

## **IN THE INTERNATIONAL COURT OF JUSTICE**

### **ACCORDANCE WITH THE INTERNATIONAL LAW OF THE UNILATERAL DECLARATION OF INDEPENDENCE BY THE PROVISIONAL INSTITUTIONS OF SELF-GOVERNMENT OF KOSOVO (REQUEST FOR ADVISORY OPINION)**

#### **MEMORIAL OF THE REPUBLIC OF KOSOVO**

COMES NOW the Republic of Kosovo and their Memorial to the Court states the following:

#### **STATEMENT OF LAW:**

1. Under the United Nations Charter, Chapter 1, Article 1, part 2, states that the goal the Charter is: “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.”
2. Operative Clause 18 in United Nations Security Council Resolution 1244 states: “Demands that all States in the region cooperate fully in the implementation of all aspects of this resolution.” Operative Clause 11, subclause (e) also states: “Decides that the main responsibilities of the international civil presence include: Facilitating a political process designed to determine the Republic of Kosovo’s future status, taking into account the Rambouillet accords (S/1999/648).”

#### **STATEMENT OF FACT:**

In 1945, The Republic of Kosovo first took shape as the Autonomous Province of Kosovo and Metohija within Socialist Yugoslavia, as an autonomous region within the People’s Republic of Serbia. In 1968, Kosovo then became the Socialist Autonomous Province of Kosovo. A new constitution, in 1974, gave the Socialist Autonomous Province of Kosovo the administrative capacity to function on such administrative level within Yugoslavia. In the 1980s, Slobodan Milošević took office as the Serbian president. With his position, Milosevic wrote a new constitution which effectively took away the Socialist Autonomous Province of Kosovo’s administrative power they gained in 1974. This move sparked the Kosovo Assembly to declare Kosovo as an independent state on 2 July 1990.

From 1990 until 2007, the Republic of Kosovo remained fairly quiet while the United Nations began talks about the status and future goals of the Kosovar region. On the 8th of February, 2007, Martti Ahtisaari, United Nations special envoy to the Republic of Kosovo, began negotiating the Ahtisaari Plan between the Republic of Kosovo and the Republic of Serbia. This plan explicitly outlined the actions Kosovo could undertake including the creation of a constitution, a coat of arms, as well as the creation of a representative government within the borders of The Republic of Kosovo. These negotiations ultimately failed due to resistance from Serbia and the Russian Federation over the plan. On the 17th of February 2008, the Republic of

Kosovo declared independence from the Republic of Serbia in light of these negotiations with an emphasis on abiding by all provision stated in the Ahtisaari Plan.

The Republic of Kosovo has continued to adhere to all provisions within the Ahtisaari Plan thus far.

## **STATEMENT OF JURISDICTION**

1. The application is brought forth by the General Assembly resolution 63/3 under Article 65, paragraph 1 of the statute of the court: “The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.”
2. The sole sponsor of resolution 63/3 was the Republic of Serbia. Previously, the sole sponsor had tried to declare the Declaration of Independence of Kosovo invalid by the Security Council and has now moved to the court as the Security Council attempts failed.
3. The Court is the judicial organ of the United Nations Organization, not individual members. Therefore, this application submitted by Resolution 63/3 and sponsored by the Republic of Serbia is inherently legal advice for a Member State.
4. United Nations Security Council Resolution 1244, of which both parties involved are under binding jurisdiction, articulates that only the Security Council and Secretary General states: “Decides that the main responsibilities of the international civil presence will include: Promoting the establishment, pending a final settlement, of substantial autonomy and self-government in Kosovo.” This international civil presence is established by the United Nations Security Council, therefore the International Court of Justice does not have jurisdiction in giving an advisory opinion.

## **ARGUMENTS**

1. The Republic of Kosovo has their right to self-determination as per the United Nations Charter. Self-determination is defined as “international support of peoples living under foreign oppression to become free and independent.” The Republic of Serbia has oppressed the Albanian majority residing in Kosovo. Therefore, Kosovo should receive support from the international community as it is their right to determine themselves independent in such situations.
2. The Republic of Kosovo contends that the Republic of Serbia will continue to disregard all obligations to the United Nations Security Council Resolution 1244, which it is legally bound to, by refusing to negotiate the Ahtisaari Plan. The Republic of Kosovo does not see any future advancements over negotiations due to previous statements made by the Republic of Serbia.

## **SUMMARY AND REQUESTS**

Affirming the fact that the Republic of Serbia has disregarded its obligations under United Nations Security Council Resolution 1244, the Republic of Kosovo urges the court to offer an advisory opinion in favor of the Republic of Kosovo's innate right of Independence as described by the United Nations Charter under the right of self-determination. The Republic of Kosovo also requests the court to bear in mind that the Republic of Serbia has not adhered to both the United Nations Security Council Resolution 1244 and the Ahtisaari Plan in full. These violations show a disregard to international law, as well as the self-determination of the peoples of Kosovo.