

LEGAL, ECONOMIC AND POLITICAL ASPECTS OF ESTABLISHING FISCAL AND MONETARY SOVEREIGNTY OF THE REPUBLIC OF CROATIA

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Abstract

Croatian fiscal and monetary system stayed without one part of its income because of no fiscal and monetary sovereignty over the occupied territories. This would be of great importance especially after the war when Croatia claims the war compensation from Serbia and Montenegro, so it will be necessary to estimate the amount of public income which was collected on the territory of Republika Srpska Krajina in order to have an accurate amount once when Croatia claims its war and collateral compensation from these two states. The estimated public income is extremely important fiscal subject which was not transferred into the state budget and the budgets of the local communities since these financial means are usually ignored when Croatian war compensation is discussed publicly, scientifically and among scholars.

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Introduction

The Republic of Croatia belongs to the circle of countries founded after the dissolution of the Socialist Federative Republic of Yugoslavia. Along with establishing a new social, political and economic system, Croatia was waging a defensive war. On the 8th October 1991, due to constantly increasing war of aggression waged by the rebel Serb and the former Yugoslav National Army, as well as due to the violation of the international laws of war, the Parliament of the Republic of Croatia adopted the Resolution to break all the state-forming bonds based on which it used to form SFRY with other republics and provinces. Not long afterwards, i.e. on the 16th December 1991, the Council of the European Union published a paper titled „The Directives for the recognition of new states in Eastern Europe and the Soviet Union“ that set criteria regarding respect for human rights, non-changing borders and peaceful policy and the conditions for the recognition of new states. Based upon these criteria the

Republic of Croatia was internationally recognized on the 15th January 1992. During the Homeland War as well as after the cease of war activities a certain part of Croatian territory was found not to be within the jurisdiction of Croatian authorities. In the occupied parts of Croatia the rebel Serbs who were politically and logistically supported by the Yugoslav Army, founded a quasistate formation known as the Republic of Srpska Krajina.¹

The founding of autonomous provinces, as so called “Republic of Srpska Krajina”, were illegally formed by the rebel Serbs according to the legal regulations of Socialist Republic Croatia (SRC) and Socialist Federative Republic of Yugoslavia (SFRY) The same qualification of this act can be found within the international law and therefore the so called Republic of Srpska Krajina never got a status of an international legal subject. Furthermore the provisional law of rebel Serbs which was used as a background for the founding of Serbian autonomous provinces and Republic of Srpska Krajina in Croatia was illegal. This process started back then during the existence of Socialist Federative Republic of Yugoslavia and Socialist Republic of Croatia, although according to the law regulation and national and republic constitutions existing then, it could not be justified, nor this very process could become legal according to Republic Croatia’s so called “Christmas Constitution “ in Dec 1990. As it was clearly put down in the constitution of SFRY, the republic territory could not be changed without the republic’s consent, the republic borders cannot be changed without the international consent. It was further known that SFRY according to its Constitution was defined as a united state, consisting of willingly joined nations, socialist republics and autonomous provinces, meaning that there could not be any other form of autonomy within its borders, like Serbian autonomous province or Republic of Srpska Krajina. We should mention that the national constitution of SFRY and the constitution of Republic of Croatia within its regulation granted the possibility of self-determination and the right to separate, since the constitution of Republic of Croatia defines Socialist republic of Croatia as a national state of Croats, a state of Serbs in Croatia and a state of other nationalities living in Croatia. It is obvious that the national and republic law regulation tolerated the possibility of the republics to separate, but not of some separatist groups like rebel Serbs on the occupied territories of Croatia.² This constitutional right was recognized by the international community as it was clearly stated at the Peace Conference of Yugoslavia (Arbitration Commission), opinion no. 3, dated 11 January 1992

¹ Compare: Brekalo, M.: *Suverenitet Republike Hrvatske 1990-1998.*, SVJETLA GRADA, Osijek, 2009., p. 129-165, 197-215, 219-225, 251-333.

² Compare: Babac, B.: *Upravno pravo – Odabrana poglavlja iz teorije i praxisa*, Pravni fakultet Sveučilišta J. J. Strossmayer u Osijeku, Osijek, 2004., p. 172-181, 432-435; Babić, M.: *Kako ishod upravnog prijepora o konvalidaciji može biti prethodnim pitanjem za odlučivanje prijepora parbenoa*, Pravni vjesnik, br. 3-4, Osijek, 2003., p. 123-150.

(on international borders of new states).³ On the other side, the illegitimate actions of rebel Serbs on the territory of Republic of Croatia can be clearly seen through the role which Slobodan Milošević played, since he was “*spritus movens*” of all the Serbian actions. Therefore he was according to the Regulation of the International criminal law, individually responsible for the war crimes described in the indictment of the International Tribunal on ex.-Yugoslavia. As it is known Milošević was prosecuted for crimes against humanity by the International Tribunal on ex-Yugoslavia, for the severe violations of Genève conventions and violations of war conduct. It is well documented in the indictment that he participated in the joined criminal actions that are punishable according to the Regulation of the International criminal law. The purpose of Milošević’s masterminded criminal actions was to forcefully displace most of the Croats and non-Serbs from the third of Croatian territory, which he planned to put under Serbian authority. The public prosecutor of the International War Tribunal on ex-Yugoslavia explicitly accused Milošević and his associates for trying to amputate one part of the territory of Republic of Croatia and for trying to found a quasigovernmental state Republic of Srpska Krajina and most of them were indicted by the same tribunal. It is obvious that Republic Srpska Krajina was not only illegal according to Croatian positive law, but also the international law was of the same opinion.

