The Creation of States in International Law: Reflections on the Kosovo case

Outline

1) The concept of State and the criteria for statehood under international law
2) The nature and the legal effects of State recognition
3) The creation of States under international law
4) The principle of self-determination as a State creating norm
5) Secession: definition and legal framework
6) The Kosovo case and beyond - discussion

During the seminar students will be asked the following questions:

What are the requirements for an entity to qualify as a State under international law?
What is State recognition?
What is the content of the right to self-determination?
What peoples are entitled to the right to self-determination?
What is secession?
How does international law regulate secession?
Is external intervention in a civil war legal?
What is the relationship between secession and self-determination?
What is the position of the United States (in legal terms) on the Declaration of independence of Kosovo?
What is the position of the Russian Federation (in legal terms) on the declaration of independence Kosovo?
Is Kosovo a State?

Reading list

Chapters in Books

Ibidem, pp. 37-173; 374-448 [*].
C. Tomuschat, Secession and Self-Determination, in M. Kohen, Secession – International


A. Pavkovic, P. Radan, Creating New States, Aldershot, Ashgate, pp. 5-30; 232-239 [*].


**Articles**


B. Knoll, From Benchmarking to Final Status? Kosovo and The Problem of an International Administration’s Open Ended Mandate, European Journal of International Law, 2005, pp. 637-660 [*].

E. Quane, A Right to Self-Determination for the Kosovo Albanians?, Leiden Journal of International Law, 2000, pp. 219-227 [*].

**Documents and Materials**

United Nations Charter
Kosovo Declaration of Independence of 17 February 2008
Ahtisaari Plan – Executive Summary
Kosovo Timeline – BBC online
Security Council, Verbatim Records, S/PV 5839 of 18 February 2008
Georgia Timeline – BBC online
Georgia Q&A – BBC online

**Availability**

When not otherwise indicated, all of the articles are available from the Library (use the Oxford Law Journals and the Cambridge Law Journals electronic databases). The book
chapters, the documents and the materials are available from Dr. Notermans. Readings marked as follows [*] are to be considered optional.