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How can Kosovo become part of the Geneva Conventions and their Additional Protocols, including the Genocide Convention?

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ABSTRACT

Being a party to international agreements of particular importance is a key foreign policy priority of any state. Kosovo, which declared its independence in 2008, due to the painful past from its last war in 1998-1999, must take seriously its membership in important treaties of the international humanitarian law, especially the Geneva Conventions and their Additional Protocols including the Genocide Convention. The main purpose of this paper is to explain the way Kosovo can become a contracting party to these Conventions and Protocols. For the realization of the research are used qualitative methods, based on bibliography and the credible Internet sources related to international treaties, the Geneva Conventions and their Additional Protocols, the Genocide Convention, and to Kosovo. Research findings show that Kosovo could become a party to these Conventions and Protocols through succession, although it is not a member state of the UN. The conclusions aim to increase knowledge about the mentioned Conventions and the reasons why Kosovo should be a party to them.

KEYWORDS: Kosovo, contracting party, succession, the Geneva Conventions and their Additional Protocols, the Genocide Convention

POVZETEK

Postati podpisnica mednarodnih sporazumov s posebnim pomenom je ključna in prednostna zunanjepolitična naloga vsake države. Kosovo, ki je leta 2008 razglasilo svojo neodvisnost, zaradi boleče preteklosti zadnje vojne v letih 1998-1999, bi moralo v ospredje političnega udejstvovanja postaviti pristopanje k pogodbam mednarodnega humanitarnega prava, zlasti k ženevskim konvencijam in njihovim dodatnim protokolom, pa tudi h Konvenciji o preprečevanju in kaznovanju zločina genocida. Glavni namen tega prispevka je razložiti kako lahko Kosovo postane pogodbenica teh konvencij in protokolov. Raziskava je bila izvedena s kvalitativno metodo, z obravnavo del navedenih v spodnji bibliografiji in z obravnavo verodostojnih internetnih virov o mednarodnih pogodbah, o ženevskih konvencijah in njihovih dodatnih protokolih, o Konvenciji o genocidu in o Kosovu. Ugotovitve raziskav kažejo, da bi Kosovo lahko postalo pogodbenica slednjih konvencij in protokolov preko nasledstva, čeprav ni članica ZN. Namen zaključkov je povečati poznavanje omenjenih konvencij in razlogov, zakaj bi moralo biti Kosovo del njih.

KLJUČNE BESEDE: Kosovo, pogodbenica, nasledstvo, ženevske konvencije in njihovi dodatni protokoli, Konvencija o preprečevanju in kaznovanju zločina genocida

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Introduction

The paper addresses a topic which is related to an important issue of the partially recognized state Kosovo in becoming a party to international agreements of great importance in international humanitarian law. Although a young entity, with a lot of challenges in terms of realizing its foreign policy, Kosovo, whose people were facing genocide in the last war in the period 1998-1999, must take seriously its membership in the Geneva Conventions and their Additional Protocols, as well as the Convention on the Prevention and Punishment of the Crime of Genocide. The paper focuses on the research question: Can Kosovo become a contracting party to the Geneva Conventions and their Additional Protocols, as well as the Genocide Convention through succession? While the hypothesis of this research is: Through succession Kosovo can become a contracting party to a number of international agreements, which have been ratified by the former Yugoslavia, including the Geneva Conventions and their Additional Protocols, as well as the Genocide Convention.

Therefore, to give the research question the right answer and to identify the raised hypothesis, in addition to the abstract, introduction, conclusion and references, the paper also contains four chapters. The second chapter gives the definition of international agreements and the ways by which states can become their contracting parties. The third chapter of the paper explains the importance of the Geneva Conventions and their Additional Protocols. The fourth chapter offers the definition of genocide and highlights some of the key features of the Genocide Convention. The fifth chapter emphasizes the main events in Kosovo from the time when it was an autonomous province of the former Yugoslavia to the declaration of its independence in 2008. Whereas, the sixth chapter is the most important chapter of this paper because it clarifies how Kosovo can become a contracting party to the Geneva Conventions and their Additional Protocols, as well as the Genocide Convention, through succession.

