

THE STATE-LEGAL PERSONALITY OF THE REPUBLIC OF SERBIAN KRAJINA

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Abstract

From its foundation until its end, the Republic of Serbian Krajina (the RSK) had been a parastate, remaining the parastate, having failed to meet any criteria of a normally functioning state, as prescribed by Montevideo Convention on the Rights and Duties of States, known as Montevideo Convention. Therefore, the RSK has never become the subject of international law, unlike the Republic of Srpska, upon signing The General Framework for Peace in Bosnia and Herzegovina or the Dayton Peace Agreement. The Republic of Serbian Krajina was a federative parastate, defined by the territorial discontinuity and it consisted of three federative units: the Serbian Region of Slavonia, Baranja and Western Sirmium Region, the Serbian Region of Western Slavonia and the Serbian Autonomous Region of Krajina. In the formal and legal sense, the Republic of Serbian Krajina was established after it got proclaimed on 19th December 1991. However, it fell apart, de facto, on 5th August 1995, due to the fact that its capital city of Knin, was liberated by the joined police and Croatian military forces, compelling the RSK representatives to sign the capitulation, de iure, on 8th August 1995.

Keywords: state; parastate; nation; territory; government; a subject of the international law.

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1. The state – legal criteria

The state, as a person of international law is a community of population, organized on a defined territory with a sovereign government. The state is a sovereign and independent entity which has a capacity to enter into relations with other states, but is a sole person in the eyes of the international law. The state has its apparatus of force which guarantees the safety of its political community and its members. The state has following qualifications: a permanent population (citi- zens), a territory and a sovereign government. The state government consists of state authorities, as prescribed by the state constitution.¹ The constitutive elements of any state are necessary, not only for the state constitution, but also for the preservation of its international personality, since losing any of three qualifications, would mean that the state as a person of the international law would cease to exist.

Montevideo Convention on the Rights and Duties of States or Convention from Montevideo,² is the only codified document, which regulates the constitution of any state and it is a regional international contract, passed under the auspice of USA. However, Montevideo Convention is a widely accepted document, clearly stating the definition of the statehood, including the most known qualifications of any future state.

Article 1. Convention of the Rights and Duties of States lists the following legal qualifications of any state: “The state, as a person of international law should possess the following qualifications: (a) permanent population, (b) a defined territory, (c) government and (d) capacity to enter into relations with the other states.”³ According to the international law, the state is a community of permanent population, living on defined territory and functions as highly organized legal community. The state as a person of international law

¹ *Croatia Encyclopedia*, Vol. 1, Lexicographic Institute Miroslav Krleža, Zagreb, 2002, p. 265.

² Montevideo Convention on the Rights and Duties of States is an international contract, signed in the capital city of Uruguay, on 26th Dec 1933. The Convention codifies the declarative theory of statehood, which got widely accepted as a part of international customary law. At the conference, the president of USA; Franklin Delano Roosevelt and Secretary of State, Cordell Hull declared the policy of good neighbours, which contradicted the American intervention in inter-American affairs. The Convention was signed by 19 states. The Convention acceptance by three signatories was followed by some reservations expressed by the following states: Brazil, Peru and USA. Montevideo Convention came into its effect on 26th Dec 1934.

³ *Montevideo Convention on the Rights and Duties of States*, available at <<http://www.oas.org/juridico/english/treaties/a-40.html>> (accessed April 10, 2022).

can exist only if it possesses the following qualifications: a defined territory, a permanent population, organized tripartite branches of government with its legislative, judicial and executive authority; it is independent of any state, but willing to comply with the international law and has a capacity to enter into relations with the other states.

Any state at the time of its constitution, does not need its borders to be finally determined, nor the state ceases to exist in case if its territory should be partially or completely occupied. In the case of government change, even if the new one collides with the existing legislature, its state's international personality is not affected. The state can transfer voluntarily and partially its sovereignty on the other state, without losing its state status according to the international law (for e. g. Lichtenstein, Monaco or san Marino). The voluntary transfer of the state sovereignty on the other international organization, superior to any state, like, European Union would also not affect its statehood.

