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CONSTITUTIONAL ASPECTS OF THE CROATIAN COMMUNITY OF HERCEG-BOSNA

Abstract

The political context in which the Croatian Community of Herceg-Bosna came to be was defined by two political moments – an expressed desire of the Serbian people to join Great Serbia on the one hand and the Muslim (Bosnian) attempt to create a concept of a unified BiH where an ethnic-territorial Bosnian majority would be present on the other. In such circumstances, the official policy of the Republic of Croatia, especially the one by the first president dr. Franjo Tuđman, was unfoundedly prescribed by the Great Serbia policy and Bosnian fundamentalism with a basic thesis that he, along with Milošević, “divided” Bosnia and Herzegovina on meetings in Karadžorđevo and Tikveš. However, that thesis is rebuttable on two bases. Firstly, the carriers for the idea of Great Serbia with Milošević were “armed to the neck” by the military arsenal of the JNA. Secondly, the democratic rule in Croatia with Tuđman at its forefront was very poorly armed, forced to buy very expensive weaponry on the “black market”: According to this, Milošević needed no military-political agreement on BiH. At that time, the fall of Vukovar and the occupation of one third of the national territory of Croatia point to the fact that there is no basis for the thesis on the “division” of BiH between Tuđman and Milošević.

In order to better grasp the constitutional aspects of the Croatian Community of Herceg-Bosna i.e. its creation, existence and disappearance, this paper will show the legal analysis and portray the content of the book by the constitutional judge dr. sc. Mate Arlović titled *The Croatian Community Herceg-Bosna and the (re)modelling of Bosnia and Herzegovina*.

Key words: Bosnia and Herzegovina, The Croatian Community of Herceg-Bosna, Republic of Croatia, The Washington Accords, The Dayton Accord.

Introduction

The book by the constitutional judge dr. sc. Mate Arlović titled *The Croatian Community of Herceg-Bosna and the (re)modelling of Bosnia and Herzegovina*,¹ came out in the Novi informator (Zagreb) edition, printed in the so-called “B5” format, containing three hundred and eighty five pages. It is factually based on a significant number of national and international legal sources and additional sources.

The reviewers for the book were prof. dr. sc. Arsen Bačić, a professor with tenure, the head of the Department of Constitutional Law of the Faculty of Law at the University of Split, a collaborator of the Croatian Academy of Science and Arts, prof. dr. sc. Zvonimir Lauc, *professor emeritus* of the Faculty of Law of the University of J.J. Strossmayer in Osijek, and prof. dr. sc. Miljenko Brekalo, scientific advisor of the Institute of Social Sciences Ivo Pilar from Zagreb, the leader of the Local Centre Osijek.

The book is divided into the following sixteen chapters: Introduction; On state in general; A constitutional state and the social development - constitutionalizing; The specifics of the liberation of BiH; A look back at the circumstances preceding the foundation of the Croatian Community of Herceg-Bosna; The Foundation of the Croatian Community of Herceg-Bosna (hrv. HZHB/ eng. CCHB); The Croatian Community of Herceg-Bosna as a state community in the process of separation from Republic of Bosnia and Herzegovina and joining with the Republic of Croatia or a regional community (municipality) within Bosnia and Herzegovina; A look back at the constitutional and political situation in the Republic of Bosnia and Herzegovina from its international acknowledgment to the Washington Accords² and the Dayton

1 Arlović, M. (2017.) *Hrvatska zajednica Herceg-Bosna i (pre)ustroj Bosne i Hercegovine*, Novi informator, Zagreb.

2 The Washington Accords are the Croatian-Bosnian Accords achieved in March 1994 in Washington, setting the foundations for the creation of the Federation of BiH. The accords were preceded by Croatian-Bosnian armed conflicts in BiH from 1993 as well as the pressure of the USA to cease fire. From the end of February 1994, with American mediation, negotiations between the representatives of BiH, the Republic of Croatia and Croats in BiH (hrv. HZHB) were held. The framework for the accords was agreed upon on March 1st 1994, and the accords were formally signed on March 18th 1994. They related to the creation of the Federation of BiH (with the creation of the central and municipal governments etc.) and the confederal connection of BiH with Croatia (with a solution for accessing the sea crossing Croatian territory, as well as the status of the Ploče port, the transit rights of the Republic of Croatia next to Neum etc.). It was determined that a joint military command of the Federation of BiH will be set up. The position of BiH within BiH was finally determined by the Dayton Accords.