This paper has explanatory, descriptive, analytical and comparative nature, and for its realization are used qualitative methods, based on literature and the internet sources that are related to the international human rights treaties, in particular to the Geneva Conventions and their Additional Protocols, the Genocide Convention, and also to the Republic of Kosovo.

The Membership of States in International Agreements

The Definition of International Agreements and Ways States Become Parties to them

Different types of international documents drafted in writing are presented in different terms. Most often they are called international agreements or treaties, but other terms such as convention, pact, declaration, charter, statute, protocol, etc., are also used. International treaties are the most important agreements reached between two or more subjects of international law. Conventions are agreements that define the relations between states in a certain field. They are used in cases when legal rules need to be created, but also for the regulation of economic or cultural issues, etc. Pacts are solemn agreements, which refer mainly to various political issues. Declarations represent agreements by which the contracting parties mutually oblige to adhere to certain rules of conduct in the future. Through them are established general rules of the international law and international relations. Charters and statutes contain agreements on the establishment, organization and definition of the competencies of international organizations and their bodies. While protocols are various informal agreements between states or complementary agreements for the interpretation, extension or replacement of other agreements (Gruda, 2013, pp.289-299). However, it should be emphasized that these terminological differences have no significance in the international law because the value of each agreement for the contracting parties is the same, regardless of the name.

There are several ways by which states can become parties to various international agreements. Ratification is the final engagement to compliance of the contracting parties with the obligations from a treaty, which had been adopted by their representatives. Article 14 of the Vienna Convention on the Law of Treaties states:

- The consent of a State to be bound by a treaty is expressed by ratification when:
    - a) the treaty provides for such consent to be expressed by means of ratification;
    - b) it is otherwise established that the negotiating States were agreed that ratification should be required;
    - c) the representative of the State has signed the treaty subject to ratification; or
    - d) the intention of the State to sign the treaty subject to ratifi-

cation appears from the full powers of its representative or was expressed during the negotiation.

– The consent of a State to be bound by a treaty is expressed by acceptance or approval under conditions similar to those which apply to ratification (Dörr and Schmalenbach, 2018, p.199).

A state can become a contracting party not only by a signature and ratification, but also by accession. In this case, a state does not participate in the negotiations that have resulted in the reaching of the agreements, but is only invited by the contracting parties to join them. The possibility of accession can be unlimited if this is allowed to all countries of the world, or can be limited (Gruda, 2013, pp.313-314).

Political entities are not immutable. They are subject to change, in which case new states are created and old states disappear, e.g. when dissolutions and secessions take place. So changing the political sovereignty of a particular territorial entity can cause a number of complications. How far is a new state bound by the treaties and contracts entered into by the previous sovereign of the territory? Does nationality automatically devolve upon the inhabitants to replace that of the predecessor? What happens to the public property of the previous sovereign and to what extent is the new authority liable for the debts of the old? (Shaw, 2008, pp.956-957)

Another way through which states can become parties to international agreements is succession. Succession is a process that happens when one or more international legal entities replace another international legal entity as a result of the use of force, peacefully or with a revolution, in which case appears the transfer of rights and obligations from a state that has changed or lost its identity to another state or other communities. The latter can be general when there is a full establishment of state sovereignty over another state or partial when sovereignty extends over a certain part of a state territory. One of the most important issues that arise in the case of succession is whether the treaties of the state that has been extinguished or divided into the successor states are transferred, or have disappeared with the lost or given territory. Agreements reached by the previous state remain in force for the new state only if the latter expressly accepts them or if there is no specific statement of non-recognition or annulment (Gruda, 2013, p.94).