2. The Constitutional and Legal Position of the Republic of Serbian Krajina according to the RSK Constitution

The Serbian constitutional legal experts, supporters of Great Serbia ideology and creators of the RSK, conceived their state as a federation regarding its constitutional legislature, based on dialectic combination of tripartite principles: the principle of superposition, the principle of autonomy and the principle of participation.

The principle of superposition meant that the sovereignty has only the federal state in the federation, in this case it is the RSK as a separated constitutional political entity, with its own legislative, judicial and executive branches, so that the law enacted by the republic government is superior to the law enacted by Serbian autonomous regions as federative units.

The principle of autonomy refers to judicial division among Serbian autonomous regions as constitutional federative units.

The principle of participation describes the cooperation between the RSK as a federal state and Serbian autonomous regions. However, the RSK as a federal state never came to life with its dialectic combination of three principles.

Nevertheless, it can be stated that it was a federal parastate, with a high territorial discontinuity, consisting of three federative units: the Serbian Region of Slavonia, Baranja and Western Sirmium; the Serbian Region of Western Slavonia and the Serbian Autonomous Region of Krajina.

It is stated in the Article 3., of the RSK Constitution: “The territory of Serbian Krajina consists of the territory of Serbian Autonomous Region Krajina” However, it got replaced by the following Amendment I to the RSK Constitution on 27th Feb 1992, stating: “The territory of the RSK consists of Serbian regions: Krajina, Slavonia, Baranja, Western Sirmium and Western Slavonia.”⁴

The territorial integrity of the RSK was regulated by the Law on territorial organization of the RSK and the local government.⁵ The territorial organization of the RSK consisted of municipalities as territorial units, run by the local governments in Serbian regions of Serbian Autonomous Krajina, the Serbian Region of Western Slavonia and the Serbian Region of Slavonia, Baranja and Western Sirmium.⁶

3. Territorial organization of the Republic of Serbian Krajina

The Serbian Region of Slavonia, Baranja and Western Sirmium consisted of Eastern Slavonia, Baranja and Western Sirmium, in other words of Osijek-Baranja County and Vukovar-Sriem County. There were 66 occupied municipalities of Osijek-Baranja County (49 in Baranja, 17 in Osijek area) and 55 occupied municipalities of Vukovar-Srijem County (29 in Vukovar area and 26 in Vinkovci area). This Croatian occupied territory was known as the Croatian Danube Region.⁷

The territory of the former Serbian Region of Slavonia, Baranja and Western Sirmium, in Croatian terminology the Croatian Danube Region was last to be integrated peacefully on 15th January 1998. Namely, after numerous futile

⁴ *Official Gazette of the Republic of Serbian Krajina*, No. 2/1992.

⁵ *Official Gazette of the Republic of Serbian Krajina*, No. 3/1992.

⁶ Article 1 of the Law on Territorial Organization of the Republic of Serbian Krajina and Local Government.

⁷ Miljenko Brekalo, *Sovereignty of the The Republic of Croatia 1990-1998*, Svjetla grada d.o.o., Osijek, 2009, p. 266.

attempts to resolve the conflict politically and to force enemy to withdraw from the occupied territories, Croatian government undertook two successful military and police operations, under the code names *Flash* and *Storm*, to liberate its territories. The main part of Croatian occupied territory got liberated after these two operations, but Croatian Danube region remained occupied. In order to avoid severe civilian and military casualties, Croatian government tried to avoid the reconquest and therefore initiated the reconciliation of the broken relationship between rebel Srbs and dominant Croatian population. Croatian peace mission, known officially as the peaceful reintegration of Eastern Slavonia, Baranja and Western Sirmium, was in the coming two year period, the most important task in Croatian politics, with the strong political goal to end the Homeland War, restore the territorial integrity and peace, granting Croatian government the rule over its whole territory.⁸

