SUCCESSION, KOSOVO CASE

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Abstract

Succession is a theory and practice in international relations to regulate matters relating to the inheritance of states. This theory has its roots in nineteenth-century diplomacy and has attracted the attention of scholars especially after the dissolution of colonies and federations such as the Soviet Union, Czechoslovakia and the Socialist Federal Republic of Yugoslavia where many questions and problems arose that had to be resolved in terms of rights and obligations of the successor states to the predecessor state. The purpose of this paper was to analyse succession as a theory and practice and to review its application in the case of Kosovo. Several research methods have been used to achieve this goal. The analytical method is used to substantively analyse the key theoretical issues related to the succession process. The second method is the descriptive one, where different examples of succession conclusions are described. Through the qualitative method, the contents of the two Vienna Conventions, the 1978 Convention on the Succession of Treaties and the 1983 Convention on the Succession of States over Public Property, Archives and State Debts, have been studied in more depth. To study the succession in the case of Kosovo, two international agreements have been analysed: the 2001 agreement signed between the successor states of the SFRJ and the Comprehensive Agreement proposed by Ahtisaari in 2007 to resolve Kosovo's status. From this applied methodology, the knowledge of the object of study has been achieved. The main results of the paper are: the succession of the Kosovo case was not resolved through the 2001 Succession Agreement as Kosovo was not a republic and was signed by Serbia-Montenegro Union, Kosovo in the statement of the independence has stated that it will take over the obligations related to its name from the former SFRY together with the obligations from June 1999 to February 2008 when Kosovo was administered by UNMIK.

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1. Context

Kosovo gained its independence on February 17, 2008. As of September 2020, 113 of the 193-member states of the United Nations (UN) have recognized Kosovo as a state. Also, three non-UN member states have formally recognized Kosovo's citizenship. Kosovo has been recognized by 22 out of 27 European Union (EU) countries or 81.4%, 26 out of 30 NATO member states or 86.67% 31 out of 57 Organization for Islamic Cooperation, or 54.39%. The Government of Serbia has not yet recognized the citizenship of Kosovo[3].

The permanent members of the Security Council are divided on the independence of Kosovo.

The United States, Great Britain and France have recognized Kosovo's independence, while Russia has repeatedly opposed it, considering it an illegal act. The People's Republic of China has expressed its concern over this act[4].

In 2008, in a public statement, Russian President Vladimir Putin had openly accused the United States and Europe of enforcing double standards in support of Kosovo's independence. He warned that any declaration of citizenship by Pristina would be "illegal, immoral and misunderstood"[5]. He stated that Russia remains committed to opposing the separation of Kosovo from Serbia. As for the application of double standards, he accused Europe of not recognizing Northern Cyprus even after 40 years of declaring independence[6].

On August 15, 2008, Serbian Foreign Minister Vuk Jeremic sent a request to the UN to seek

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[4] Guardian, T. (2008). *Kosovo breakaway illegal, says Putin*. Gjetur Shtator 2021, nga https://www.theguardian.com/world/2008/feb/15/russia.kosovo, consulted on 1.11.2021.
[5] Ibid.
[6] Ibid.

an opinion from the International Court of Justice on the Kosovo Independence Act. The UN General Assembly at its meeting in September 2008 decided to take the matter to the ICJ. This court, two years later, respectively in 2010 ruled that the Declaration of Independence of Kosovo is not contrary to international law and Resolution 1244 of the Security Council[7].

In 2013, the governments of both countries, namely Kosovo and Serbia, began the process of normalizing relations in accordance with the Brussels Agreement. In September 2020, Serbia and Kosovo reached a joint economic agreement mediated by the United States of America.

After membership in several regional and international organizations, the Republic of Kosovo is now seeking its rights and obligations as a successor state (successor) to the preceding units, part of which it was and from which it was administered (i.e. the Mission of the Administration of United Nations Interim Administration Mission in Kosovo UNMIK), following the dissolution of the Socialist Federal Republic of Yugoslavia (SFRY) in 1991-92.

