



Research Article

SOME FEATURES OF SUCCESSION PROBLEMS IN THE COMMONWEALTH OF INDEPENDENT STATES

Submission Date: December 05, 2022, **Accepted Date:** December 10, 2022,

Published Date: December 16, 2022

Crossref doi: <https://doi.org/10.37547/social-fsshj-02-12-06>

Journal Website:
<https://frontlinejournal.s.org/journals/index.php/fsshj>

Copyright: Original content from this work may be used under the terms of the creative commons attributes 4.0 licence.

Ravshan T. Khakimov

Candidate Of Legal Sciences, Chairman Of The Uzbek Association Of International Law, Uzbekistan

ABSTRACT

Author gives the analysis according to the peculiarity of the formation of new independent states in the space of the former USSR lies in the fact that they simultaneously go through a complex and specific process of transition to market relations and declare themselves in the international arena. The article explains that within the framework of the CIS, multilateral agreements were concluded on the issues of succession of states in relation to international treaties, state property, archives, debts, membership in international organizations, ratification of a number of international treaties relating to security.

KEYWORDS

Succession problems, succession of states, legal status, scientific works, independent state, memorandums, protocols, notification, domestic debt, external debt, foreign creditors, nuclear, affirmation, property, third state, ratification, territories, obligations, tactical benefits, in Central Asia, positions of representatives, constructive cooperation, regional and international security.

INTRODUCTION

At the initial stage of their formation, the CIS member states faced difficult tasks to ensure full-scale entry into the international arena, diplomatic recognition and involvement in the world economic system.

In addition to the above tasks, it was necessary to solve very specific problems of the succession of states, which on a number of issues occurred for the first time, including in world practice.

Some experts, for example, H. Hamant, in a study in relation to Russia and other CIS states, writes that: “...not a single legal study has been published specifically devoted to a deep consideration of the legal status of the process of the collapse of the former USSR and an analysis of the problems of succession by its successor states” [1].

To agree with this point of view, due to the fact that the author did not sufficiently research scientific works in the field of state succession in the spaces of the former USSR, and they certainly took place in dissertation research, for example: A.B. Aksyonova, R.S. Alimkulova, T.N. Mikhaleva,

S.B. Balkhaeva, E.S. Sargsyan and others [2], as well as in the monographic works of A.M. Zalinyan, P.P. Kremnev, G.Ya. Bakirova and others. [3].

THE MAIN FINDINGS AND RESULTS

For the practice of Uzbekistan, the problems of state succession seem to be an absolutely new and relevant phenomenon. In domestic science, studies of the problems of succession of states are not given, but general characteristics are given in textbooks on international law.

Returning to the problem of succession, in the case of the collapse of the USSR, it should be said that the situation was complicated by the political and economic situation, which, according to experts, is explained by a number of reasons.

So, V.V. Tsybukov notes:

1. Unprecedented scale of territorial changes. In modern history, there has never been a case of such a huge state disintegrating into so many new

states, and so different in terms of development level, geopolitical position, etc.

2. For the first time in history, a state with such a socio-economic system and legal system that was in the Soviet Union collapsed. A strictly centralized economy, controlled by command-administrative methods, the undivided dominance of the state sector in it - all this, in a new way, posed the problem of succession, giving it sometimes hitherto unknown aspects.

3. The state, which possessed a completely unique property - nuclear weapons, collapsed. [4].

Here it is necessary to pay attention to the specifics of the formation of new independent states, on the territory of the former USSR, which occurred as a result of the collapse of the largest state in the world, which in itself seems to be a complex and unique legal phenomenon.

Another feature of the formation of new independent states in the space of the former USSR is that they are simultaneously undergoing a complex and specific process of transition to market relations and making themselves known in the international arena.

The "complex nature" of the problems of the succession of the former USSR, according to I.P. Blishchenko, should be resolved on the "basis and within the framework of modern international law as a certain achievement of our civilization in the interests of peace, mutual understanding and development of peoples" [5].

To this end, within the framework of the CIS, multilateral agreements were concluded on the issues of succession of states in relation to international treaties, state property, archives, debts, membership in international organizations, ratification of a number of international treaties related to security and nuclear weapons, etc.

that more than 600 multilateral and about 15 thousand bilateral treaties were considered , which included:

1. Multilateral treaties of common interest, with each successor state of the former USSR independently deciding whether to participate in them in accordance with the norms and principles of international law.



2 Bilateral treaties, where each successor state of the former USSR, based on the principle of applicability, made an independent decision.

3. Bilateral treaties with 13 border countries related to borders and their regimes, where the newly independent states the former USSR required their confirmation.