The representatives of the Serb rebels signed the Landmark peace agreement for Eastern Slavonia, Baranja and Western Sirmium on 12th Nov 1992 in Erdut. This peace agreement became known as Erdut agreement and it determined the peaceful integration of this region into constitutional legal order of the Republic of Croatia. The agreement was presented by Mr. Peter Galbraith, the then US ambassador to Croatia and by Thorvald Stoltenberg, the UN peace envoy for the Republic of Croatia. On behalf of Serbian rebels, the agreement was signed by Milan Milutinović, the leader of Serbian negotiating delegation. That very same day, Hrvoje Šarinić, the Croatian President's chief of staff also signed the agreement in the Presidential Palace in Zagreb. Erdut agreement was drafted in Dayton, whereby the Croatian diplomacy played a key role, and Slobodan Milošević forced local Serbs to accept the agreement, showing how dominant his influence was.⁹

On 15th January 1996, the UN Security Council passed the Resolution 1037, laying down the onset of the UN operation for peaceful integration of the Croatian Danube Region into constitutional legal order of the Republic of Croatia. The Resolution 1037 confirmed the UN long standing opinion that Croatia should establish its independence, sovereignty, and territorial integrity, pointing out that the territory of Eastern Slavonia, Baranja and Western

⁸ Ibid., p. 266.

⁹ Mate Granić, *Foreign Affairs: Behind the Scenes of Politics*, Algoritam, Zagreb, 2005, p. 128; Franjo Kiseljak, "What does the agreement with the Serbs contain?", *Vjesnik*, No. 16 940, Zagreb, 1 December 1994, p. 1, 6-7.

Sirmium was wa an integral part of Croatia. In other words, the Resolution resurrected the UNTAES (the *United Nation's Trasnitional Administration for Eastern Slavonia*) and the Transitional government for Croatian Danube Region.¹⁰ However, one has to point out, that on that very day, the UN passed the Resolution 1038,¹¹ which stated the status of the peninsula Oštra, known as Prevlaka, the southernmost point of land of the Republic of Croatia. In the period of the Homeland War, Oštra was occupied till July 1992 and from October 1992 till December 2002, it was a demilitarized zone, controlled by the UN. These two Resolutions of the UN Security Council assured the strategic interests of the Republic of Croatia. Namely, the Security Council Resolutions confirmed the territorial integrity of the Republic of Croatia within the internationally recognized borders. The territory controlled by UNTAES consisted of 2153km² (in 1991 there were 188184 inhabitants, 49% Croats, 30% Serbs, 20,5% of other nationalities).¹² The UNTAES mandate had as its goal to establish temporary police force, pay attention to its ehtnic structure and size, develop the training program, supervise its implementati-on, ensure the fair trials for offenders, as well as an incarnation system for the criminals within a short time period. The UNTAES mission had to guarantee the functioning of the public services, to protect the safe return of the displaced population, to organize, conduct and supervise free elections; as well as to carry out other mission tasks prescribed in the UN Secretary report. The mission was supposed to help with the coordination of economy recovery plans, including the supervision of compliance with the Peace agreement for Eastern Slavonia, Baranja and Western Sirmium by both parties (Serbian and Croatian), with a high respect of human rights and fundamental freedom.¹³

The Transitional Administration built on Dayton Agreement, consisted of 5000 UN soldiers, lead by the transitional prefect. The UN Security Council prior to finishing the UNTAES mission in Croatian Danube, passed the Resolution unanimously, ending it on 27thDecember 1997 and it came into effect on 15th January 1998.¹⁴

Serbian Region Western Slavonia consisted of partly occupied territories of the following counties: Bjelovar-Bilogora County, Virovitica-Podravina

¹⁰ "Resolution 1037", *Vjesnik*, No. 17 336, Zagreb, 17 January 1996, p. 4.

¹¹ "Resolution 1038", *Vjesnik*, No. 17 336, Zagreb, 17 January 1996, p. 4.

¹² *Croatian Encyclopedia*, Vol. 11, Lexicographic Institute Miroslav Krleža, Zagreb, 2009, p. 200.

¹³ M. Brekalo, *Sovereignty...*, , p. 270.

¹⁴ *Ibid.*, p. 271.