The above mentioned describes quasigovernmental Republic of Srpska Krajina as: non constitutional entity created on the territory of republic of Croatia with no democratic legitimacy with no legal continuity of any state, responsible for ethnic cleansing of all non Serb population on the occupied territories of Croatia and creation of ethnic cleansed Serbian state consisting of every Serb living on the territory of Republic of Croatia who was according to the records the citizen of SFRY and automatically a citizen of this quasigovernmental state, the direct financing of the semi declared government on the occupied territories of Republic of Croatia by the Republic of Serbia, the permanent goods supply, military help together with trained soldiers and paramilitary groups, so called “volunteers” coming from Serbia and Montenegro. This quasigovernmental entity was never recognized, neither *de facto* nor *de iure* by any state and it did not have a status of an independent state as the international law prescribes it, meaning it was never in the international law terms a legal subject. Besides the mentioned, we must add that the concept of the status of Republic of Srpska Krajina constantly changed, as it was the case with the previous autonomous provinces. The very first option was to join the self proclaimed autonomous territories to the Republic of Serbia, the second was to proclaim these entities the federative states of remaining SFRY, consisting of Serbia and Montenegro,

³ Compare: Degan, V. Đ.: *Hrvatska država u međunarodnoj zajednici*, Nakladni zavod Globus, Zagreb, 2002. p. 334-379.

the third option was an integral concept of creating a Serbian united states and the fourth to create a new federation of all Serbian states. All these options and ideas of so called “Serbian nation-builders” are well presented in the legal documents written by self proclaimed governments on the occupied territories of Republic of Croatia.

If we accurately analyze all the legal regulations of these entities regarding the fiscal and monetary politics of Republic of Srpska Krajina, we could easily see that most of the legal acts were taken from the positive law regulations of Republic of Serbia or SFRY what proves together with all other information about the war, that the occupation of the territory of Republic of Croatia was planned and masterminded by Milošević’s military regime.⁴

The occupying forces abolished the fiscal system of Republic of Croatia on the occupied territories and introduced fake fiscal system in order to enforce different payments. It must be pointed out that this quasigovernment of Srpska Krajina did not enforce accurately the payments, so that the smuggling of the different goods was widely spread, enabling some individuals to get enormously rich and enjoy their wealth now living in Republic of Serbia, Montenegro and Republic of Srpska Krajina. This quasigovernment introduced its quasi monetary system which was a normative compilation of monetary system of SFRY, therefore in some period, the National bank of Yugoslavia and Service of public account created the payroll accounting system on the territory of Republic of Srpska Krajina. All money transfer was done over the accounts of Service of public account in Vojvodina, in the towns of Sombor or Apatin and etc. We can only conclude based on this information that a lot of transferred money ended in the state budget of SFRY.

Due to the occupation, some territories of Republic of Croatia did not have their production or infrastructure developed, all social activities stopped, having a complete social situation distorted as a consequence. Nevertheless, the Republic of Croatia not controlling all its territory, experienced low economical growth, lower national income, as well as ill functioning of fiscal capacity of the national budget and small budgets of local communities. It was obvious that not

⁴ Compare: Matić, B.: Neke specifičnosti uspostave hrvatskog monetarnog suvereniteta u segmentu gotovinskog novca, Numizmatičke vijesti, br. 1, Zagreb, 2006. Brekalo, M.: O strukturi i ostalim značajkama javnih prihoda ubranih na nekada zavojevanim područjima Republike Hrvatske, osvrt na ustroj zavojevačkih vlasti, Pravni vjesnik, br. 1-2, Osijek, 2006., p. 89-101.; Brekalo, M.: O nepropitljivosti monetarnog suvereniteta Republike Hrvatske nad nekada zavojevanim područjima (1991.-1997.), Pravni vjesnik, br. 1-2, Osijek, 2006., p. 215-239; Babić, N. – Geiger, V.: Prilog poznavanju monetarnog sustava Republike Srpske Krajine, 1992.-1995., Numizmatičke vijesti, br. 58, Zagreb, 2005., p. 58-73.; Pukanić, S. – Krasnov, Gj.: Pobunjeni Srbi u Republici Hrvatskoj osnovali Krajinu i izdali svoje novčanice, Numizmatičke vijesti, br. 51, Zagreb, 1998., p. 47-61.

having money transferred from the occupied territories, the Republic of Croatia witnessed lower quality and quantity of meeting its public needs. Once when these territories were liberated, Croatia had to regulate legally the problem of these territories by proclaiming them “territories under special state care” and having as its goals to rebuild them after the war, to see displaced people and refugees returning back, stimulation of demographic and economical growth and helping these territories to reach the same level of the development as the other parts. As well as in the case of fiscal sovereignty due to the occupation of some territories, the Croatian government did not have a unique monetary sovereignty. First few years after becoming independent, Croatia experienced significant inflationary changes since the National bank of Croatia could not regulate the quantity of the money which circulated in the standard means of the monetary-credit politics. On the other hand, there was no money market on the occupied territories, no money transactions and accurate inventory of money transfers, meaning the on these territories all money transactions did not have a strong institutional structure and formal organization, as we had in the other parts of Croatia. Therefore, a lot of people failed to have any savings and investing capacity, what affected the demand for the goods and the products on the Croatian market.

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