2. Kosovo as a descendant state (successor)

The Republic of Kosovo declared independence in 2008, based on legal, moral and political grounds, the declaration of independence was also the end result of an UN-led process to determine Kosovo's status. This process, which took place in the period 2005-2007, was mediated by the Special Envoy of the UN Secretary General for the process of Kosovo's future status, the former Finnish President and Nobel Peace Prize laureate Martti Ahtisaari.

At the end of the negotiation process, President Ahtisaari proposed that Kosovo to declare independence, but that this independence in the initial phase to be overseen by the international community, pending the implementation of the Comprehensive Package for resolving Kosovo's status, otherwise known as the Plan of Ahtisaari. The UN Secretary-General fully approved the proposal of his Special Envoy, but he failed to secure Russia's support in the Security Council. The democratically elected representatives of the people of Kosovo declared independence while inaugurating at the same time a period of 'supervised independence' by the International Steering Group (ISG) and its International Civilian Representative. Four years after the declaration of independence, respectively in July 2012, this group announced that the comprehensive package, or Ahtisaari's plan, had been successfully implemented[8].

GDN on the other hand declared the end of the period of supervision of Kosovo's independence and the expiration of the mandate of the International Civilian Representative in September 2012.

As mentioned, in July 2010 the International Court of Justice (ICJ) in its advisory opinion finally confirmed that none of the rules of international law had been violated with the declaration of Kosovo's independence. The declaration of independence was not in conflict either with the special regime established by UN Security Council Resolution 1244 or with the Constitutional Framework for Provisional Self-Government in Kosovo. This advisory opinion confirmed the position of Kosovo and that of many other states which had given and were continuing to give recognition to Kosovo.

Following confirmation by the International Court of Justice (ICJ), Kosovo became a legally independent and sovereign state. If the analytical framework for the case of Montenegro and Serbia is applied, the partition of Kosovo from Serbia falls into the category of secession and not dissolution. Following the legal secession, Serbia retained most of its territory and population and continued to be a member of the UN, indicating that it is internationally recognized as the successor state of the Federal Republic of Yugoslavia. Regarding Kosovo and the states that recognize it, Kosovo is the successor state of the Federal Republic of Yugoslavia as well as Serbia and Montenegro[9].

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[7] Drejtësisë, G. N. (2010). *Mendim rreth pajtueshmërisë së dekretit për shpalljen e Pavarësisë së Kosovës me të drejtën ndërkombëtare*. Gjetur Shtator 2021, nga, https://www.icj-cij.org/public/files/case-related/141/141-20100722-ADV-01-00-EN.pdf, consulted on 1.11. 2021.

[8] Evropiane, I. K. (2019). *Çështja e suksedimit të shteteve në dritën e një finale të madhe në mes të Kosovës dhe Serbisë.* Prishtinë: Ambasada Norvegjeze, p. 3.

[9] Ibid, p. 4.

2.1. Succession related to the Socialist Federal Republic of Yugoslavia and the Federal Republic of Yugoslavia

A question that naturally arises when discussing the succession of Kosovo, is whether Kosovo should be considered a successor state of the FRY or a successor state of the SFRY, which disintegrated between 1990-1991.

In paragraph 9 of Kosovo's Declaration of Independence, Kosovo democratically elected leaders state that Kosovo will assume international obligations, including those achieved on behalf of Kosovo by the United Nations Interim Administration Mission in Kosovo (UNMIK), as well as the obligations of the treaties and other obligations of the former Socialist Federal Republic of Yugoslavia, to which Kosovo owes as a former constituent part. This includes the Vienna Conventions on Diplomatic and Consular Relations. In this passage, it is stated that Kosovo will cooperate with the International Criminal Tribunal for the former Yugoslavia. It also states that Kosovo will seek membership in international organizations, where Kosovo will aim to contribute in order to achieve international peace and stability[10].

Based on the Declaration of Independence of Kosovo, it is understood that Kosovo secedes in its international obligations from the Socialist Federal Republic of Yugoslavia and UNMIK and not from the Federal Republic of Yugoslavia/Serbia.