Accords;³ On the relationship between the Republic of Croatia towards Bosnia and Herzegovina and the question of liberation, separation, and attaching the Croatian Community of Herceg-Bosna to the Republic of Croatia; On certain legal matters on the essence of the Croatian Community of Herceg-Bosna; The legal status of the Croatian Community of Herceg-Bosna and the international community searching for acceptable solutions of the total crisis in Bosnia and Herzegovina; The Washington and Dayton Accords; On the (non)sovereignty of the organizational units of BiH after the Washington and Dayton Accords and the Croatian Community of Herceg-Bosna; The constitutional look at the post-Dayton BiH with suggestions on moving forward; Concluding remarks and Attachments.

The scientific character of the book

Content-wise, the book is a first-class interdisciplinary scientific paper in humanities and social sciences. The fields of law and history should be highlighted i.e. the constitutional law and Croatian and world modern and contemporary history branches. The content represents a significant contribution towards shedding light on the creation, existence, and disappearance of the Croatian Community of Herceg-Bosna, a theme that has not been wholly and systematically processed either in the Republic of Croatia or the neighboring Bosnia and Herzegovina up until this book came out. Most of the scientific, expert, and journalistic papers dealing with the Croatian Community of Herceg-Bosna to date (HZHB) were not written *in extenso* and that is precisely the case with the book by Arlović.

3 The Dayton Accords is the name for the General Framework Agreement on peace in BiH signed on November 20th 1995 in the American airbase of Wright–Patterson next to Dayton (the federal state of Ohio), after negotiations between the Bosnian, Croatian and Yugoslavian (Serbian) delegations (headed by the presidents Alija Izetbegović, dr. Franjo Tuđman, and Slobodan Milošević), lead from November 1st 1995 under the supervision of the USA and the international contact group. It defined the conditions of the peace accords which were officially signed on December 14th 1995 in Paris. They supported the territorial integrity and sovereignty of BiH, geopolitically determined the entities within BiH (the Republic of Serbia and the Federation of BiH) and foresaw the entrance of the international forces for the enforcement of the accords (hrv. IFOR). Along with the general text, it also contains additional annexes for various military, political, and social questions (Annex 4 is the Constitution of BiH) regulating the action of IFOR and the international police (especially NATO forces), supervision of weaponry, the division of entities (along with the arbitration for the Brčko area), holding elections, return of the refugees, advancing human rights, founding public companies, settling agreements among entities, guarding national monuments etc.

Methodologically speaking, the author wrote the book according to the highest standards of science, using numerous scientific methods while doing so. Among those, one must highlight the normative, historical, analytical, synthetical, as well as the comparative method used while studying the federal and republic historical legislation, numerous international sources of law, political and security context within the SFRY i.e. the Socialist republic of Bosnia and Herzegovina. In other words, as was stated, he consecutively processed the reasons for the creation, existence, and the disappearance of the Croatian Community of Herceg-Bosna with no political context, apart from the most common cases appearing with certain authors depending on the political block or interest group to which an individual author belongs.