County, Požega-Slavonia County, Brod-Posavina County and Sisak-Moslavina County; i.e. to be specific, according to the administrative territorial division of the Republic of Croatia of 1991, it consisted of the following municipalities: Novska, Nova Gradiška, Pakrac, Grubišno Polje, Daruvar, Virovitica, Podravska Slatina, Orahovica and Slavonska Požega.

In Bjelovar-Bilogora County, there were 41 settlements occupied in the municipalities of Grubišno Polje and Daruvar.¹⁵

Speaking about Virovitica-Podravina County, according to the administrative-territorial division of the Republic of Croatia of 1991, there were 27 settlements partially occupied in the municipalities of Virovitica, Podravska Slatina and Orahovica.¹⁶ Jesenaš was the only occupied settlement in Virovitica municipality. This village, according to the administrative-territorial division and the demographic structure, had only 222 inhabitants: 43 Croats, 165 Srbs and 14 other nationalities.¹⁷ Nevertheless, one has to point out that Jesenaš was the very first village in the Homeland War, that got liberated around 2 p.m. on 2nd September 1991,¹⁸ since that was the place where Serbian ideologists drew up the western border of Great Serbia.

In Požega-Slavonia County, according to the administrative-territorial division of the Republic of Croatia of 1991, there were few settlements within Pakrac municipality that got occupied and some bordering settlements belonging to Orahovica and Podravska Slatina municipality, all together 65 settlements.¹⁹

According to the Croatian administrative-territorial division of 1991, in Brod-Posavina County there were occupied settlements within the municipalities of Nova Gradiška and Okučani²⁰, all together 36 settlements, which were integrated in the Serbian Region of Western Slavonia.²¹

¹⁵ Natko Martinić Jerčić, *Liberation Operations of Croatian Forces in Western Slavonia in Autumn and Winter 1991/1992*, Doctoral thesis, Croatian Studies, University of Zagreb, Zagreb, 2014, p. 305.

¹⁶ Ibid.

¹⁷ Jakša Raguž, "Action 'Jesenaš' - the first liberated settlement in the Republic of Croatia", *Virovitica in the Homeland War*, State Archives in Virovitica, Virovitica, 2018, p. 131.

¹⁸ Mirko Lukaš, *Wounds /from/nineties*, Own edition, Virovitica, 2011, p. 65-66.

¹⁹ N. Martinić Jerčić, *Liberation...*, p. 305.

²⁰ Janja Sekula, *Western Slavonia under Serbian occupation (from the Sarajevo Armistice to Operation Flash)*, Doctoral dissertation, Croatian Studies, University of Zagreb, Zagreb, 2012, p. 51.

²¹ Government of the Republic of Croatia, *National Program for the Return of Displaced Persons and Refugees*, Zagreb, 14 May 1994.

The former municipality of Novska was the only place in Sisak-Moslavina County which was integrated in the Serbian Region of Western Slavonia²² so there was the total number of 22 occupied settlements.²³

The territory of Serbian Region of Western Slavonia was liberated in military and police operation, with the code name *Flash* on 1st and 2nd May in 1995.²⁴

The Serbian Autonomous Region of Krajina spread partially over the territory of several counties: Sisak-Moslavina County, Karlovac County, Lika-Senj County, Zadar-Knin County, Šibenik County and the peripheral area of Split-Dalmatia County. In other words, Krajina spread over the places with predominant Serbian population in Northern Dalmatia, Lika, Kordun and Banovina, according to the administrative-territorial devision of the Republic of Croatia of 1991.

According to the Croatian administrative-territorial devision of 1991, in Sisak-Moslavina County there were 266 occupied settlements within the following municipalities: Dvor na Uni, Glina, Hrvatska Kostajnica, Sisak and Slunja.

There were 406 occupied settlements occupied in Karlovac County according to the Croatian administrative-territorial devision of 1991. The occupied settlements, being fully integrated in the RSK, belonged to the following municipalities: Duga Resa, Karlovac, Ogulin, Slunj, Vojnić and Vrginmost.

The occupied settlements, 282 of them, in Lika-Senj County belonged to the following municipalities: Donji Lapac, Gospić, Gračac, Otočac and Titova Korenica.²⁵

In Zadar County there were 73 occupied settlements within the municipalities of Benkovac, Obrovac and Zadar.

