



PERMANENT MISSION OF SLOVENIA TO THE UNITED NATIONS

No: N 848/21

The Permanent Mission of the Republic of Slovenia to the United Nations presents its compliments to the Office of Legal Affairs of the United Nations and has the honour to submit the views and comments of the Republic of Slovenia on the report of the International Law Commission from 2021. The International Law Commission requested the views of governments on the various aspects of the topics on the agenda of the International Law Commission, in particular on all the issues identified in chapter III of its report. The Permanent Mission of the Republic of Slovenia to the United Nations has the honour to submit its views on the topic addressed by ILC in Chapter III, point "A" regarding "Succession of States in respect of State responsibility".

Succession of States in respect of State responsibility

The laws of state responsibility are the principles governing when and how a state is held responsible for a breach of an international obligation.

**Office of Legal Affairs
of the United Nations**

New York

Article 2 of Annex F to the Agreement on the Succession Issues¹ provides that "all claims against the SFRY which are not otherwise covered by this Agreement shall be considered by the Standing Joint Committee established under Article 4 of this Agreement. The successor States shall inform one another of all such claims against the SFRY."

In praxis, the Standing Joint Committee has not considered any such case of claims against the former SFRY yet. In our view, such claims could arise out of unlawful acts of different government bodies and other branches of power of SFRY.

We would like to draw the attention of ILC to the court proceedings in the case of Glas-Metall Trust Reg. against Slovenia². The case was examined by the European Court of Human Rights. It issued its decision in 2018.

The applicant company instituted civil proceedings against the Socialist Federal Republic of Yugoslavia (the SFRY) concerning damages arising from an alleged unlawful seizure of goods by the Federal Customs Inspectorate. Two months before the independence of Slovenia (in April 1991), the Slovenian court (Koper Basic Court) allowed the applicant company's claim for compensation in part and ordered the defendant, the SFRY, to pay a compensation for the pecuniary damage and loss of profit incurred by the applicant company. In February 1992, the Koper Higher Court upheld the Koper Basic Court's judgment in part. It allowed the applicant company's claim for the amount of CHF 776,661. This part of the claim thus became final and enforceable.

In October 2001, the applicant company lodged an enforcement request of its claim against the then Federal Republic of Yugoslavia (a federation then established between Serbia and Montenegro -"the FRY") and Slovenia.

In November 2002, the Ljubljana Local Court refused the applicant company's enforcement request as inadmissible on the ground that it had failed to provide a valid document permitting enforcement. The applicant company appealed against the decision.

In February 2003, the Ljubljana Higher Court allowed the applicant company's appeal, stating that the first-instance judgment was final and enforceable for the amount of the claim that the applicant company was seeking to enforce. It further noted that the claim was being enforced against the FRY and Slovenia, entities which had not been indicated as debtors in the judgment.

In February 2007, the applicant company withdrew the enforcement request in so far as it was lodged against the FRY. Finally, in May 2008 the Local Court terminated the proceedings with regard to the FRY and refused the enforcement request against Slovenia. The Local Court was of the view that the question of the transfer of the applicant company's claim to the successor

¹ The agreement is deposited with the Secretary-General of the UN and could be accessed at https://treaties.un.org/doc/Treaties/2001/06/20010629%2001-33%20PM/Ch_XXIX_01p.pdf

² Application no. [47523/10](#)

states of the SFRY had not yet been resolved and that the applicant company had not proved that liability for payment of its claim had been transferred to Slovenia.

The case was brought before the European Court of Human Rights in 2010. In its decision of July 2018 the Court noted that the applicant company was trying to enforce a final judgment issued against the SFRY. The enforcement request was directed against Slovenia and during the enforcement proceedings an issue arose as to Slovenia's liability for the SFRY's debt in question. The applicant company's enforcement request was ultimately rejected for its failure to show that the debt had been transferred to Slovenia. The court was of the view that applicant company should have instituted contentious proceedings in order to obtain a court decision resolving the issue of the transfer of the debt from the SFRY to Slovenia. Since it failed to obtain a court decision confirming the transfer of the debt from the SFRY to Slovenia, the complaint was rejected on the ground of non-exhaustion of domestic remedies.

The Permanent Mission of the Republic of Slovenia to the United Nations avails itself of this opportunity to renew to the Office of Legal Affairs of the United Nations the assurances of its highest consideration.



New York, 22 December 2021