The text of the book, according to its character, is a prime legal analysis which the author made *in facto* for the needs to defend the six convicted Croats from Bosnia and Herzegovina in front of the International Court of Justice for the former Yugoslavia in the Hague. At the same time, it is a scientific answer to the book *The Genesis of a Delusion*⁴ the author of which is a Slovenian expert in constitutional law Ciril Ribičič. His book came from the expertise created for the needs of the Prosecution of the International Court of Justice for the former Yugoslavia. Namely, Ribičič created the expertise for the needs of the trial of the six Croats from Bosnia and Herzegovina i.e. the former Prime Minister of the Croatian Community of Herceg-Bosna Jadranko Prlić, the Minister of Defense Bruno Stojčić, the commander of the Military police of the Croatian Council of Defense (hrv. HVO) Valentin Ćorić, the president of the Department for Captives Berislav Pušić, Slobodan Praljak and Milivoj Petković, the two generals who performed the duty of head of the Headquarters of the Croatian Council of Defense from 1992 to 1993.⁵

4 Cfr. Ribičič, C. (2000.), *Geneza jedne zablude*, Zagreb, Jesenski i Turk d. o. o.

5 Dated November 29th 2017. Žalbeno vijeće Međunarodnoga suda za ratne zločine počinjene na području bivše Jugoslavije (engl. *International Criminal Tribunal for the former Yugoslavia*, akr. *ICTY*), with members of the judicial council: Carmel Agius (president, Republic of Malta), Liu Daqun (The People's Republic of China), Theodor Meron (Polish Jew with US citizenship), Fausto Pocar (Republic of Italy) and Bakone Justice Moloto (Republic of South-Africa), published the final ruling in the Prlić and others subject, by which the accused had their sentences stated, as well as in the primary proceedings. Jadranko Prlić was convicted of twenty five, Bruno Stojčić, Milivoj Petković and Slobodan Praljak to twenty, Valentin Ćorić to sixteen, and Berislav Pušić to ten years in jail. Praljak, after hearing the sentencing, stated that he does not recognize the sentence, drank poison and died soon afterwards.

A comparative portrayal of book by Arlović and Ribičić

When comparing Arlović's book with the book by Ribičić, scientific correctness demands the application of a comparative method, based on which one can achieve a qualitative and quantitative comprehension on the topic at hand. The book by Arlović was printed in the so-called "B5" format and it contains 385 pages of text, 303 footnotes, 15 attachments, 62 scientific and experts works cited, 68 legal sources (national and international) and 8 other sources. On the other hand, the book by Ribičić is significantly smaller, printed in the so-called "A5" format (pocket edition), contains 189 pages of text, 204 footnotes, and it has no classified data sources. Content-wise, one can very easily discern that certain portions of the content by his book have a political note. He draws conclusions in places from negative legal and political premises. In other words, the book contains contradictory conclusions by Ciril Ribičić, even though they are based on the same facts and evidence which Arlović had in front of himself, as well as conclusions and even accusations that someone made some sort of a decision or action without having legally relevant evidence for those claims. When observing the contents of the book by Ribičić, as well as the context of his engagement in the Hague, one must keep in mind that the main prosecutor during that time was Carla del Ponte who was not favorable towards Croatian generals who were accused without basis of war crimes in front of the International Court of Justice committed in the area of former Yugoslavia. However, when she could not establish breaking the international humanitarian rights *ad nomen*, Carla del Ponte regressed to applying the institute of the chain of command. The obvious example is the factually falsely based accusation of the Croatian generals Ante Gotovina, Mladen Markač, and Ivan Čermak. The identical practice was assumed by her successor, Serge Brammetz who accused the aforementioned six Croats on June 11th 2008 in the Second Amended Indictment on the "Copy & Paste" principle. The International Court of Justice for the former Yugoslavia brought a first instance conviction on May 29th 2013 against the aforementioned six Croats for the alleged involvement in the "joint criminal enterprise" with the goal of creating an ethnically clean Croatian state in the Bosnia and Herzegovina portion of the territory of the former Banovina Hrvatska. In other words, they were wrongfully convicted as the three Croatian generals according to the chain of command, during which conviction the aforementioned institute of international criminal law was relatively extensively interpreted for the case of their "responsibility". As is known, the institute of the chain of command was first used in international law after World War I

and, according to it, commanders and other superiors were responsible for the crimes committed by their troopers and commanding officers. This institute received wider application after World War II, during which time the responsibility was expanded from military to civilian commanders, as well. This practice was especially favored by the International Military Court for the Far East which, apart from the most famous Japanese general Tomoyuki Yamashita, convicted a larger number of civilians and several ministers according to the chain of command. An additional development in using the chain of command in international criminal law is found at the International Court for the Criminal Prosecution of people responsible for heavy violations of the international humanitarian rights in the area of former Yugoslavia and the International Criminal Court for Rwanda.