In Šibenik-Knin County there were 70 settlements occupied, within the municipalities of Drniš, Knin and Šibenik.

²² J. Raguž, "Organization and schedule of the Territorial Defense of the Serbian Autonomous Region (SAO) of Western Slavonia in 1991", *Collected Papers Janković*, 1 (2016) 1, p. 183.

²³ Government of the Republic of Croatia, *National Program for the Return of Displaced Persons and Refugees*, Zagreb, 14 May 1994.

²⁴ Ivan Brigović, "A Review of Operation Flash in the Documents of the Republic of Serbian Krajina", *Journal of Contemporary History*, 41 (2009) 1, p. 44.

²⁵ Government of the Republic of Croatia, *National Program for the Return of Displaced Persons and Refugees*, Zagreb, 14 May 1994.

In Split-Dalmatia County there were only 17 occupied settlements within the municipality Sinj, that had been integrated in the RSK.

Dubrovnik-Neretva County had 43 settlements in Dubrovnik municipality, which were not integrated in the RSK. However, these occupied settlements were supposed to join Serbian Autonomous Region of Herzegovina, which was repeated many times in the speeches by Božidar Vučurović, the war mayor of Trebinja and the political leader of the Serbian Democratic Party. His well known words were: "...if it is going to be necessary, we will rebuild a better looking Dubrovnik."²⁶

The Serbian Autonomous Krajina Region got liberated on 8th August 1995, after the capitulation had been signed by the RSK representatives²⁷.

The borders of former socialist republics, including those of autonomous provinces were inviolable, as it was clearly stated in the SFRY Constitution of 1974²⁸ and the same constitutional provision was stated in the Constitution of the Socialist Republic of Croatia²⁹ of the same year. The stated Constitutional provisions were of crucial significance, among other political factors, that contributed to the international recognition of the Republic of Croatia within its former, the so-called republic borders. At the beginning of the Homeland War, Croatia's territory spread on over 56 538 km²,³⁰ and its national territory remained intact even after its international recognition and its admission to the United Nations.³¹ The day after Sarajevo agreement had been signed, the territorial expansion of the RSK was stopped, together with a further brutal occupation of the Croatian territory. According to two authors, Šterc and Pokos, till that very day Yugoslav People's army and rebel Srbs occupied 15 000 km² or 26,5% of Croatian national territory.³² Nevertheless, Serbian sources talked about much less territory, so they claimed that their

²⁶ Tatjana Tagirov, "Master of Trebin and Surroundings", *Time*, No. 1 057, Belgrade, 7 April 2011, p. 5.

²⁷ Josipa Pleša, "Storm – the battle of all battles", *Essehist: journal of students in history and other social sciences and humanities*, 7 (2015) 7, p. 138.

²⁸ Article 4 of the SRH Constitution.

²⁹ Article 4 of the SRH Constitution.

³⁰ *Croatian Encyclopedia*, Vol. 4, Lexicographic Institute Miroslav Krleža, Zagreb, 2002, p. 705.

³¹ Stjepan Srkulj – Josip Lučić, *Croatian history in twenty-five carats*, Extended and supplemented edition, AGM – Croatian Information Center, Zagreb – Trsat, 1996, p. 109.

³² Stjepan Šterc – Nenad Pokos, "Demographic causes and consequences of the war against Croatia", *Social research*, 2-3 (1993), p. 313.

parastate had a territory of 13 913 km² or 24,6% of total Croatian national territory.³³

According to the administrative-territorial division of the Republic of Croatia of 1991, the enemy occupied 13 municipalities fully and 18 municipalities partially. The fully occupied municipalities were: Beli Manastir, Donji Lapac, Dvor na Uni, Glina, Gračac, Knin, Kostajnica, Obrovac, Slunj, Titova Korenica, Vojnić, Vrginmost and Vukovar. Partially occupied municipalities were: Benkovac (82%), Drniš (58%), Dubrovnik (53%), Duga Resa (21%), Gospić

