict zone in a radius of 15 km from the center of Tskhinvali and a security corridor, a band of 14 km, divided equally on both sides of the border of the territory of the Autonomous Region. The South Ossetian authorities-maintained control over the districts of Tskhinvali, Java, Znauri, and part of Akhalkgori. While the Georgian government controlled the rest of Akhalkgori and some Georgian communities in the Tskhinvali district.

To implement the agreement and seek a settlement, a joint control commission was also established with representatives of Georgia, Russia, North and South Ossetia and the OSCE, plus a joint peacekeeping force with the participation of Georgian, Russian and Ossetian troops. The South Ossetian government continued to seek either international recognition or incorporation into the Russian Federation. The election of Eduard Kokoity in December 2001 complicated the relationship with Georgia and strengthened the relationship with Russia. Kokoity sought integration with Russia and the unification of North and South Ossetia. In 2002, after passing a new citizenship Law, Russia began issuing passports to locals. The move took a new impetus following Georgia's Rose Revolution in 2003.

In 2004, after coming to power, Georgia's Saakashvili made Georgia's territorial integrity a key policy objective. After having restored central authority in Adjara in May 2004, the

government sent police to close the Ergneti black market, one of South Ossetia's key sources of revenues. The anti-smuggling operation backfired and increased South Ossetia's lack of trust in Tbilisi's intentions. Georgia protested the presence of Russian military hardware in South Ossetia and violence erupted in late July and it ended after two ceasefire deals in August 2004. In 2006, Russia had started to refer to the leaders of Abkhazia and South Ossetian as presidents and to fill South Ossetia structures with Russian officials.

In 2008, after a brief war between Georgia and Russia with numerous casualties and population displacements, Georgia lost control of the entire territory of South Ossetia including 21 ethnic villages in Tskhinvali and Znauri districts as well as the region of Akhagori and Perevi. Even though ceasefire agreements were signed in August, Russia kept its troops in Akhagori, and in Perevi until 2010.

The cases of Abkhazia, South Ossetia and Transnistria (not discussed here) are similar in essence to Nagorno Karabagh. However, in all three cases the Russian external factor is much more markedly present. In fact, Moscow's readiness for the exercise of self-determination in these cases, if not direct support and preliminary recognition of their independence, is explained by the chronological difference in the beginning of the conflicts. Although the Nagorno Karabagh request, like the other three cases, was not part of the independence process, it set a precedent and, at the time, was perceived by the Kremlin as a challenge to the status quo. In return, Abkhazia, South Ossetia and Transnistria rebelled against central governments of countries where the independence process was underway. Unlike Nagorno Karabagh, Moscow was tolerant and even supported the exercise of the principle of self-determination in Abkhazia, South Ossetia and Transnistria for strategic reasons linked to its

efforts to maintain its influence in its periphery.

The exercise of the right of self-determination on the part of autonomous republics and regions in the former USSR has been conflicting. On the one hand, the validity of the principle in all cases as a legitimizing basis for status change requests leaves no room for doubt; on the other hand, these are cases in which the ambiguity of Moscow's position becomes relevant.

#### **Part V: Kosovo and after - post-2008 self-determination**

The independence of Kosovo declared on February 17, 2008, against the wishes of Serbia and recognized by the United States and its allies, marked a break in the position of the international community in reference to the right of self-determination and the principle of territorial integrity, and was closely linked to the recognition in the same year and after a brief war of the independence of Abkhazia and South Ossetia by Russia. Hence, the analysis we offer in this part supports the argument that the international context after 2008 generated a space conducive to the exercise of the principle of self-determination, and the power politics of the Great Powers was not alien to this new dynamism.

*V. a. Kosovo: the exceptional case that confirms the exceptionality of all cases*<sup>11</sup> In 1974, the constitution of the Socialist Federal Republic (SFR) of Yugoslavia recognized the autonomy of Kosovo and gave the province an autonomous government. In 1989, Serbian President Slobodan Milosevic abolished Kosovo's autonomy. In July 1990, the majority of Albanians declared the independence of the province. In 1995, the Dayton, Ohio peace accords ending the war in Bosnia-Herzegovina ignored Kosovo.

In March-September 1998, hostilities began between the Serbian police and the separatist

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<sup>11</sup> BBC Kosovo profile – timeline (2022); RFE/RL (2010); International Crisis Group (2021).