In fact, Kosovo's first attempts to gain independence date back to 1991, when Slovenia, Croatia, Bosnia & Herzegovina and Macedonia also declared their independence from the former SFRY. However, this was not done due to the inability to exercise territorial control and due to international non-recognition (except from Albania). The lack of recognition of Kosovo at that time can be traced in part to the decision of the Badinter Commission, which provided that in the event of the dissolution of the SFRY, the former borders between the republics of the SFRY became international borders protected by international laws based on the principle *uti possidetis juris*.

On July 2, 1990, the then Kosovo parliament declared Kosovo a Republic within Yugoslavia. This declaration of independence came in response to the decision of the representatives of the Assembly of Kosovo - elected by Serbia - on March 23, 1999 to relinquish the constitutionally protected autonomy. Consequently, on September 7, 1990, the same parliament promulgated the Constitution of the Republic of Kosovo. Thus, it can be said that Kosovo after the dissolution of the SFRY, became a state together with four other republics, but this citizenship was not recognized by the international community, with the exception of Albania. Therefore, Kosovo's independence is not a precedent, but a set of unique circumstances.

The reasoning of the Badinter Commission has been criticized by various countries for giving the republics of the SFRY the right of citizenship, while depriving Kosovo of this right only because it did not have the same status within the constitutional law of the SFRY. This commission has also been criticized for failing to consider the fact that the 1974 constitution of the SFRY, the republics within it and the autonomous provinces (such as Kosovo) were given a very similar role and degree of autonomy. Therefore, it was estimated that this commission should have applied the principle of *uti possidetis juris (UPJ) a principle of customary international law that serves to preserve the boundaries of colonies emerging as States)* to the autonomous province of Kosovo on an equal footing with other republics within this federation. Thus, Kosovo would have the right to citizenship after the dissolution of the federation.

Following the dissolution of the SFRY, the remainder took control of Kosovo territory until the 1999 war, which led to the NATO bombing and the deployment of UNMIK in Kosovo. Until 2008, it was considered in the international sphere as part of the territory of the FRY as stated for example in United Nations Security Council Resolution 1244. Kosovo citizenship was achieved only after the declaration of independence in 2008[11].

From what was said, Kosovo cannot be considered as a direct descendant of the SFRY. It is

[10] Kosovës, K. i. (2008). Gjetur Shtator 2021, nga Deklarata e Pavarësisë së Kosovës: http://old.kuvendikosoves.org/common/docs/Dek_Pav_sh.pdf, pp. 2-3.
[11] Evropiane, I. K., *op. cit.*, p. 4.

more considered as the successor state of the FRY/Serbia. This is supported by Ahtisaari's plan, which in Annex VI states, among other things, that Kosovo will take over part of the international debt of the Republic of Serbia, a provision which assumes that Kosovo was in fact part of the FRY/Serbia[12]. Furthermore, in Annex VI, Article 1, it is stated that the international debt to be allocated includes, inter alia, the debt to the World Bank, the Club of Paris and creditors from the Club of London. The part to be covered by Kosovo will be determined through negotiations between Kosovo and Serbia, considering the principles used for the allocation of sovereign debt in case of succession in the Socialist Federal Republic of Yugoslavia, in agreement with the respective creditors. Kosovo's Declaration of Independence states that Kosovo will fully accept all the obligations arising from the Ahtisaar Plan. Here we have a contradiction, as the declaration of independence supports the succession by the SFRY, while the Ahtisaar Plan by the FRY and Serbia respectively.

Although the Ahtisaar Plan makes it somewhat clear that Kosovo is the successor state of the FRY/Serbia, due to Kosovo's status in 1999-2008, things are a bit more complicated. During this time, although through law Kosovo was internationally considered part of the FRY/State Union/ Serbia, its administration in recent years has been carried out by UNMIK under the mandate of the Security Council under Chapter VII of the UN Charter. UNMIK's legal competencies included reaching a bilateral agreement with other states on behalf of Kosovo on matters falling within its responsibility. In a verbal note of 2 March 2004, the UN Assistant Secretary-General for Legal Affairs advised that international conventions adopted by the FRY/Serbia after 10 June 1999 (the date of the establishment of UNMIK) would not be automatically applicable to Kosovo. These conventions may be applicable if included in a bilateral agreement between UNMIK and these third parties (countries). Thus, Kosovo should not be linked to the obligations of the FRY between 10 June 1999 and 17 February 2008, but only to those of UNMIK.

