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**OK, Ottawa: Seize the moment and clear up the secession confusion**

William Johnson

Author and a former president of Alliance Quebec

Will the international recognition of Kosovo's secession - like Montenegro's in 2006 - create a precedent favouring the secession of Quebec? That's the assumption behind the jubilation in Quebec's secessionist circles since Kosovo's parliament proclaimed a unilateral declaration of independence.

The Parti Québécois was quick to claim a parallel, notably through Daniel Turp, a long-time pro-separation professor of constitutional law and now a PQ MNA. "Quebeckers continue to give significant support to the idea of having Quebec attain political sovereignty, as Kosovo just did," he said, adding: "After Montenegro, Slovakia as well as the ex-republics of Yugoslavia and the Union of Soviet Socialist Republics, Kosovo thus attains national independence and counts among more than 20 new countries that attained sovereignty since 1990."

Among pundits of separatist persuasion, a similar association was claimed by Bernard Descôteaux, publisher of *Le Devoir*, in an editorial on Tuesday: "Now, if Canada were to recognize this new country, it would do so as a result of the democratic expression of the will of the Kosovar population. It would bring added weight to the legal argument which also prevailed on the occasion of the independence of Montenegro. This is the very argument of the Quebec independantists."

*Le Devoir* columnist Christian Rioux also cited the case of Montenegro, which seceded from Serbia after a referendum: "Shortly after, Canada had no choice but to recognize the new republic without a fuss. ... By letting the Slovaks go without throwing a tantrum, the Czechs had grasped as early as 1992 that neither the principles of international law nor all the clarity acts in the world can hold back a people which has decided to become independent."

The confusion about the realistic conditions for secession continues despite the Clarity Act, which is largely ignored in Quebec. This supports the wisdom of the federal government in not rushing to recognize Kosovo: To do so would reinforce the assumption that Canada would be a pushover if Quebeckers voted for secession.

But Ottawa must go further. This is the perfect opportunity for the federal government to lay out its position on secession in the form of a white paper. It would not only make clear on what grounds it would

eventually recognize Kosovo, but also spell out the grounds for secession that it would repudiate. The conditions would apply equally to attempts at secession abroad or within Canada.

Fundamental as a condition for recognition would be acceptance of the rule of law. Take the case of Montenegro and its referendum. Far from establishing that a majority in a referendum trumps the rule of law, it shows exactly the opposite. And it repudiates almost every assumption made by Quebec separatists.

After the breakup of Yugoslavia, a new federation of Serbia and Montenegro was created in 2003. Its constitution stipulated: "Upon the expiry of a three-year period the member state shall have the right to initiate the procedure for a change of the state status, i.e. for withdrawal from the State Union of Serbia and Montenegro." It was this constitutionally recognized right that Montenegro exercised by holding a referendum and seceding.

The European Union spelled out in advance its conditions for recognizing Montenegro, in accordance with a study by the EU's own European Commission for Democracy Through Law. There must be clarity, and it recommended this question that was, in fact, adopted: "Do you want the Republic of Montenegro to be an independent state with full international and legal personality?" It proposed the "organization of the referendum by impartial electoral commissions," and called for an objective referendum campaign: "The authorities must provide objective information; the authorities must not influence the outcome of the vote by excessive, one-sided campaigning."

The commission recommended a 55-per-cent threshold: "The issue at stake is possibly the most important decision that a political community may take by democratic means: its independence." It pointed out precedents, for example: "In Lithuania, a constitutional amendment affecting the position of the state as an independent democratic republic must be approved by 75 per cent of the electorate (Article 148.1 of the Constitution)."

It even invoked our Supreme Court. "In its ruling on constitutional aspects of the possible secession of Quebec, the Canadian Supreme Court held that democracy means more than simple majority rule. Hence, if a referendum were to be conducted, a clear majority in favour should exist."

Once and for all, our government should clear up the dangerous confusion surrounding secession, confusion that has kept the separatist movement alive. The opportunity is now.