(37%), Karlovac (54%), Nova gradiška (33%), Novska (37%), Ogulin (32%), Osijek (58%), Otočac (33%), Pakrac (27%), Petrinja (82%), Sinj (29%), Sisak (21%), Šibenik (22%), Vinkovci (44%) and Zadar (14%). There were 549 083 inhabitants living on the occupied territory or 11,48% of total Croatian population and their ethnic structure was: 203 656 Croats or 37,1%, Srbs 278 830 or 52,4% and other minorities 57 597 or 10,5%.³⁴

4. The state characteristics of the Republic of Serbian Krajina

The Socialist Federative Republic of Yugoslavia, according to the SFRY Constitution,³⁵ was defined as a federal state of voluntary joined nations, living in socialist republics and socialist autonomous provinces. On the other hand, the Socialist Republic of Croatia, according to its Constitution,³⁶ was defined as the national state of Croatian people, the state of Serbs living in Croatia and the state of other minorities in Croatia. According to the regulations of the SFRY Constitution, the territory of the republics could not be changed without their consent, whereas the republic borders could be changed only after the mutual agreement, but this had never happened in the former SFRY. The SFRY-Constitution as well as the Constitution of the Socialist Republic

³³ Minutes of the 25th Session of the Government of the Republika Srpska Krajina of 28 and 29 July 1992, The Republic of Croatia- Homeland War Memorial Documentation Center, 4th, Box No. 3.

³⁴ Mato Rupić (ed.), *The Republic of Croatia and the Homeland War 1990-1995*, Book 6, Documents of Insurgent Serb Institutions in the The Republic of Croatia (July - December 1992), Croatian Homeland War Memorial and Documentation Center / Croatian Institute of History - Branch for the History of Slavonia, Baranja and Srijem, Zagreb – Slavonski Brod, 2009, p. 313.

³⁵ Articles 1 and 2 of the SFRY Constitution.

³⁶ Articles 1 of the SRH Constitution.

of Croatia, anticipated the possibility of self-determination, together with the right to secession, but they never anticipated the secession and, consequently, the full autonomy proclaimed by separatists, as it was the case with the rebel Serbs in the parastate of the RSK, that is, in the occupied territory of Croatia.³⁷ This constitutional right of the former SFRY republics was recognized by the international community and it was stated at the Peace Conference on Yugoslavia (Arbitration Commission).³⁸

The main qualifications of the parastate RSK were: unconstitutional establishment on the occupied Croatian territory; lacking the democratic legitimacy; the absence of legal continuity with any state; ethnic cleansing of occupied Croatian territories of all nationalities except Serbs; establishment of ethnic pure Serbian state, so that every member of Serbian nationality living in Croatia, listed in the register of SFRY citizens, was at the same time its citizen; direct financing of self-proclaimed governments on the occupied Croatian territory by the Republic of Serbia; permanent material support, the supply of military, expertise, and of voluntary units from Serbia and Montenegro. Not a single state has ever recognized either *de facto* or *de iure* the existence of this state, nor had the RSK the state qualifications ever recognized as a sovereign state, in terms of international law, i.e. the RSK had no international personality.³⁹

5. The State-Legal personality of the RSK according to Montevideo Convention

When analyzing the state-legal personality of the RSK, one should start with the fact that the very territory that the RSK existed on, was not *terra nullius*, since it belonged to the national territory of the sovereign and internationally recognized state, the Republic of Croatia.

This analysis is done *in facto* according to the regulations listed in Montevideo Convention on Rights and Duties of States or in Montevideo Convention. Namely, to talk about the state, the international law, to be more specific, Montevideo Convention requires the following: a permanent population; a

³⁷ Basic principles of the SFRY Constitution, Basic Principles of the SRH Constitution.

³⁸ N. Martinić Jerčić, *Liberation...*, p. 305.

³⁹ M. Brekalo, "An Attempt to Turn the Greater Serbian Separatism of the Insurgent Croatian Serbs into State-Building (1990-1995)", *Legal Gazette*, 3-4 (2009), p. 111.

defined territory with its marked borders; a government consisting of judicial, legal and executive authority and the capacity to enter into relations with other states.⁴⁰ Thus, the stated regulations of Montevideo Convention represent *conditio sine qua non* to be met by the RSK in order to become a state, that is to become a subject of the international law.