The subjective motives of the book by Ribičič will be explained by historians in the near and far future time, along with validating the role of his father Mitja Ribičič,⁶ a known Slovenian Communist Party official against who criminal charges were raised due to post-war executions, according to the chain of command and based on documentation discovered in the Archives of the Republic of Slovenia on inmates from the post-war OZNA prisons in Ljubljana.⁷

The normative basis for the creation of CCHB

By analyzing the circumstances preceding the establishment of the Croatian Community of Herceg-Bosna, the author established the existence of a normative basis according to the federal and republican positive legislation of the time

6 Mitja Ribičič (Trieste, May 19th 1919 – Ljubljana, November 28th 2013), former Slovenian politician acting on a republic and federal level. During World War II he was a member of the Partisan troops. In the SFRY he performed a significant number of decorated functions: public prosecutor for the PR Slovenia, republic state secretary for internal affairs, a member of the executive committee for the FR Slovenia, a member in the Assembly for the FR Slovenia, a member of the Federal Assembly of SFRY from 1951 to 1963, president of the Federal executive council of Yugoslavia from 1963 to 1967 and in 1969, president of the Federal executive council of Yugoslavia from May 18th 1969 to July 30th 1971, president of the Presidentship of the Central Committee for the League of Communists of Yugoslavia from June 29th 1982 to June 30th 1983.

7 OZNA (akr.hrv. Odjeljenje zaštite naroda), a Yugoslavian security-intelligence organization created by a decision from Josip Brzo Tito on May 13th 1944. It came out of the *Odsek za zaštitu naroda*, created in 1943. It collected intelligence data and later fought espionage and sabotage actions. It took part in political prosecutions, as well. It had authority in the entire FNRY (SFRY), with sections joined to headquarters and all troops of the Yugoslavian army. OZNA was reconstituted in 1946 and, instead of it, the Uprava državne bezbednosti (akr.hrv. UDB-a) was created within the Federal Ministry of Internal Affairs.

ensuring the citizens the right to self-defense and protection of their basic human rights and liberties on the one hand, and the right to defend national sovereignty and the territorial integrity of the FR BiH on the other. Considering the fact that the YNA put itself directly at the disposal of the Great Serbia policies and illegally claimed the weaponry of the Territorial Defenses of BiH, just as in the Republic of Croatia, the citizens of Bosnia and Herzegovina were found in a state of necessity and necessary defense. Therefore, they had no weaponry, their central government did not execute their basic constitutional duties relating to the defense from aggression and they were *de iure* and *de facto* left to themselves and their local authorities. Under such circumstances, the Croatian national corps in BiH first approached the self-organization of the defense against the apparent aggression of the Serbian paramilitary units directly aided by the YNA. Namely, prior to that, the YNA planned to assume vital strategic positions which were supposed to be one of the guarantees for the enforcement of the project of Great Serbia in the BiH area. The Croats from the Široki Brijeg municipality skillfully and bravely thwarted this project. They, on May 7th 1991, in Polog outside of Mostar, blocked the road with trucks and stopped a parade of a hundred tanks heading to assume strategic positions in western Herzegovina and parts of south Croatia from the Mostar barracks. The first direct signs of the Great Serbia character of YNA were noted on October 1st 1991. On that day, the Croatian villages of Hrasno and Ravno⁸ in south Herzegovina were destroyed.