The international aspects of succession are governed through the rules of customary international law. There are two relevant Conventions on succession:

1) The Vienna Convention on Succession of States in Respect of Treaties, which was signed on August 23, 1978, and entered into force on November 6, 1996;
2) The Vienna Convention on Succession of States in Respect of State Property, Archives and Debts, which was signed on April 8, 1983, and has not yet entered into force (Shaw, 2008, p.959).

It should be mentioned that the Vienna Convention on the Succession of States in Respect of Treaties highlights the differences between:

- "Contracting State" means a State which has consented to be bound by the treaty, whether or not the treaty has entered into force;
- "Contracting party" means a State which has consented to be bound by the treaty and for which the treaty is in force;
- "Other State party" means in relation to a successor State any party, other than the predecessor State, to a treaty in force at the date of a succession of States in respect of the territory to which that succession of States relates (United Nations Treaty Collection, n.d.).

The Main Characteristics of the 1949 Geneva Conventions and their Additional Protocols

The Geneva Conventions and their Additional Protocols are international treaties that contain the most important rules limiting the barbarity of war. These are the instruments of international law, at the core of the international humanitarian law, that regulate the conduct of armed conflict and seek to limit its effects. They specifically protect people who are not taking part in the hostilities (civilians as well as medical and humanitarian workers) and those who are no longer participating in the hostilities, such as wounded, sick and shipwrecked soldiers and prisoners of war. The Conventions and their Protocols call for measures to be taken to prevent or put an end to all their breaches. They contain stringent rules to deal with what are known as "grave breaches". Those responsible for grave breaches must be sought, tried or extradited, whatever nationality they may hold (International Committee of the Red Cross, 2010).

On August 12, 1949, an international conference of diplomats revised and updated the Geneva Conventions, which entered into force on October 21, 1950. Ratification grew steadily through the decades: 74 states ratified the Conventions during the 1950s, 48 states did so during the 1960s, 20 states signed them during the 1970s, and another 20 states did so during the 1980s. Twenty-six countries ratified the Conventions in the early 1990s, largely in the aftermath of the break-up of the Soviet Union, Czechoslovakia and the former Yugoslavia. Nine new ratifications since 2000 have brought the total number of States Parties to 196, making the Geneva Conventions universally applicable (International Committee of the Red Cross, 2010).

The four Geneva Conventions are:

1) *Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field* represents the fourth updated version in 2016 of the Geneva Convention on the wounded and sick following those adopted in 1864, 1906 and 1929. It contains 64 articles. These provide protection for the wounded and sick, but also for medical and religious personnel, medical units and medical transports. The Convention also recognizes the distinctive emblems. It has two annexes containing a draft agreement relating to hospital zones and a model identity card for medical and religious personnel (International Committee of the Red Cross, n.d.).
2) *Convention (II) for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea* is a special convention updated in 2017, through which the protection of wounded, sick and shipwrecked members of armed forces at sea was regulated for the first time in a Geneva Convention. Prior to this, the rules on the protection of the wounded, sick and shipwrecked during naval warfare were codified in the 1889 and 1907 Hague Conventions, which adapted the principles of the Geneva Conventions on the wounded and sick to naval warfare. This Convention contains 63 articles. In addition to the protection of wounded, sick and shipwrecked members of armed forces at sea, these articles provide specific protection for hospital ships, coastal rescue craft, medical aircraft and other medical transports at sea, as well as religious, medical and hospital personnel performing their duties in a naval context. The Convention also recognizes the distinctive emblems. It has one annex, consisting of a model identity card for medical and religious personnel attached to the armed forces at sea (International Committee of the Red Cross, n.d.).