The RSK never had its own population, but the population living there had the Croatian citizenship and, exceptionally, besides this one, people also had the citizenship of the Republic of Serbia or of the Republic of Bosnia and Herzegovina. This parastate existed on the occupied territory of Croatia and its tripartite branches of government (executive, legislative and judicial) were organized with a colossal support of the Milošević regime and the Republic of Serbia.

Closing Remarks

The Republic of Serbian Krajina, in its formal legal aspect, got constituted after its proclamation on 19th December 1991 and as a parastate collapsed, *de facto*, on 5th Aug 1995 after the police-military operation *Storm* liberated its capital city of Knin, *de iure*, on 8th August. That very day, the colonel Čedo Bulat surrendered the 21st corps of the RSK army and signed the capitulation in the presence of Croatian general Petar Stipetić in the motel *Brijuni*, located close to Topusko.

After the RSK downfall, the ideology of Great Serbia did not end in Croatia, but it survived till 15th January 1998, when the Croatian Danube Region was peacefully integrated into the constitutional legal order of the Republic of Croatia.

In this *interregnum*, from 8th August 1995 till 15th January 1998, the Serbs living in the Croatian Danube Region were forced to find a new political and legal *modus vivendi* and *modus operandi*, since they could not invoke the RSK legislature after its downfall. The first step was made when the Assembly of the Serbian Region of Eastern Slavonia, Baranja and Western Sirmium passed the *Declaration*, changing the name of this last remaining RSK federative unit

⁴⁰ *Montevideo Convention on the Rights and Duties of States*, available at <<http://www.oas.org/juridico/english/treaties/a-40.html>> (accessed April 10, 2022).

into the Serbian Region of Eastern Slavonia, Baranja and Western Sirmium, in Vukovar on 23rd April 1996.

In fine, the Republic of Serbian Krajina never met any of the state qualifications required from any social organization to be called a state, either according to the classical theoretical models or according to the contemporary constitutional theories. In other words, the Republic of Serbian Krajina never became a political community of the population living on the defined territory marked by the state borders, with a sovereign government; it was never an independent, sovereign entity which had a capacity to enter into relations with the other internationally recognized states. So, the Republic of Serbian Krajina, not having any democratic authority, could not guarantee the legal certainty to its political community and its members, since it was under the direct influence of repressive system of the Milošević regime.

DRŽAVNO-PRAVNI SUBJEKTIVITET REPUBLIKE SRPSKE KRAJINE (1991. – 1995.)

Sažetak

Republika Srpska Krajina od samoga je početka, pa do prestanka svoga djelovanja, bila i ostala paradržavna tvorevina jer nikada nije ispunila kriterije države koji su sadržani u Konvenciji o pravima i dužnostima država koja je kolokvijalno poznata kao Konvencija iz Montevidea, odnosno nije postala subjekt međunarodnoga prava, kao što je to postala Republika Srpska nakon potpisivanja Općega okvirnog sporazuma o miru u Bosni Hercegovini ili Dejtonskoga sporazuma. Republika Srpska Krajina bila je federativna paradržavna tvorevina koja je imala teritorijalni diskontinuitet, sastojala se od triju federalnih jedinica: Srpska Region Slavonija, Baranja i Zapadni Srem, Srpska Region Zapadna Slavonija i Srpska Autonomna Region Krajina. Republika Srpska Krajina u formalno-pravnome smislu počela je postojati nakon njezina proglašenja 19. prosinca 1991. god., a kao paradržavna tvorevina de facto propala je 5. kolovoza 1995. god. nakon što su postrojbe Hrvatske vojske i Ministarstva unutarnjih poslova ušle u njezin glavni grad Knin, a de iure 8. kolovoza 1995. god. nakon što su njezini predstavnici potpisali kapitulaciju.

Ključne riječi: država; paradržava; narod; teritorij; državna vlast; subjekt međunarodnoga prava.