3. Application of the Vienna Convention on the Succession of Treaties in the case of Kosovo

The Vienna Convention is a guiding document for resolving various issues related to the succession of states. Serbia is a party to this convention, while Kosovo is not yet. Because many states are not parties to the conventions, a large number of cases have been settled through customary international law.

The general rule of the 1978 Vienna Convention is that successor States automatically terminate the treaties in force of the predecessor State, unless that would be incompatible with the objective and purpose of the treaty or if a successor State would to radically change the conditions of its operation. The practices that emerged from the dissolution of the Soviet Union, Czechoslovakia and the SFRY, further support the idea of succession in relation to multilateral treaties. Automatic succession in the case of bilateral treaties is more controversial.

As for the Vienna Convention of 1983, its general principle in the succession of property and debts is more reflected in customary law and does not give much concrete guidance. The Detroit International Institute has recommended a number of more specific rules which aim to fill this gap, although there has been no assessment of the extent to which these rules reflect the existing practice of states.

Badinter Commission in opinion no. 9 stated that the succession of states is governed by the principles of international law embodied in the Vienna Conventions of 1978 and 1983. In opinion no. 13, the commission has a more ambiguous view stating that due to the lack of well-established principles of international law, which apply to the succession of states, the 1978 and 1983 Conventions provide some guidance. In the context of the dissolution of the SFRY, all the constituent republics agreed to act in accordance with the provisions set out in both these conventions[13].

Article 34 of the Convention, which is then supplemented by Articles 11 and 12, defines

[12] Ahtisaari, M. (2007). *Propozim Gjithëpërfshirës për Zgjidhjen e Statusit të Kosovës.* Prishtinë.

[13] Craven, M. (1998). *The Problem of State Succession and the Identity of States under International Law*, „European Journal of International Law", 9(2), 142-162.

automatic succession with regard to territorial matters, where the need for stability arises. Such rules have also been part of customary international law, as confirmed by the International Court of Justice (ICJ) itself. Article 4 of the Convention is without prejudice to the rules relating to membership in international organizations. For this reason, in most cases the successor states (excluding the successor states) do not inherit membership in international organizations and thus have to apply to become a member. This has also happened in the case of Kosovo, which has constantly attempted to become a member of various international organizations.

The clean slate approach, which claims that until the new state gives its consent to the treaties in question, it should not be automatically bound by those treaties unless it expresses a new consent in a declarative form for such a thing. Although Article 34 of the 1978 Vienna Convention supports automatic scheduling, a variant of the pure state has been applied to the Convention for newly independent states (former colonial dependent states which have gained independence). Since the decolonization process has largely been completed, very few new (newly independent) states will fall into that category.

Because the Vienna Convention has not been ratified by all states, i.e. the number of states that have ratified it is not large, the crucial question has been to what extent the general rule of automatic succession expressed in Article 34 of the Convention, is reflected in customary international law. The practice of states has given different interpretations on this point.

The International Law Association in 2008 found that Article 34 of the Convention was referred to, i.e. applied more in cases of dissolution and secession, in which states have considered themselves as successors of multilateral treaties, part of which was the previous state. In other cases, the practice of states is dominated by the adoption of the clean slate approach, considering the succession to treaties as optional and non-automatic or binding.

The practice of the UN Secretary General has been to require successor states to produce a special declaration of succession in relation to the multilateral treaties to which the UN is a depositary, raising the question of whether it can have automatic scheduling in case of absence of such declaration. In some cases, states in some cases, successor states have joined multilateral treaties to which the predecessor state has been a party, as new parties, rather than making a declaration of succession. The case law of the International Court of Justice (ICJ) is still not fully consolidated. For example, in the 1996 Judgment on Preliminary Objections in the Bosnian Genocide Case, the Court did not state whether automatic treaty submission was applicable/valid.