The problems of the succession of state property were considered within the framework of the CIS on the basis of the Agreement "On Mutual Recognition of Rights and Regulation of Property Relations" dated October 9, 1992, where the parties undertook mutual recognition of the transfer of property into their ownership, including financial resources, enterprises, institutions, organizations, their structural units and subdivisions, former union subordination located on the territories of the parties.

The parties to the Agreement also provided for some exceptions, for example, each state retained the right to own property on the territory of other states: obligations were taken on enterprises, institutions, etc., which, as of December 1, 1990, were under the jurisdiction of government bodies of a certain republic. Mutually recognized are social facilities located on their territory, the

construction of which was carried out at the expense of the republican budgets of other parties, as well as the funds of enterprises located on the territories of these parties, which are the property of these parties. [6].

Regarding the problems of succession in relation to the property of the former USSR abroad, the issue was resolved on the basis of the Agreement of the CIS heads of state "On the property of the former USSR abroad" dated December 30, 1991, the features of which include the following[7]:

- a) the CIS member states were the legal successors of the state property of the former USSR abroad;
- b) the property was subject to division and passed to the parties in accordance with the scale of fixed shares in the assets of the former USSR on the basis of a single aggregate indicator;
- c) the parties proceeded from the interdependence existing between the obligation to participate in the repayment and bear the costs of servicing the public external debt of the USSR in the shares established in the above scale and the possibility of exercising the property right of



each of the Parties to the share due to it of all the property of the former USSR abroad;

d) the share of each party in the property of the former USSR abroad is expressed as a percentage of the total volume of all this property in each specific country.

In the end, the parties agreed that all debts, obligations and rights to the property of the former USSR pass to Russia, and other republics enter the international arena based on the principle of tabula rasa. However, subsequently, the above problems have repeatedly been the subject of political controversy on the part of Ukraine and Georgia.

The main regulatory documents regulating the problems debts of the CIS member states, were various treaties, agreements [1], memorandums [2], protocols [3] and other legal documents.

Considering the problems of the succession of public debt, they can be conditionally classified into:

domestic debt, which was a problem for every successor state of the former USSR;

external debt - here Russia assumed obligations to pay the debts of the former Soviet Union and, accordingly, assumed the right to recover debts from debtor countries.

In this regard, Uzbekistan, like other CIS member states, concluded with the Government of the Russian Federation the Agreement "On the settlement of debt obligations and credit claims and registration of public debt" dated November 2, 1992 and "On the settlement of issues of succession in relation to external public debt and assets former USSR" of November 2, 1992.

Problems of succession in relation to state archives are considered on the basis of the Agreement "On succession in relation to state archives of the former USSR" dated July 6, 1992 [4], although Article 2 of the document leaves the opportunity to consider specific issues on a bilateral basis, while Uzbekistan and other participants have reason for further consideration of the problem.

Recently, special attention of specialists deserves the issue of succession by states of membership in international organizations, and it takes place in practice. So, at one time, the Sixth (Legal) Committee of the UN General Assembly



considered the issue of new states and their membership in the organization and decided:

1. In accordance with legal principles, it is assumed that a state that is a member of the UN does not cease to be a member, only because of changes in its constitution or borders, and that the disappearance of a state as a legal phenomenon recognized internationally must be presented before how its rights and obligations can be considered for cessation.

2. When a new state is formed, depending on its population and territory, and regardless of whether the previous parts of this state formed part of a UN member state, under the Charter it cannot claim the status of a member of the UN, unless this was formally recognized in accordance with the terms of the statute.

3. In addition, each individual case must be considered according to its circumstances. [12].

It should be noted that the decision on the issue of succession of states in each international organization is taken independently, based on the specific situation. Thus, in the event of the division of British India in 1947, India was considered by the UN General Assembly as a

continuation of the previous state formation, and Pakistan as a new state that had to apply for membership in the organization. In 1958, after the unification of Syria and Egypt into the United Arab Republic, the latter became the legal successor of UN membership, and with the subsequent separation in 1961, the countries resumed their membership in the UN, as the right of successors to the UN membership of the predecessor state. In 1960, as a result of the division of the federation of Mali into Senegal and the Republic of Mali (former French Sudan), they were admitted to the UN as new members. In 1971, Bangladesh seceded from Pakistan, and in this situation, the first of them became a member of the UN as the successor of the membership of the predecessor state, and Bangladesh was admitted to the UN as a new member. [13].

When the USSR was divided in 1991, the Russian Federation, as an independent state, became the legal successor of the USSR membership in the UN and the corresponding rights and obligations under its Charter, and other states formed on this territory, except for Belarus and Ukraine, were admitted to the UN as new its members. [14].