Kosovo Liberation Army (KLA). In March 1999, after the failure of peace talks, the North Atlantic Treaty Organization (NATO) launched air strikes against the Federal Republic (FR) of Yugoslavia that lasted 78 days. Hundreds of thousands of Albanian refugees left their homes, amid allegations of massacres and forced expulsions. In June 1999, President Milosevic of the FR of Yugoslavia agreed to withdraw Serbian troops from the province and NATO suspended air strikes. The UN -through UNSC resolution 1244 – created in 1999 a peace implementation force (Kfor) led by NATO, set up an interim administration (UNMIK) and was charged with facilitating the process for the future status of the province. The resolution recognized the territorial integrity of Yugoslavia. In elections supervised by the UN, a new parliament was elected in 2002, which in turn elected Ibrahim Rugova as president of Kosovo.

In 2006, negotiations on the final status of Kosovo began under UN supervision. In October 2006, in a referendum in Serbia, voters approved a new constitution that recognized Kosovo as an integral part of Serbia. Kosovo Albanians did not participate in the election. In February 2007, UN envoy Martti Ahtisaari of Finland presented the plan for Kosovo's future independence<sup>12</sup>. On February 17, 2008, Kosovo declared its independence from Serbia, but Serbia did not recognize it. By July 2022, 105 countries recognize it, including the United States and most of NATO and the EU<sup>13</sup>. In June 2008, a new Constitution was adopted that effectively transferred power to the Albanian majority, after nine years of UN protectorate<sup>14</sup>.

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<sup>12</sup> At the UN, the US, the UK and other European countries finally discarded Ahtisaari's plan having failed to secure Russia's support.

<sup>13</sup> Kosovo is member of the IMF and the World Bank. Twelve countries that have recognized Kosovo have since then withdrawn their recognition.

<sup>14</sup> In December 2008, a European Union mission (Eulex) took over control of the police, justice administration and customs service from the UN. Current mandate expires in June 2025. In March 2011, Kosovo and Serbia began negotiations to resolve their differences. Both countries signed the Brussels Agreement in April 2013. Some improvements have taken place, but Serbia still does not recognize Kosovo. Under the Brussels

In October 2008, the UN General Assembly referred Kosovo's declaration of independence to the International Court of Justice. In July 2010 the International Court of Justice ruled that Kosovo's 2008 declaration of independence was not illegal under international law, in response to a complaint by Serbia that it had breached its territorial integrity.

*V.b. Return of favours: Russia recognizes the independence of Abkhazia and South Ossetia.*

From the moment Western countries decided that Kosovo's independence was the best possible alternative, they tried to present it as a unique case that would not generate consequences to avoid resistance from countries such as Cyprus and Georgia and to counter the possibility of Russia recognizing the independence of Abkhazia, South Ossetia and Transnistria (Coppeters, 2010, p. 197-217).

Western countries explained their recognition of Kosovo based on several principles, including: 1) Just war principle, 2) *Intention droite*, 3) Last resort, 4) Existence of a legitimate authority, 5) Reasonable chance of success, 6) Proportionality.

By violating Serbia's territorial integrity, the recognition of Kosovo has made more complex the management of other international conflicts such as those of Abkhazia, South Ossetia, Nagorno Karabagh and Transnistria. Recognition calls into question the federalist option (why follow it if the Western countries did not force it in the case of Kosovo) and the principle of territorial integrity of States since according to the Kosovo perspective it was not necessary to reach an agreement with the other party if independence can be obtained.

In fact, for Moscow the recognition of the independence of South Ossetia and Abkhazia was not easy as it preferred to maintain the principle of territorial integrity of Georgia despite the

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Agreement a self-governing Community of Serb municipalities in North Kosovo and Southeast Kosovo is contemplated but not yet implemented. Mediation efforts led by the EU between Serbia and Kosovo have not achieved results so far.



insistence of South Ossetia and Abkhazia to obtain recognition, or incorporation into Russia. But the international recognition of Kosovo by the West and the war in Georgia changed the situation. Russia formally recognized the independence of South Ossetia and Abkhazia on August 26, 2008<sup>15</sup>.

In return, for South Ossetia and Abkhazia, the acceptance of Kosovo's independence by Western Powers demonstrated the validity of the principle of self-determination of peoples even if it went against the principle of territorial integrity. It is worth mentioning, however, that Russia considered the recognition of South Ossetia and Abkhazia as a unique case; just as those who recognized Kosovo's independence argued. Russia also used the principle of last resort to proceed with recognition arguing that all other attempted solutions had failed. Russia also employed the principle of legitimate authority, upholding the right to self-determination of peoples expressed in the UN and Helsinki Charters and its full right to proceed to recognition as a sovereign State (Coppieters, 2010, p. 197-217).

In 2008, Kosovo on the one hand and South Ossetia and Abkhazia on the other seemed to have placed the principle of self-determination in a new competitive dynamic of power struggle between the United States and its allies in NATO and the Russian Federation. All indications were that Abkhazia and South Ossetia were merely Moscow's reaction to the recognition by the United States and its NATO allies of Kosovo's independence. But developments in Ukraine since November 2013 and especially since February 2022 suggested that the principle of self-determination may have gained a moment of its own that Moscow does not intend to squander.