3) *Convention (III) relative to the Treatment of Prisoners of War* replaced the Prisoners of War Convention of 1929. It contains 143 Articles whereas the 1929 Convention had only 97. It became necessary to revise the 1929 Convention on a number of points owing to the changes that had occurred in the conduct of warfare and the consequences thereof, as well as in the living conditions of peoples. Experience had shown that the daily life of prisoners depended specifically on the interpretation given to the general regulations. Consequently, certain regulations were given a more explicit form which was lacking in the preceding provisions. Since the text of the Convention is to be posted in all prisoner of war camps, it has to be comprehensible not only to the authorities but also to the ordinary reader at any time (International Committee of the Red Cross, n.d.).
4) *Convention (IV) relative to the Protection of Civilian Persons in Time of War* adopted in 1949 takes account of the experiences of World War II. It contains a rather short part concerning the general protection of populations against certain consequences of war, leaving aside the problem of the limitation of the use of weapons. The great bulk of the Convention puts forth the regulations governing the status and treatment of protected persons. These provisions distinguish between the situation of foreigners on the territory of one of the parties to the conflict and that of civilians in occupied territory (International Committee of the Red Cross, n.d.).

In the two decades that followed the adoption of the Geneva Conventions, the world witnessed an increase in the number of non-international armed conflicts and wars of national liberation. In response, two Protocols Additional to the four 1949 Geneva Conventions were adopted on June 8, 1977 and entered into force on December 7, 1978, which are:
1) *Protocol Additional to the Geneva Conventions of August 12, 1949, relating to the Protection of Victims of International Armed Conflicts*;
2) *Protocol Additional to the Geneva Conventions of August 12, 1949, relating to the Protection of Victims of Non-International Armed Conflicts* (International Committee of the Red Cross, n.d.).

Protocol Additional to the Geneva Conventions of August 12, 1949, relating to the Adoption of an Additional Distinctive Emblem was adopted on December 8, 2005 and entered into force on January 14, 2007 (International Committee of the Red Cross, n.d.).

The Main Characteristics of the 1948 Convention on the Prevention and Punishment of the Crime of Genocide

The word “genocide” was first coined by Polish lawyer Raphäel Lemkin in 1944 in his book “Axis Rule in Occupied Europe”. It consists of the Greek prefix *genos*, meaning race or tribe, and the Latin suffix *cide*, meaning killing. Lemkin developed the term partly in response to the Nazi policies of systematic murder of Jewish people during the Holocaust, but also in response to previous instances in history of targeted actions aimed at the destruction of particular groups of people. Later on, Lemkin led the campaign to have genocide recognized and codified as an international crime (United Nations Office on Genocide Prevention and the Responsibility to Protect, n.d.). Genocide was first recognized as a crime under international law in 1946 by the United Nations General Assembly (A/RES/96-I). It was codified as an independent crime in the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (Genocide Convention).

The intention of genocide is examined in four situations:

— Ethnic cleansing;
— Destruction of human habitat;
— Aerial bombardment;
— Nuclear attack.

The term “ethnic cleansing” came into vogue in the 1990s to describe the forced removal of Muslims and Croats from Bosnia (Quigley, 2006, p.191). Ethnic cleansing has been empowered as a term as a result of the expulsion of Kosovo Albanians during the Kosovo war (24 March 1998 – 12 June 1999), when major violations of international humanitarian law occurred. In addition, on 27 May 1999, the International Criminal Tribunal for the former Yugoslavia issued an indictment and arrest warrant for: Slobodan Milošević (the then President of the Federal Republic of Yugoslavia); Milan Milutinović (the then President of Serbia); Nikola Šainović (then Deputy Prime Minister of the FRY); Dragoljub Ojdanić (then Chief of Staff of the Yugoslav Army); and Vlajko Stojiljković (then Minister of Internal Affairs of Serbia). It should be emphasized that these were the first indictments in the history of international criminal tribunals against state leaders. They were accused of murders and violations of the laws or customs of war, persecutions on political, racial or religious grounds. Specifically, the five indictees were charged with murders of over 340 persons identified by names,

annexed to the indictment, and for the expulsion of 740000 Kosovo Albanians (International Criminal Tribunal for the former Yugoslavia, 1999).
The Genocide Convention is an instrument of the international law that codified for the first time the crime of genocide. This convention was the first human rights treaty adopted by the General Assembly of the UN on 9 December 1948, which entered into force on 12 January 1951, and signified the international community's commitment to 'never again' after the atrocities committed during the Second World War. Its adoption marked a crucial step towards the development of international human rights and international criminal law as we know it today (United Nations Office on Genocide Prevention and the Responsibility to Protect, n.d.). Two of the most important articles of this convention are:

1) Article I states: The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish;
2) Article II states: In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:
    a) Killing members of the group;
    b) Causing serious bodily or mental harm to members of the group;
    c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
    d) Imposing measures intended to prevent births within the group;
    e) Forcibly transferring children of the group to another group (Office of the United Nations High Commissioner for Human Rights, n.d.).

The International Court of Justice (hereinafter 'ICJ') has repeatedly stated that the Convention embodies principles that are part of general customary international law. This means that whether or not states have ratified the Genocide Convention, they are all bound as a matter of law by the principle that genocide is a crime prohibited under international law. The ICJ also stated that the prohibition of genocide is a peremptory norm of international law (or ius cogens) and consequently, no derogation from it is allowed. Mauritius is the last state

to become a contracting party to the Genocide Convention on 8 July 2019, in which case the number of contracting parties to this convention is 152, and with the exception of Palestine all parties are members of the UN.

Kosovo from the Autonomous Province in the SFRY Until its Independence

Yugoslavia as a federation was created on November 29 1943, when the Federal Principle was proclaimed as the basis of the future Yugoslav constitution that had guaranteed equality between Serbia, Croatia, Slovenia, Macedonia, Montenegro, and Bosnia and Herzegovina, while historical and ethnic entities such as Kosovo, Vojvodina, Dalmatia and Sandžak were not recognized and were not given the full status of federal republics. In 1946, it was decided to create two autonomous sub-federal units within Serbia, Kosovo and Metohija (renamed to Kosovo in 1963), and Vojvodina (Radan, 2002, p.147). In 1952 the federal structure of Yugoslavia consisted of six republics (Serbia, Croatia, Slovenia, Macedonia, Montenegro, and Bosnia and Herzegovina). The Constitution of 1946, the Basic Constitutional Law of 1953 and the Constitution of 1963 demonstrated that Yugoslavia was a highly centralized state. However, the Constitution of 1974 was of great importance for the reorganization of the Yugoslav federation because for the first time, the Republics and even the autonomous provinces had their own constitutions.

In addition to the constitutions, the autonomous provinces also possessed a government, judicial bodies, an Assembly and a Presidency (Gruda, 2007, p.692). This constitution provided Kosovo (as well as Vojvodina) an equal status in decision-making on economic issues, in some areas of foreign policy, as well as in many other areas, with that of the six republics. Both autonomous provinces also had their direct representatives in the main forums of the Yugoslav Federation. Although Kosovo and Vojvodina continued to be parts of Serbia, they were at the same time bodies with full federal rights (Malcolm, 2011, p.412). The reintegration of Kosovo into Serbia was achieved by amendments to the Constitution of the Republic of Serbia in February 1989 and July 1990 which effectively revoked the legal basis for Kosovo's autonomy within Serbia. Kosovo's status reverted to that held under the 1946 Constitution (Radan, 2002, p.154).

