



American Model United Nations
International Court of Justice

IN THE INTERNATIONAL COURT OF JUSTICE

REQUEST FOR ADVISORY OPINION

ACCORDANCE WITH THE INTERNATIONAL LAW OF THE UNILATERAL
DECLARATION OF INDEPENDENCE BY THE PROVISIONAL INSTITUTIONS OF
SELF-GOVERNMENT OF KOSOVO

MEMORIAL OF THE REPUBLIC OF SERBIA

COMES NOW the Republic of Serbia and for their memorial to the Court states the following:

STATEMENT OF FACT:

On March 23rd, 1989, The Assembly of Kosovo approved changes to the Serbian, and therefore Yugoslav, constitutions, in which the province of Kosovo is again called Kosovo and Metohija, and its autonomy is defined as “a form of territorial autonomy,” regulated by the Serbian constitution. Following this change, Kosovo lost its status as an equal member state of Yugoslavia, as it had been since 1974, and became an autonomous territory within Serbia, such as was the case from 1945 to 1974.

This change was reaffirmed following the breakup of the Socialist Federal Republic of Yugoslavia. The new Republic of Yugoslavia created in its constitution a union between Serbia and Montenegro, without so much as referencing Kosovo a single time in the whole document. The constitutional charter developed and signed by the State Union of Serbia and Montenegro in 2002 specifically mentioned Kosovo, saying that it was to be a part of Serbia. This territorial actuality was reiterated in the Republic of Serbia’s constitution of 2006. In fact, in the 2006 national referendum, 97% of voters, and 53% of the electorate as a whole (which includes Kosovo), affirmed this constitution, in which Kosovo was to continue to be a state within Serbia. Finally, perambulatory clause 7 of UN Resolution 1244 affirms that although Kosovo should enjoy substantial autonomy, this self-government should occur *within* the Republic of Serbia.

Therefore, according to all legally binding texts of the last three decades, Kosovo’s claim of independence lacks all historical support and is accordingly illegal.

STATEMENT OF JURISDICTION:

1. The application for an advisory opinion on the Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo is brought by advisory proceedings that are filed by written request for an opinion.
2. A request for an advisory opinion was submitted to the Registrar of the United-Nations Secretary-General.
3. The Court’s decision is neither binding nor stipulated to be binding.

STATEMENT OF LAW:

1. The Republic of Yugoslavia became the State Union of Serbia and Montenegro after a constitutional charter was adopted in 2002. This charter states in the preamble that Serbia “includes the Autonomous Province of Kosovo and Metohija.”
2. In 2006, the State Union of Serbia and Montenegro became the Republic of Serbia, reaffirming in its new constitution that “the Province of Kosovo and Metohija is an integral part of the territory of Serbia [and] that it has the status of a substantial autonomy within the sovereign state of Serbia.”
3. UN Resolution 1244 “Authorizes the Secretary-General, with the assistance of relevant international organizations, to establish an international civil presence in Kosovo in order to provide an interim administration for Kosovo under which the people of Kosovo can enjoy substantial autonomy *within* the Federal Republic of Yugoslavia.”

ARGUMENTS:

1. Kosovo’s unilateral declaration of independence directly violates agreed international laws due to ignorance of the principle of territorial integrity as agreed upon in the Vienna Convention of 1969.
2. The Republic of Serbia contends that Kosovo’s secession violates the international laws involving territorial integrity as guaranteed by Resolution 1244.
3. The Republic of Serbia declares that Kosovo’s secession was primarily motivated by ethnic differences and, therefore, violates the power of the UN administration by disabling the interim administration (UNMIK) upheld in Security Council Resolution 1244.
4. The Republic of Serbia reminds the Court that Kosovo’s human rights violations further discredit secession as the genocidal actions taking against Serbian and non-Albanian populations must be reprimanded rather than awarded with a UN pronouncement of independence.
5. The Republic of Serbia ultimately asserts that the UN establishment and support of an independent Kosovo would set a precedent of automatically beginning the path to secession with the intervention of UN peacekeeping forces.

SUMMARY AND REQUEST

Recalling Kosovo’s unilateral declaration of independence as a violation of several international laws, including the Vienna Convention of 1969 and UN Resolution 1244, the Republic of Serbia implores the court to intervene to declare Kosovo in violation of international law in its attempt to secede. The Republic of Serbia hopes the court will enforce the terms agreed in the Vienna Convention and Resolution 1244 to find the unilateral secession of Kosovo in violation of international law. The Republic of Kosovo further prays for the court to take all necessary and proper steps to protect the territorial integrity of Serbia, denounce Kosovo infractions against Serbian and non-Albanian populations and prevent the precedent of secession from UN peacekeeping intervention.