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<sup>15</sup> Nicaragua, Venezuela, Nauru and Syria have also recognized them.

## **Part VI: Consequences of the 2020 second war in Nagorno Karabagh, the 2022 Russian invasion of Ukraine and Azerbaijan's suppression of the Artsakh (Nagorno Karabagh) Republic in 2023**

Following independence in 1991, the Republic of Nagorno Karabagh was renamed the Republic of Artsakh in 2017 and continued its independent existence albeit without international recognition of any UN member State even Armenia, until September 2020, in spite of frequent clashes in the line of contact between Nagorno Karabagh<sup>16</sup> and Azerbaijan. Tired of the delays in the peace process, seen from its own perspective, and strengthened by its alliance with Turkey, Azerbaijan attacked Nagorno Karabagh (Artsakh) in September 2020 (the first war between 1988 and 1994 ended with an Armenian victory in Nagorno Karabagh and the seven surrounding districts) starting a second war with the military aid of Turkey. The Azeri strategists – under Turkish direction- used last generation drones made in Israel and Turkey and in 44 days occupied the south and northeast regions of the territory of Nagorno Karabagh.

The cease fire agreement of November 9, 2020, forced the Armenians to relinquish in parts and until early December 2020 all the territory gained between (the first war of) 1992 and 1994 and accept the presence of a Russian peacekeeping force in Nagorno Karabagh for 5 years, among other things. The second war allowed the Azeris to obtain through military means what they lost in the first war and were not able to obtain in the negotiating table, demonstrated the obsolescence of Armenian armament and military strategies. It also

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<sup>16</sup> In an interview in November 2020, President Putin said “As far as recognition is concerned and lack of recognition of Nagorno Karabagh as an independent and sovereign State, there can be different evaluations, but this was unquestionably an essential factor in the case of the bloody conflict that was recently stopped” in News.Am (2020).

fragilized Nagorno Karabagh who lost more than 70 % of its territory and saw its survival questioned, weakened Armenia who has seen its border with Azerbaijan doubled and is subject to constant harassment in its international border with Azerbaijan, in an international border which has not been demarcated. It also allowed Turkey to return to the South Caucasus, made evident the weaknesses of the Collective Security Treaty Organization (CSTO) as a military alliance and the impotence of the West to react, permitted Russia to play the role of arbiter and deploy a peacekeeping force and changed the rules of the game for the wars at the beginning to the XXIst century, especially because of the use of drones. During the war, Russia took a distant position even when Armenia was attacked in its own territory and did not or could not put an end to the conflict as it had done in previous confrontations. The support of Russia to Armenia and Artsakh paled in comparison to the Turkish support for Azerbaijan (Torres 2021).

In Prague in October 2022 and in Yerevan in May 2023, Primer Minister Nikol Pashinian of Armenia announced that Armenia recognized Nagorno Karabagh as part of Azerbaijan.

Following a nine- month blockade in September 2023, Azerbaijan invaded Nagorno Karabagh, forcing the exodus of its population to Armenia in both cases under the neutrality of Russian peacekeepers deployed in Nagorno Karabagh. Russia said that Armenia's recognition of the territorial integrity of Azerbaijan, left it without choices as it was an internal affair of Azerbaijan. The US and the European Union did not intervene leaving the Armenians alone.

Putin's government characterized the annexation of Crimea immediately after the March 16, 2014, referendum in terms of historical justice arguing that the territory always belonged to

Russia<sup>17</sup>. This is a show of force that is also explained by Russia's fears of NATO's eastward expansion after the collapse of the USSR and the unwillingness in the European Union to seriously discuss the Brussels-Moscow relationship (Radvanyi, 2014). It would be a mistake, however, to disregard the formulation of an ideological vision, "Eurasianism", as a basis of legitimization to the reconstruction of Russia's imperial space of influence (Chauvier, 2014) where a certain interpretation of the right to self-determination would prove instrumental for Moscow.

Entitled as "the close neighborhood" or near abroad after the fall of the USSR this zone of influence considered vital for national security that failed in the first attempt of institutionalization that was the CIS was formulated in terms of the new Eurasian Economic Union. In this perspective, historical concepts of a Russian expansionist discourse such as Novorossia reappeared in the arguments defending Russian interventionism. Under the same premises, Russia recognized the independence of Luhansk and Donetsk <sup>18</sup> on February 21, 2022, three days before the invasion. At the time of writing (October 2023), the war on Ukraine goes on, with 18 % of Ukrainian territory occupied by Russia. Russia annexed Luhansk, Donetsk, Kherson and Zaporizhzhia (these last two after they became briefly independent) in September 2022.