The Croatian Community of Herceg-Bosna was founded by 24 municipalities in a state of necessity. Citizens, primarily the members of the Croatian national corps on BiH soil were in it. They acted within the belonging areas of the municipality on which aggression was exercised. As Arlović highlights, its necessity might be defended also from the basis of the nature and intent to achieve a necessary right. However, that is not necessary due to the fact that such actions by citizens and municipalities the representatives of which founded CCHB exists by a constitutional legislation *expressis verbis* within the Constitution of the Socialist Republic of Bosnia and Herzegovina.

8 Hrasno, for the most part, is settled on the north of what is today the Municipality of Neum in the Hercegovacko-neretvanska county in the southern part of BiH. Ravno is settled in the eastern part of Herzegovina, in the northern portion of the Popovo polje, close to the river Trebišnjica, northwest of Trebinje.

The meeting between Tuđman and Milošević in Karadorđevo

The book by Arlović definitely brings down the myth of the “secret” meeting between the first Croatian president dr. Franjo Tuđman and the Serbian president Slobodan Milošević, held on March 30th 1991 in Karadorđevo.⁹ The premise on correctness of the claim that the meeting was secret is refutable because the Yugoslavian national printing agency TANJUG published the information on that same day, right after the meeting concluded. The meeting became one of the most touted political myths in the post-Yugoslavia history. This thesis is planted into the media and political space *in continuo* by a certain number of political adversaries of Tuđman, the carriers and sympathizers of the Great Serbia idea and Bosnian fundamentalists. Namely, the wholesomeness of the author’s research released in the book clearly and undoubtedly proves that there is no firm scientific, expert, legislative (constitutional) acts and arguments based on the same to confirm that the Croatian national leadership headed by the late president dr. Franjo Tuđman took part or had the intention to take part in the division of BiH in order to separate a part of its territory where Croats live and annex it to the Republic of Croatia. The political opponents of Tuđman intentionally forget that Milošević had the YNA as a “lever of power” which was under his direct control by way of the army leadership selected according to his demands. After Tito died, the federal secretaries (ministers) of defense were constantly elected by nationality (Serbs) – the fleet admiral Branko Mamula, army general Nikola Ljubičić, and army general Veljko Kadjević). During their mandates, the YNA started to get nationalized by Serbs. IN the other half of the 80-s, the gradual disarmament of the Territorial defense and the remodeling of military districts came to pass. According to the data in *The Military Balance, The International Institute for Strategic Studies 1990-1991*, the YNA was one of the largest and well equipped militaries in Europe at the start of the Homeland war. For comparison, according to the data of the renowned London Institute, the YNA had 449 airplanes (140 MIG 21s and 16 MIG 29s) which were eight

9 Karadorđevo is the presidential residence and military-agricultural property, about 10km west of Bačka Palanka, in Vojvodina (Republic of Serbia), close to the river border of Danube with the Republic of Croatia. Karadorđevo is also the name of a nearby village which counted a population of 733 in 2011. The agricultural estate was founded in 1885 and contains hunting grounds, woods, a paddock, farmlands etc. In the SFRY it became a military institution, important in the food supply of the Yugoslavian National Army. The hunting grounds and residence was used by Josip Broz Tito. On December 1st and 2nd 1971, Karadorđevo hosted the 21st meeting of the Presidentship of the League of Communists of Yugoslavia (hrv. SKJ), where the reckoning with the carriers of the Croatian Spring began.

years old on average in 1991.¹⁰ According to this, Milošević had no need to negotiate the division of BiH because the Republic of Croatia was unarmed. On the other hand, the political adversaries of Tuđman purposefully forget the principle of international law *uti possidetis* based on which the internal divisions of administrative units are recognized as international borders of new states in the moment of their acquisition of independence. The arbitrary i.e. Badinter commission, founded by the European Community on September 7th 1991 in the Hague within the framework of the Conference on Peace in Yugoslavia, confirmed the application of the *uti possidetis* principle in the case of federal states falling apart. In their *Opinion number 3 (on international borders of new states)* dated January 11th 1992, they highlighted that, based on that principle, by the dissolvment of the SFRY, and in lack of a different according between the new states, the states which were the successors of the SFRY receive their republic borders *ipso iure* and *ipso facto* as international borders protected by international law. Namely, based on the aforementioned principle, the Republic of Croatia and the Republic of Bosnia and Herzegovina were recognized as subjects of international law.

