

Legality of the realization of the right to self-determination of nations in the form of unilateral secession

Abstract

This rigorous thesis deals with issues of statehood, nations, the right of nations to self-determination and its realization in the form of a unilateral secession. The key issue is the mutual relationship between the right to self-determination of nations and the right to territorial integrity of the state. This thesis deals with two main research questions, whether the unilateral secession can be described as a legal possibility of the state. Furthermore, which principle has more relevant in contemporary public international law in the assessment of unilateral secession: the principle of self-determination of nations or of the whole of the state. In the first chapter, first attention is devoted to the concepts of state and nation, and two fundamental principles of international law, namely the principle of self-determination of nations and the principle of territorial integrity of state territory, are analyzed. The second chapter introduces the most important theoretical approaches to secession theme, such as J. R. Wood, M. Hechter, D. L. Horowitz and especially A. Buchanan's Remedial theory. Further attention is paid in this chapter to the current adaptation of secession in public international law and possible changes to international law in the field of secession, including the analysis of the role of the International Court of Justice in dealing with secession issues. In the third chapter, the lessons learned are applied to examples of Bangladesh, the breakup of Yugoslavia, Kosovo, South Ossetia and Abkhazia. In all the cases investigated, the thesis deals first with the historical context of the case, then with the process of the secession itself, and finally the work deals with the outcome of this process. In the case of Kosovo, attention is also drawn to the related key decision of the International Court of Justice. At the end of this chapter, all cases examined are compared. The fourth chapter discusses the relationship between the principle of the right to self-determination and the territorial integrity of states. The relevant case law of the International Court of Justice, as well as the issue of nations as addressees of the right to self-determination of nations, are discussed in more detail. The conclusion will be based on lessons learned answering the research questions.

Key words: secession, nation, self-determination