

## BOOK REVIEW

# More than the break-up of Yugoslavia

**REVIEWED by Isabelle Ioannides<sup>1</sup>**

*Europe and the Recognition of New States in Yugoslavia*

Richard Caplan, Cambridge: Cambridge University Press, 2005, 45.00 GBP,  
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The decision of the European Community (EC), now European Union (EU), to recognise the new states in Yugoslavia during the Yugoslav crisis remains a matter of great controversy. The EC's policy on conditional recognition represented an innovation in EC security policy-making and constituted a radical departure from historic state practice as well as international law. Richard Caplan sets out to explain the "strategic logic governing the EC's use of recognition" (p. 3) by addressing thoughtfully the sources of EC policy on conditional recognition and the consequences of this policy.

The EC's reasoning that conditional recognition can be used as a conflict management mechanism is the starting point of this study. Recognition was a punitive measure that would dissuade Belgrade from continuing its campaign of violence against the break-away republics; it transformed the nature of the conflict from an internal dispute to an interstate war allowing the intervention of third parties; and lastly, encouraged the new republics to reform so as to meet certain EC requirements dealing with the vulnerability of minorities (p. 25). However, the EC's use of political criteria – the protection of human rights, the safeguarding of minorities, 'good governance', the respect of borders, the acceptance of disarmament and commitment to settle disputes peacefully – as the basis of recognition represents a radical departure from customary state practice and prevailing norms. To a certain degree, recognition is a strategic and political act as its advocates – most ardently Germany – have demonstrated. Domestic and regional concerns of the EC and its Member States needed to be reconciled with the determination to forge a common foreign and security policy and the desire of the Yugoslav republics for independence (p. 48).

Besides its role as a policy instrument, recognition also encompasses an important normative dimension. Caplan draws on the dialogue on the relationship between international law and international relations to explore how pertinent the normative legal tradition was to the EC's actions and where the (acceptable) limits of EC innovation are. Ultimately, "law is relevant to the behaviour of states not because of what the law says, which is the pitfall of legal formalism, but rather because of how it

reflects the political forces at work in the world and, yet, at the same time, constrains those forces” (p. 94). The establishment of the Badinter Commission ensured that the EC’s unorthodox use of conditional recognition was consistent with trends in international law and historic practice regarding the recognition of states. At the same time, this legal framework both facilitated and constrained EC action. Thus, the EC could justify the recognition of Slovenia and Croatia on the grounds that the republics were not seceding from Yugoslavia since Yugoslavia was in a process of dissolution. However, since the Badinter Commission was not legally binding, the EC could also choose not to recognise Macedonia despite Badinter’s favourable judgment. It is said therefore that the EC interpreted international law and evaluated unfolding events selectively to support its policy on recognition (p. 64).

Yet, EC policy cannot be held responsible for ‘aggravating and extending’ the violent conflict in the former Yugoslavia. The wars in Croatia (recognised before the status of the Serbo-Croat minority was clarified) and in Bosnia (recognised before an agreement between the three main ethnic groups was forged) were largely operating independently of the EC’s policy on recognition. Rather, the quest for statehood constituted a reaction to Belgrade’s effort to recentralise Yugoslavia. The roots of the conflict had an external dimension (Serbian opposition to secession) in addition to the domestic one (minority rights in the new states). Consequently, delayed or non-recognition would probably not have averted the forces of violence (p. 97). In fact, recognition created opportunities for more effective international action and conflict prevention. Caplan argues convincingly that it is the failure to seize these opportunities – for example, recognition being backed by a threat to use force in defence of Slovenia and Croatia – that explain the tragic Yugoslav crisis.

Tying in with the current context of EU relations with the new republics, that is, the European integration process, the book draws on examples from the long experience of the EU and other multilateral organisations in the implementation of political conditionality in development assistance and trade. In this way, Caplan explores the wider implications (potentials and limitations) of conditional recognition in support of

political aims and as an instrument of conflict management. It is argued that conditional recognition can play a limited role in support of conflict mitigation, especially if reinforced by complementary measures, including conditional membership in regional organisations (i.e. the EU) and acting in co-operation with indigenous actors. In this context, normative issues – legitimacy and consistency – are particularly relevant when considering the effectiveness of the EC's use of conditional recognition. Caplan is less convincing when justifying EU imposition of unique requirements on its neighbours on the fact that the "EU's backyard [i.e. the Western Balkans] is its future" (p. 178). This also poses a fundamental problem to the EU when trying to legitimise the imposition of such requirements beyond its neighbourhood, in regions where EU integration is not an option.

The exploratory approach of this study around a number of themes allows the author not to limit himself to a recounting of events in the former Yugoslavia. Not only is Caplan's book timely in view of the debate on the future status of Kosovo, but its significance stretches well beyond Yugoslavia. Caplan correctly notes that: "The EC's innovations are likely to have far-reaching implications for the development of human rights, self-determination, secession and statehood, among other aspects of substantive law well beyond [former Yugoslavia]" (p. 72). The only regret is that the author does not deal with the heart of the topic – the recognition of the states of Yugoslavia – until halfway through the book. Richard Caplan's well-argued and powerful book is an important contribution to scholarship and should be at the top of the list of courses dealing with the break-up of Yugoslavia, the debate on international law and legal norms, developments in EU security and EU efforts in the management of ethnic conflict.