The official policy of Croatia towards BiH from 1991-1995

The book states numerous facts proving that the official authorities of the Republic of Croatia headed by dr. Franjo Tuđman did not work to disintegrate Bosnia and Herzegovina as a multi-ethnic and multi-religious state during the Homeland war. In other words, *argumentum a contrario*, the official policy of Croatia, despite numerous war difficulties, was to fight to preserve the territorial integrity of BiH actively and continuously. The author confirmed this fact with an excellent analysis of all the documents signed by the president of the Republic of Croatia, dr. Franjo Tuđman, and the president of Presidentship of BiH, Alija Izetbegović, beginning with the *Treaty of friendship and cooperation between the Republic of Bosnia and Herzegovina and the Republic of Croatia* (signed July 21st 1992 in Zagreb), up until the *General framework agreement to peace in Bosnia and Herzegovina or the Dayton Accords* (signed December 14th 1995 in the Elysium palace in Paris). Due to such consistent official policy of Croatia, the Republic of Croatia was recognized as a subject of international law at the end

10 Cfr. Brekalo, M. (2009.) *Suverenitet Republike Hrvatske 1990.-1998.*, Svjetla grada d.o.o., Osijek, str. 244.-245.; Brekalo, M. (2017.) *Slatinska kronika Domovinskoga rata*, Svjetla grada d.o.o., Osijek, str. 198.-199.

of 1991 and during 1992. On May 22nd 1992, along with Slovenia and BiH it was admitted into the United Nations as a full-fledged member state.

The Republic of Croatia provided military, medicinal, humanitarian, and other forms of aid to BiH. The only pathways of delivery came over Croatian national territory. Within the program to help BiH, all the profiles of experts for Bosnia and Herzegovina were educated by Croatian experts. Croatian authorities took care of around half a million refugees from the BIH area, out of which 65 to 70% were Muslims. The refugee wave from BiH had direct negative reflections on the state of public finances in Croatia. Prior to the introduction of the Kuna, significant hyperinflation movements were noted.

By using an analytical approach, the author proved beyond the shadow of a doubt that the highest ranking military officials of the Republic of Croatia, headed by dr. Franjo Tuđman, were not involved in the joint criminal enterprise in the Republic of Croatia and BiH, that “joint criminal enterprises in the Republic of Croatia and BiH are not connected and that the Croatian Democratic Union (hrv. HDZ) was not, either directly or indirectly, involved in them as the leading political party of the Croatian common people in both countries. The official leadership of the Republic of Croatia and the representatives of the CCHB did not banish Serbs and Bosnians from the area of their jurisdiction.

CCHB as a state

During the analysis of the state of CCHB as a state, Arlović was aware of the fact that the CCHB area is not *terra nullius*, rather that it belongs to the territory of the sovereign and internationally recognized Republic of Bosnia and Herzegovina. Territory is, without a doubt, the most important and irrefutable characteristic of a state, it is the basic concept of international law. International law is based on the principle of territorial sovereignty. Territory of a state is an area which is the basis for the exercise of sovereign authority of the state (executive, legislative, judicial). According to this, a legal entity may not be a state without territory.¹¹ Because of this, Arlović created his analysis according to the regulations of the *Montevideo Convention on the Rights and Duties of States*.¹² In order to speak of a state, international law demands the existence of