Despite the complex nature of the issue and the fact that in practice there has never been a widely accepted and supported consensus, the general trend since the 1990s has been to support the assumption that treaties continue to be applicable to successor states. This position was also adopted by the United States Department of State in 1992, as well as by several European Union member states in response to the partition of the SFRY and Czechoslovakia, including countries such as Austria, which had previously stayed faithful to the clean slate approach.

In the case of the Genocide Convention (*Serbia v. Croatia*), Croatia declared that the FRY has been a succession party to this convention since the beginning of its existence as a state. The International Court of Justice, which has dealt with this case, referred to a statement of the Constituent Assembly of the FRY of 1992 which explicitly stated that the FRY would strictly abide by all the international obligations of the SFRY, a statement this transmitted through a note to the UN Secretary General (though not as an official notification in the form of a treaty deposit).

Despite the fact that at the time the FRY claimed to be a successor state of the SFRY, the Court ruled that the 1992 declaration had the effect of a notice of succession to the treaties. The Court also held that, unlike ratification or accession to a treaty as a new party, the notice of succession relates to a set of pre-existing circumstances and constitutes a recognition by that State of certain legal circumstances which are the cause/effect of these created circumstances. Therefore, each document issued by the respective state, in the form of a confirmation, is subject to requirements that are less rigid. For this reason, the general acceptance of the FRY that it would succeed in the international obligations of the FRY was sufficient to prove that it was a party to the Genocide Convention at the time.

The reasoning given by the International Court of Justice (ICJ) in dealing with Croatia v. Serbia shows that, nevertheless, a general and comprehensive statement by the successor state accepting the international obligations of the predecessor state is sufficient to continue implementation of existing treaties. From this perspective, the assertion in the Declaration of Independence of Kosovo is that 'Kosovo will assume its international obligations, including those which have been entered into on behalf of Kosovo by UNMIK; treaties and obligations from the SFRY, in which Kosovo has been a constituent part' confirms that Kosovo has succeeded in the treaties concluded by the SFRY and UNMIK, although the status of treaties concluded by the FRY before 10 June 1999 (when UNMIK was established) is left unclear.

For political reasons, Kosovo has not been able to submit a formal notification of succession regarding UN multilateral conventions to the UN Secretary General, the reasoning of the International Court of Justice (ICJ) in the case Croatia vs. Serbia suggests that the acceptance of international obligations by Kosovo, through the Declaration of Independence is enough for our country to be a succession party to the multilateral treaties that the SFRY has been a party to.

Although there is a general principle of succession in treaties, it does not apply to all treaties. An exception to this principle is that of membership in international organizations. As stated in Article 32, automatic succession will not occur if it is contrary to the object and purpose of the treaty or if it would radically change the conditions for the development of that treaty. One example of these treaties is political or military alliances. The reason why they are not automatically successor has to do with the fact that they are closely related to the identity of the contracting parties. Similarly, in some cases, it has been concluded that disarmament treaties are not applied (continued) by successor states (unlike successive states) as was the case with bilateral disarmament treaties of the Soviet Union[14].

It has also been argued that there is a general rule on automatic succession in the case of human rights treaties. Although the International Court of Justice (ICJ) has not relied on this argument in the Bosnian genocide or the Croatia vs. Serbia case, one of the case judges in a dissenting opinion has expressed this position.

In general, while the principle of continuity applies to multilateral treaties which are generally open to States, it is less clear whether this principle applies to bilateral treaties or other treaties which have more than two parties but their number is limited.

Article 34 clears the distinction between bilateral and multilateral treaties in terms of succession, signalling the validity of the principle of continuity in both cases. However, bilateral treaties are defined only by the two parties which sign it. Therefore, their application in a new state (and in new circumstances) would affect the operation of the treaty. For this reason, even the Convention explicitly states that if such a thing happens (i.e. to change the operation) then these treaties cannot be in force and implemented and the parties must agree in order for the treaty to remain in force.

