

IN THE INTERNATIONAL COURT OF JUSTICE

ADVISORY OPINION: ACCORDANCE WITH INTERNATIONAL LAW OF THE UNILATERAL DECLARATION OF INDEPENDENCE IN RESPECT OF KOSOVO

MEMORIAL OF THE ISLAMIC REPUBLIC OF IRAN

COMES NOW the Islamic Republic of Iran and for their memorial to the court states the following:

STATEMENT OF LAW:

1. According to Opinion No. 2 of the Badinter Commission, finalized on the 11th of January 1992, ethnic minorities within sovereign states are afforded “all the human rights and fundamental freedoms recognized by International Law, including, where appropriate, the right to choose their nationality.” However, the Badinter Commission, in the same opinion, denied the right to self-determination of ethnic Serbs living within Bosnia and Herzegovina.
2. Security Council Resolution 1244 provides a framework for self-government for Kosovo, while simultaneously recognizing the principle sovereignty and territorial integrity of Serbia.
3. On the 9th of January 1970, former Secretary General of the United Nations U Thant stated that, “as an international organization the U.N. has never accepted and does not believe that it will ever accept the principle of secession of a part of its member states.” An excerpt from the United Nations Agenda for Peace also states that “if every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation, and peace, security and economic well-being for all would become ever more difficult to achieve.” The Islamic Republic of Iran believes that any attempt to secede from a member state is in direct violation of Article 2.4 of the UN Charter.

STATEMENT OF FACT:

The dissolution of the Socialist Federal Republic of Yugoslavia occurred on the 27th of April 1992. However, ethnic Albanians living in the autonomous region of Kosovo had been agitating for independence beginning in 1981. Tensions escalated in 1989 when Albanian miners living in Kosovo decided to strike, a move which prompted Slobodan Milošević, president of Serbia, to greatly reduce their special autonomous status. The Albanian majority responded with non-violent forms of protest, establishing an illegal quasi-independent government that encompassed taxation and educational systems free of Serbian control. The result of these protests was a declaration of existence for the so-called Republic of Kosova in 1990, and ultimately a declaration of a sovereign and independent state in 1992. Earlier in that year, Ibrahim Rugova, who campaigned on a platform of nonviolent protest to Serb rule, was elected president of Kosovo in an election that was protested by Kosovar Serbs, resulting in their refusal to participate in the election.

The Dayton Agreement, which was signed in 1995 and ended the war in Bosnia, contained nothing relating to Kosovo's status as a sovereign state. As a result, the Kosovo

Liberation Army (KLA), an aggressive paramilitary organization made up of Albanian Kosovars, was formed with the intent to separate from Serbia and formed a Greater Albanian State. The KLA did not share president Rugova's hopes of nonviolent protest, and instead opted to attack Yugoslav police and military installations, which resulted in the Kosovo War. The war ended in 1999 when the UN Security Council passed Resolution 1244, which authorized NATO peacekeeping forces to be based in Kosovo. The Resolution also guaranteed Kosovar autonomy within the Republic of Serbia, while simultaneously respecting the territorial integrity of Serbia over Kosovo. Despite this, Kosovo still agitates for international recognition as an independent state.

As of today, only 110 United Nations member states recognize Kosovo's independence on the international level.

STATEMENT OF JURISDICTION:

1. The application is brought under Article 36, Paragraph 1 of the Statue of the court: "The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specifically provided for in the Charter of the United Nations or in treaties and conventions in force."
2. The principal legal body of the United Nations has the duty to guarantee the integrity of the United Nations Charter, Article 2 paragraph 4 of which takes into consideration that the principle is the main purpose of the UN Charter.
3. The court needs to take in consideration Article 96 of the United Nations. The issues that are being brought up must be considered legal and can be brought up by either the General Assembly, or Security Council if it relates to their activities.

ARGUMENTS

1. The ruling of the court on the 11th of January 1992 the Commissions ruled the Serbs a minority, and they did not have the right to claim independence for the Republika Srpska. So, fast-forward to now, the independence of Kosovo should be treated no different in terms of deciding. The Albanians residing in Serbia, are the minority, and do not hold the right to any proclamations they want.
2. The court should bear in mind that the principle of territorial integrity should always be respected. It has been respected in all other accounts, and there should be no exception during this case. The Albanians have a right to self-determine internally, but not externally. Just because they have a right to determination, does not mean they have a right to secede. There is no correlation present.

SUMMARY AND REQUESTS

Reiterating the fact that Kosovo's Declaration of Independence from the Republic of Serbia violates Article 2 Section 4 of the Charter of the United Nations, it is the hope of the Islamic Republic of Iran that the court finds the declaration null and void. Furthermore, Iran requests that the Court ensures Kosovo ceases any and all attempts to be recognized as an

independent state, and that Kosovo returns to the operating boundaries as outlined in Security Council Resolution 1244.