11 Shaw, N. M. (2008) *The International Law of Territory*, Oxford, str. 487.

12 The Montevideo convention, by its very nature, is a regional instrument. It was ratified by the Organization of the American States and it is considered the most widely accepted source for the definition of states i.e. the most famous formulation of the basic criterion for statehood. The regulation article 1. of the Convention determines the characteristics which a state must have

the following: a stable population, determined territory which must be marked by a border, organization of government (legislative, judicial, and executive), and the ability to converse with other states. Opinion of the Arbitration Commission No. 1 dated November 29th 1991, Conference on Yugoslavia, also states the territory, population, and government as the criterion using which a state is defined.¹³ According to this, CCHB did not satisfy either the classical theoretical models or the contemporary constitutionalist theories in the matter of the criterion important for a social organization which we call a state. It never had a population of its own. The population of BiH and, exceptionally and alongside it as secondary, the population of the Republic of Croatia stayed there, but never the population of the Croatian Community of Herceg-Bosna. Nor did the community ever demand i.e. prescribe it by any sort of a ratification. Based on the stated principles, the author proved that CCHB was not a state i.e. a subject of international law, that it was organized *ad hoc* in the area of its own jurisdiction to defend Croats and members of other nationalities from YNA and Serbian paramilitary units. The stated legal fact was confirmed on August 6th 1992 by the Presidentship of BiH by the *Regulation with a legal basis on the amendment of the Regulation with a legal basis on the armed forces of the Republic of Bosnia and Herzegovina*, according to which the CCD is a part of the Army of BiH. Prior to that, the text of the *Treaty of friendship and cooperation between the Republic of Bosnia and Herzegovina and the Republic of Croatia expressis verbis* states the following: “The armed part of the CCD is an integral part of the unified armed forces of the Republic of Bosnia and Herzegovina. The Croatian Council of Defense will have its representatives in the joint headquarters of the Armed Forces of Bosnia and Herzegovina. A temporary civil government created in a time of war within the framework of the Croatian Council of Defense will synchronize with the constitutional assembly of the Republic of Bosnia and Herzegovina, on which talks will be had in the spirit of the principle from Section 1 of this Treaty“. Based on this, CCHB never had a legislative body. It applied the positive legislation of BIH of the time and it had a significant number of Bosnians in noted positions within the structures of the local authorities.

as a subject of international law. Those are: a stable population, defined territory, government, and the ability to enter into relations with other states. These characteristics are stated as cumulative.

Montevideo Convention on the Rights and Duties of States, 165 LNTS 19; 49 Stat 3097, available on: <http://www.oas.org/juridico/english/treaties/a-40.html> (accessed on January 18th 2018).

¹³ Opinion available at: <http://www.icjij.org/docket/files/141/15048.pdf> (accessed on January 18th 2018).

By a wholesome normative analysis, the author skillfully and thoroughly proved that CCHB does not fulfill nor that it ever had the intention to fulfill the essential conditions according to which its organizational structure might be called a state. Based on this research, the author proved beyond the shadow of a doubt that CCHB was created as a community in which the sole activity was to coordinate relations and activities regarding the resistance to aggressor. Consequently, CCHB never brought a single legal or other kind of act which would mean that it negates the official rule of the Republic of Bosnia and Herzegovina, accepts the rule of another entity (for instance, that of the Republic of Croatia) nor did it ratify legal acts to negate the usage and application of the constitutional order of BiH in its jurisdiction. IT, also, did not ratify a legal act which would set up its sovereignty, independence, and separation from BiH. However, CCHB brought and enforced legal acts which definitely meant the following: that it accepts BiH as its state, but does not want it to be unitary but rather a decentralized state organized within a possible and acceptable federal (canton) or confederal form, for all three constitutive nations and all other citizens; it brought and enforced acts based on which it *de iure* and *de facto* enforced the border between BiH and the Republic of Croatia. The most obvious example to confirm this point of view are the fiscal (customs) regulations, setting up customs crossing to the Republic of Croatia, enforcing fiscal (customs) policies. At that time, the border towards Croatia was the only one where BiH had its fiscal sovereignty set up with the neighboring states i.e. the Republic of Croatia.