The Association of International Law in 2008 concluded that the fate of bilateral treaties concluded by the predecessor state is generally decided through negotiations between the successor state and the other party to this treaty. Kosovo has concluded agreements on the succession of treaties with a number of countries including: Austria, Belgium, the Czech Republic, Finland, Germany and the United Kingdom. Such agreements make it clear that previously applicable bilateral treaties continue to be applicable[15].

The United Kingdom in an exchange of notes with Kosovo in 2008, declares that all treaties and agreements in force to which the United Kingdom and UNMIK are parties, and the treaties to which the United Kingdom and the SFRY or the FRY are parties, will continue to remain in force between the Republic of Kosovo (the newly independent state) and the United Kingdom.

When there is no prior agreement between states, the status of bilateral treaties remains unclear. However, there are arbitral awards which support the view that bilateral investment treaties

[14] Evropiane, I. K., *op. cit.*, p. 4.
[15] Hasani, E. (2016). *Tema të zgjedhura nga e drejta dhe marrëdhëniet ndërkombëtare.* Prishtinë: Universiteti i Prishtinës "Hasan Prishtina".

are automatically concluded with the successor state. In the case of Kosovo, the arbitral tribunal assumed that Kosovo was a party to the treaty signed between Germany and the SFRY in 1990 on the Mutual Promotion and Protection of Investments, although this may be more attributable to the fact that Kosovo and Germany have reached agreement on the succession of the treaties and neither party has refused to implement this treaty.

3.1. Application of the Vienna Convention on Public Debt, Archives and Public Property in the case of Kosovo

The 1983 Vienna Convention deals exclusively with the succession of debts and public property. This convention contains rules by which it is intended to regulate the succession of public debts and property. However, according to comments made by the International Justice Association (IJU) in 2008, these rules are largely general in nature and only subsidiary to the agreements entered into between the states involved. As we have mentioned, a handicap of this convention is the fact that there are very few parties and it has never been fully implemented. One reason for this has been dissatisfaction with the rule that the newly independent states have permanent sovereignty over natural resources. These aspects of succession are therefore determined by customary law[16].

In opinion no. 12, the Badinter Commission has stated that the basic rule that applies to the succession of state property, archives and public debts is that states must reach an agreement accepted by both parties through negotiations. According to this opinion, if one of the parties expresses reservations or refuses to cooperate, then this would be a violation of the rule and for this the rejecting party should give international responsibility. In this case, countries that have lost the case are allowed to take (non-violent) countermeasures in accordance with international law[17].

Due to lack of cooperation from the FRY, an agreement was reached in 2001 by the five successor states of the SFRY regarding the succession to the property, debts and archives of the SFRY. This agreement did not include the state of Kosovo, for the above mentioned facts because Kosovo did not have the status of "Republic" within the former SFRY, as did the 5 successor countries.

If an agreement cannot be reached, it is self-evident that the immovable property of the predecessor state in the territory of the successor state passes to the successor state. This is also confirmed in the practice of states. On the other hand, the position regarding movable property is less clear. Article 17 (1) states that the movable property of the State relating to the activity of the preceding State in relation to the territory of the succeeding State shall pass to the successor State. Badinter Commission in opinion no. 14 has expressed this in a simpler way. It states that public property passes to the successor state if this property is located in the territory of this state and that in determining who owns this property it does not matter the origin, the initial financing of the property and any loans or contributions made to this property.

With regard to immovable property situated in third countries (i.e. embassies), Article 18 of the 1983 Convention provides that in the event of the dissolution of the predecessor State, this property must pass in equal shares to the successor state. However, it remains unclear what rules apply in the case of secession from an existing state which continues to exist (as is the case with Kosovo). Referring to the principle of equality, which guides the succession of states in this area, the view of the Detroit Institute in Article 19 of the article on Solutions to the succession of the states in terms of property and public debt, 2001, identifies it in a correct way customary international law[18].

According to this right, in cases of secession, the successor state has the right to use an equal property of the previous state, which is located outside its territory. The successor state also has an equal right to access the movable property of the predecessor state and all the property, rights, obligations and interests of the predecessor state. This principle of equal distribution also suggests that property which is of high importance for the cultural heritage of the successor state should be

[16] Ibid.
[17] Ibid.
[18] Evropiane, I. K., *op. cit.*, p. 5.

transferred to that state.