On 7 September 1990, the majority of delegates from the dissolved

Kosovo assembly met in the town of Kačanik and issued the Kačanik Resolution. The Resolution reaffirmed the right of the Albanian people to self-determination and reiterated the essential demands of the July 2, 1990 Declaration concerning Kosovo's status as an equal member of the Yugoslav federation, referring to the latter as a 'community of Yugoslav peoples'. On the same date as the Kačanik Resolution the dissolved Kosovo assembly proclaimed the Constitution of the Republic of Kosovo that marked Kosovo's secession from Serbia, although not from Yugoslavia. Given that the European Economic Community was only prepared to grant recognition to republics of Yugoslavia, and not its autonomous provinces, Kosovo's application for recognition was not even accepted by the EEC for consideration by the Badinter Commission. However, with the emergence of the militant Kosovo Liberation Army (KLA) in early 1998, the level of hostility increased dramatically. The KLA's emergence revealed factionalism within the ranks of Kosovo's Albanians over the means by which independence should be sought. In mid-1998 fierce fighting broke out between Yugoslavia's police and armed forces, on the one hand and the KLA, on the other, over control of Kosovo's territory. The Kosovo war has been characterized by numerous crimes such as: killings; disappearances and organs removals; targeted killings; rapes and sexual assaults; forced expulsions; arbitrary arrests and detentions; destruction of civilian properties and mosques; contamination of water wells; robbery and extortion, etc. (Human Rights Watch, n.d.). This led to an increased international concern over the region. In 1999, though, without the authorization of the Security Council, NATO launched airstrikes against Serb soldiers, while Serbia declared its capitulation (Radan, 2002, pp.199-201).

On June 10, 1999, with the UN Resolution 1244, Kosovo became an international protectorate (United Nations Mission in Kosovo, 1999), while on February 17, 2008 Kosovo declared its independence. In 13 years of its independence, the Republic of Kosovo has been recognized by 117 countries (Ministry of Foreign Affairs and Diaspora, n.d.). One of the key priorities of the foreign policy of the Republic of Kosovo is the membership in international organizations and international agreements, especially in those that present the basis of international humanitarian law. The Kosovo Declaration of Independence states: The Republic of Kosovo will assume its international obligations, including those achieved on its 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 Re-

public of Yugoslavia to which it owes as a former constituent part, including the Vienna Conventions on Diplomatic and Consular Relations (The Prime Minister's Office, 2008).

The Membership of Kosovo in the 1949 Geneva Conventions and the Genocide Convention Through Succession

The 1949 Geneva Conventions have 196 contracting parties, and the Republic of Kosovo is not recognized by 81 of these states. The countries of the former SFRY, Slovenia (March 26, 1992), Croatia (May 11, 1992), Bosnia and Herzegovina (December 31, 1992), North Macedonia[2] (September 1, 1993), Serbia (October 16, 2001) and Montenegro (August 2, 2006) became parties to the Geneva Conventions through succession because the SFRY had ratified these conventions on April 21, 1950. Kosovo was also part of the SFRY when these conventions were ratified by the latter and can become part of them through succession, but first must be sent to the Government of Switzerland that has the role of depositor, a declaration of success on the conventions in question together with a statement recognizing the powers of the International Humanitarian Fact-Finding Mission[3]. Then, of the 196 parties to these conventions, Palestine, the Vatican and the Cook Islands are not UN member states.

Of the 174 contracting parties to the First Additional Protocol, 76 states have not recognized Kosovo's independence. Of the 169 contracting parties to the Second Additional Protocol, 70 states do not recognize the state of Kosovo. The same applies to these two protocols as above; Kosovo could become a party by succession because the SFRY had ratified these two protocols on June 11, 1979. Again, non-membership in the UN has not posed a problem for Palestine, the Vatican and the Cook Islands to be parties to these protocols[4]. Whereas out of 78 contracting

2 The name "Republic of North Macedonia" resulted from the Prespa Agreement signed on June 17, 2018 between Greece and Macedonia, as a solution to a long-standing dispute over the name of the latter. The agreement was ratified in the parliaments of the two states on January 25, 2019 and entered into force on February 12, 2019.

3 The International Humanitarian Fact-Finding Mission is a permanent body available to the international community to investigate violations of international humanitarian law. Based in Bern, the Commission consists of fifteen experts. Switzerland, as depositary of the Geneva Conventions, manages its secretariat.