Military and humanitarian help to Bosnia and Herzegovina

It is especially interesting to read the author's analysis of the military help of the Republic of Croatia given to the Army of BiH, in which Arlović *argumentum ad iudicium* analyses official data of the Personal Administration of the Ministry of Defense of the Republic of Croatia and those prof. dr. Miroslav Tuđman stated in his book titled *The truth about Bosnia and Herzegovina: documents 1991.-1995.*¹⁴. According to the data analyzed, the Croatian army contained 928 Muslims in 1992, out of which a significant portion transferred to the Army of BiH. Namely, the Croatian authorities enabled, on their own soil, the creation and training of the Territorial Defense of BiH troops. On June 27th 1992 in Klana next to Rijeka, the 7th brigade was created. On May 30th 1992, at the Zagreb International Fair the 1st battalion was created and proceeded to Travnik. At

14 Tuđman, M. (2005.) *Istina o Bosni i Hercegovini: dokumenti 1991.-1995.*, Slovo M, Zagreb.

the end of 1992, the Army of BiH asked the Ministry of Defense of Croatia to help with mobilizing military officials of BiH who were, at the time, on Croatian soil. At the same time, Alija Izetbegović asked for additional training of 22 MIG and helicopter pilots for the needs of the Territorial Defense of BiH. During the conflict between the Croatian Council of Defense and the Army of BIH, around 15 thousand wounded Muslims (Bosnians) were continually treated in Croatian hospitals. For example, during 1992 and 1993, 3991 people of Muslim religion were admitted into the Clinical Hospital “Firule” in Split.

Conclusion

The book *Croatian Community of Herceg-Bosna and the (re)modelling of Bosnia and Herzegovina* is a systematic, wholesome, empirically based work in humanities and social sciences and it is very transparent, as well as modern. The author follows the existence of the Croatian Community of Herceg-Bosna *in facto* and *in extenso* and compares the results of his research in Croatian and international expert, scientific and legislative frameworks. Due to that, the book deserves a very high scientific grade with a predication of an original scientific work.

This book will present a significant contribution to humanities and social sciences. Namely, there is an acute lack of such works in our everyday life, works with adequate scientific portrayal of the subject matter, as well as the adapted structure and composition of the work to the scientific and wider public. The original, interesting, and simple style of the author will surely make this complex subject easier for its users. Grading the content of the books from an understanding viewpoint, what humanities and social sciences call *the Croatian national question or the process of Croatian national integration*, I can surely state that the content of the books will be a first-class source to be used by many researchers as a catalogue of knowledge in the legal science and modern Croatian (national) history from the end of the 20th century.

The author exculpated the official policy of the Republic of Croatia and its first president, dr. Franjo Tuđman, *in facto* and scientifically i.e. he discredited the false thesis that he, along with Slobodan Milošević, agreed the division of Bosnia and Herzegovina in Karadžević, presented by the carriers of the Great Serbia policy and Bosnian fundamentalists *in continuo*.

This book proves certain contradictory statements by Ciril Ribičić, although they were based on the same facts and evidence which Arlović had in front of

him, as well as conclusions and even accusations that someone decided or did something, without actually having relevant evidence. When observing the contents of the book by Ribičič, as well as the context of his engagements in the Hague, one must keep in mind that the main prosecutor of the time was Carla del Ponte who did not favor Croatian generals accused of war crimes at the International Court of Justice for crimes committed in the area of former Yugoslavia.

In conclusio, legal and historical facts of this book were based on exact evidence, according to which the analytic dissection was portrayed in an understandable way. The readers of this book will be a heterogenous crowd with various degrees of education, various political preferences, but united in their desire to find out the correct factual context of the creation, existence, and disappearance of the HZHB. When estimating the content of the book by Arlović, I can safely say that the content will be a first-class source which will serve many researchers as a catalogue of knowledge of modern and contemporary Croatian history at the end of the 20th century.