State debt as defined by the 1983 Vienna Convention, means any financial obligation of a predecessor state arising in accordance with international law to another state, an international organization or any other subject of international law. The 2001 Detroit Institute Resolution extends this definition to include the financial obligations of any natural or legal person under domestic law.

In the absence of an agreement between the successor and the predecessor state, the state debt passes equally to the successor state, calculating the property, rights, interests which are related to that debt.

The practice of some states has suggested that localized debts (debts incurred by the predecessor but for the benefit of the seceding state are inherited from the successor state, but Article 28 of the Detroit Institute resolution instead provides that any benefit for the successor state that has emerged from this debt, it must be considered during the equitable distribution of the debt.

4. Conclusion

Succession is a concept that refers to the replacement of one state with another, in terms of responsibilities in the international relations of a territory.

The Comprehensive Agreement proposed by Martti Ahtisaari in 2007 was the only attempt to resolve Kosovo's final status. In this context, to resolve the issue of succession in Kosovo case, an issue that had failed to be resolved through the agreement on succession issues of 2001, which was signed by five republics of former SFRY!

In the 2001 agreement, the remaining of Yugoslavia, otherwise known as the Serbia-Montenegro Union, signed on behalf of Kosova, at that time Kosova wasn’t yet independent and didn’t declare its statehood.

We have analysed this agreement and we can conclude that this agreement rejects Serbia's claim as the sole successor state of the former SFRY and explicitly states that the five republics will share all the rights and obligations based on the principle of equality and economic sustainability. As Kosova has not signed, this agreement has not resolved the succession of the Kosovo case.

The other agreement that tried to finally resolve the Kosovo case was that of Ahtisaari, through which Kosovo is treated as the successor of the state of Serbia and not as claimed by the state of Kosovo, where in the declaration of independence, it states that the state of Kosovo has been created with the dissolution of the former Socialist Federal Republic of Yugoslavia - SFRY.

The Ahtisaari Agreement, although accepted by the state of Kosovo and incorporated in its constitution, wasn’t fulfilling the final solution of this process, because in this agreement many things remain unfinished and as a result subsequent processes such as Ongoing talks, various agreements through which it has been tried to normalize relations between the two countries. But even after these attempts, many topics have remained open such as: the issue of missing persons, public debts, archives, public property, implementation of agreements reached, compensation for war damages, and a series of issues without the completion of which cannot reach a final agreement, where both sides should recognize each other's international subjectivity.

In our opinion, the both Vienna Conventions, the 1978 Treaty on Treaties and the 1983 on Debts, Archives and Public Property should be the basis for the conclusion of these open issues with the state of Serbia, also during this period we must take into account the facts such as the numerous recognitions that the state of Kosovo has received, the membership in International Organizations, the Opinion of the International Court of Justice on the declaration of independence of Kosovo, because these are facts that cannot be ignored.

We also think that there is a contradiction that needs to be clarified in the final agreement between Kosova and Serbia, and that is Kosova's claim to present itself as the successor of the former SFRY!

We find this contradiction in the declaration of Kosova's Independence, specifically Article 9, which states: “We, through this Declaration, assume the international obligations of Kosovo, including those achieved on our behalf by the United Nations Interim Administration Mission in

Kosovo (UNMIK), as well as the obligations of the treaties and other obligations of the former Socialist Federal Republic of Yugoslavia to which we owe as former constituent parts, including the Vienna Conventions on Diplomatic and Consular Relations.

Based on this research we conclude that Kosovo is a seceding state meaning that it has seceded from an existing state, in this case from the FRY/Serbia and not a successor state, because this secession occurred at the time when the former SFRY ceased to exist in 1999.

What we can say is that, if the both parties are dissatisfied with the agreement, then the last instance to address remains the arbitrage court.

Also, important suggestion for the state of Kosovo is to continuously seek membership in International Organizations.

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