If Gorbachev's 'Niet' to the first, legal and peaceful request for the exercise of the right of self-determination of Nagorno Karabagh in 1988 was motivated by the preservation of the status quo and the persistence of the illusion of the non-existence of the question of

<sup>17</sup> The RSFSR ceded Crimea to Ukraine in 1954, on the 300th anniversary of the treaty of Pereiaslav. But after the dissolution of the USSR, in December 1991, Russia recognized Ukraine's territorial integrity in the treaties of 1991 when the CIS was created (two weeks before the USSR actual demise), the memorandum of Budapest of 1994 and the bilateral treaty of 1997.

<sup>18</sup> Donetsk and Luhansk proclaimed their independence on April 7, and April 27, 2014 respectively and confirmed it by referendum on May 11, 2014.

nationalities in the internationalist approach that legitimized the USSR, Putin's 'Da' aims at the recreation and consolidation of Russia's zone of influence with a much more nationalist legitimizing argument. In this sense, Moscow's relative support for the right of self-determination seems to prioritize, if not privilege, ethnically Russian or Russian-speaking populations. Support for the right of self-determination would basically translate in terms of support for the right of autonomy of these sectors, all viewed from the prism of Russian imperialism. Russia's hands off policy in Nagorno Karabagh despite the diplomatic blunders of the Armenian government is a further proof of this. Abkhazia and South Ossetia are not really an exception because even though they are not ethnically Russian they border Russia and are candidates for annexation.

As Hirsh says:

Indeed, Putin may have been preparing for this moment longer than people realize: After the Russian leader annexed Crimea in 2014, the Kremlin's longtime ideologist, Vladislav Surkov, wrote that it would mark "the end of Russia's epic journey to the West, the cessation of repeated and fruitless attempts to become a part of Western civilization. (Hirsh, 2022)

Surkov predicted that Russia would exist in geopolitical solitude for at least the next hundred years... All this history is key to understanding Putin's delusional view that Ukraine is not, and can never be, a separate country and "never had a tradition of genuine statehood". Putin made this plain in a Feb. 21 speech, three days before the invasion, and in a 6,800-word essay from July 2021 titled "On the Historical Unity of Russians and Ukrainians." In that essay, he reached back more than 10 centuries to explain why he was convinced that "Russians and

Ukrainians were one people—a single whole”. He claimed it was important to understand that Russians and Ukrainians, along with Belarusians, “are all descendants of Ancient Rus, which was the largest State in Europe”. Putin wrote: “The spiritual choice made by St. Vladimir ... still largely determines our affinity today” (Hirsh, 2022).

### **Conclusion: For a just self- determination**

Of course, the precedent of Kosovo and the Western clumsiness in trying to formulate the case as an exception to continue ignoring the principle of self-determination as a living force in international dynamics does not allow us to exemplify an alternative to the uses and abuses of the principle on the part of Moscow. The United States and its European allies today hardly remember the Wilsonian legacy to the cause of the liberation of nations from the yoke of empires. For, perhaps the greatest irony of the fate of the principle of self-determination has been its emergence as an anti-imperialist force only to end up today as a justification for power politics and expansion of spheres of influence for Western Powers as well as Russia.

The events in Ukraine in 2014 and 2022 – even one can argue that the war started with the annexation of Crimea in March 2014- and the Nagorno Karabagh war of 2020 and Azerbaijan invasion and ethnic cleansing in 2023 are clear examples. In spite of their defeats in 2014 in the case of Scotland and 2014 and 2017 in the case of Catalonia, it is not true that federative formulas and/or supra-state institutionalizations of regional integration necessarily constitute a response to demands for independence in exercise of the right to self-determination, as a clear demand for the solution of the Scottish and Catalan problems continues to exist, and the issue of Nagorno Karabagh has been solved militarily but not politically.

Hence the need to rescue the principle of self-determination from the traps of the power

politics of the Great Powers. The optimal solution, evidently, would be the creation and legitimization of an international legal mechanism in a supranational instance that would make it possible to avoid unilateral decisions or the escalation of separatist processes to the level of armed conflict. Efforts in this direction certainly exist; however, the need to conceptualize the concept is also urgent in the discipline of International Relations where theoretical bodies in general focus on continuity rather than change. It is feasible to argue that the effort of theorizing the principle of self-determination could contribute to the enrichment of the conceptual knowledge of the processes of change in the international system. The effort of theorizing matters also in the sense of breaking the mutual exclusion of the principle of self-determination and territorial integrity. It is not, of course, about the relativization of each principle according to the prevailing political discourses; rather, it is about the determination of the conditions for just self-determination in the liberal tradition of the formulation of just war principle as formulated by Walzer (2006).

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