4 The Holy See, known as Vatican City, is the only independent nation to choose not to be a member of the UN. The Cook Islands are not within the UN is because they do not meet the criteria of carrying out foreign relations independently without consultation with New Zealand. Palestine has the required 2/3 of the votes in the General Assembly, but in 2014 Palestine was granted observer status, while the US veto in the Security Council prevents its full membership in the UN. It should be mentioned that three Security Council member states, such as France, the UK and the US have not recognized its independence. In the case of Kosovo, this state does not have 2/3 of the votes in the General Assembly, but also needs the final approval of the Security Council. Unlike Palestine, it is Russia and China that have not recognized Kosovo's independence; Russia has even warned that it would use its veto against Kosovo's accession to the UN.

parties to the Third Additional Protocol, 26 states have not recognized the Republic of Kosovo. Kosovo could become a party to the Protocol in question only through accession, because the deadlines for its signing have expired. Palestine and the Cook Islands are also part of this Protocol.

The states created by the dissolution of Yugoslavia became parties to the Genocide Convention through succession. The SFRY had signed the Genocide Convention on December 11, 1948 and ratified it on August 29, 1950. Slovenia became a party to the Genocide Convention on July 6, 1992, Croatia on October 12, 1992, Bosnia and Herzegovina on December 29, 1992, North Macedonia on January 18, 1994, Serbia on March 12, 2001 and Montenegro on October 23, 2006 (United Nations Treaty Collection, n.d.). From 152 states that are parties to the Genocide Convention, the Republic of Kosovo has not been recognized by 66 states. Unlike the countries of the former Yugoslavia that are members of the UN, the Republic of Kosovo is not a member of the latter yet. However, membership in the UN is not a primary condition for becoming a party to this convention that is better demonstrated with the case of Palestine which is not a member state of the UN. If the Republic of Kosovo would have sent a notice of succession to the Genocide Convention to the Secretary-General of the UN, which as a depositor has a technical and administrative role, but has no political role, he would have notified the other parties of this convention. Being a contracting party to the Genocide Convention is very important for Kosovo, especially Article IX, which states: Disputes between the Contracting Parties relating to the interpretation, application or fulfillment of the present Convention, including those relating to the responsibility of a State for genocide or for any of the other acts enumerated in Article III , shall be submitted to the International Court of Justice at the request of any of the parties to the dispute (Office of the United Nations High Commissioner for Human Rights, n.d.).

Conclusion

The Republic of Kosovo is a new state entity, which has been faced with many challenges in exercising its foreign policy during the thirteen years from its declaration of independence. Due to the fact that genocide took place on its territory, being a party to international agreements with a key role in international humanitarian law should be among the top priorities of the foreign policy of Kosovo. Because the former SFRY was a contracting state to many international human rights agreements, which it signed and ratified, should be used by Kosovo, so as to become their party by succession, which was used by the former Yugoslav republics after the declarations of their independence.

Being a contracting party to important international conventions and protocols, such as Geneva Conventions and their Additional Protocols, as well as the Genocide Convention, would have made it easier for Kosovo to uncover the truth about war crimes in 1998-1999 and for demanding accountability from the responsible state for the committed genocide. Former Yugoslav states became part of the aforementioned conventions and protocols by succession, but unlike them, Kosovo is not a member of the UN. However, the contracting party of these conventions and protocols is Palestine which is not a member of the UN, and this proves that not being a member of the UN is not an essential condition of being a party to the Geneva Conventions and their Additional Protocols, as well as the Genocide Convention. Then, the Swiss Government and the UN Secretary-General as depositors of the notifications of states that want to be part of these conventions and protocols do not have political influence in such issues. Therefore, without a further delay, the Republic of Kosovo should send a letter the Swiss Government and also to the UN Secretary-General, through which it confirms its decision to succeed in the conventions and protocols in question. Such step would contribute to a firmer legal background of its foreign policy and would not harm any of states with which Kosovo is engaged in settling their mutual interest and affairs.

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