Political events developed according to their own scenario as a result of the collapse of the Socialist Federal Republic of Yugoslavia (hereinafter referred to as the SFRY) in 1991. Thus, Slovenia (June 25, 1991), Macedonia (September 17, 1991), Croatia (October 8, 1991), Bosnia and Herzegovina (March 6) declared their independence, and in relation to the rest of the territory of the SFRY, 27 April 1992 was adopted by the constitutional act on the formation of the Federal Republic of Yugoslavia (hereinafter - FRY). The former republics that were part of the SFRY, after leaving it, recognized themselves as successor states and went through the corresponding procedure for admission to the UN. The FRY, on the other hand, adhered to the position of "automatic continuation of membership in the UN", but subsequently, following the appropriate procedure, by decision of the UN General Assembly, it was accepted as a new member on November 1, 2000.

In terms of the foregoing, we agree with P.P. Kremnev on the issue of the succession of membership in international organizations in relation to the category of secession of a part of the territory of a state, or division of a state, which boil down to the following:

1. The predecessor state (or one of the successor states) continues membership, the successor state (or several successor states) undergoes the admission procedure.
2. Both successor states join the organization as its new members.
3. Both the Predecessor State and the Successor State (or both Successor States) continue their membership without an acceptance procedure. [15].

Thus, decisions on the succession of a state of membership in an international organization are made on an individual basis. As a result, it actually takes place, not by virtue of the rules of general international law or the rules of international organizations, but as a result of the agreement on such succession in each specific case of the Member States. It should also be noted that there is no generally accepted practice in areas of state succession in international organizations.

For the first time in the history of international relations, a special area of succession was the problem of non-proliferation of nuclear weapons, which was one of the main issues on the agenda at the level of heads of state and government,

meetings of foreign ministers and other ministries and departments of the CIS member states.

Step by step, resolving this problem, the CIS member states signed the Agreement "On Joint Measures Regarding Nuclear Weapons" dated December 21, 1991, where they reaffirmed their commitment to the nonproliferation of nuclear weapons and their desire to eliminate all nuclear weapons, as well as their desire to contribute to strengthening international stability. [16].

In turn, Belarus, Kazakhstan and Ukraine, according to the Agreement, undertook to accede to the 1968 Nuclear Non-Proliferation Treaty and, as non-nuclear states, conclude an appropriate safeguards agreement with the IAEA. [17]. Other CIS member states also committed to accede to the Treaty on the Non-Proliferation of Nuclear Weapons as non-nuclear-weapon states, including acting as a depositary of the Treaty, and expressed support for the Russian Federation, which possesses nuclear weapons as a successor state of the USSR.

The problems associated with nuclear weapons were once enshrined in the Declaration "On the State Sovereignty of the Ukrainian SSR", which

proclaimed three non-nuclear principles: "...not to accept, not to produce or acquire nuclear weapons" (Section IX). The Declaration "On the State Sovereignty of the Byelorussian SSR" confirms "...to make its territory a nuclear-free zone" (Article 10), subsequently, nuclear weapons were finally withdrawn from the territory of these republics. [18].

The position of Uzbekistan regarding the complete elimination and indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons, expressing consent to active participation in the preparatory negotiations and the Conference on the extension of this Treaty has always been constructive. So, for example, the initiative of Uzbekistan to declare the Central Asian region a nuclear-free zone from the UN rostrum in 1993 had a great resonance. [19].

Further, in order to implement the initiative of Uzbekistan, regional leaders, in accordance with Article VII of the Treaty and paragraphs 5-7 of the Principles and Objectives of the Nonproliferation of Nuclear Weapons and Nuclear Disarmament, on February 28 1997 adopted the Alma-Ata Declaration on the need to create a zone free of nuclear weapons in Central Asia. [20].

The adopted Alma-Ata Declaration and the conclusions presented by the Central Asian states were the basis for consideration at the Main Session of the UN Disarmament Commissions (New York, April 21 - May 13. 1997). Active interaction of the states of the region with the UN, OSCE, OIC, IAEA and other international organizations served as a good basis for organizing and holding important international conferences: "On the problems of non-proliferation of nuclear weapons" (Almaty, 1997), "On a nuclear-weapon-free zone in Central Asia" (Tashkent, 1997), which resulted in 1997, the adoption of a special resolution of the UN General Assembly on the issue of a nuclear-free zone in Central Asia, the problem was also voiced in the work of the Millennium Summit. [21].

In 1997-2006, with the assistance of the IAEA, UN Center for Peace and Disarmament in Asia and the Asia-Pacific region, as well as the support of the permanent members of the UN Security Council, meetings were held at the level of expert groups, and in the final part on September 8, 2006 года the ministers of foreign affairs of the region signed the "Treaty on a nuclear-weapon-free zone in Central Asia" [22].

On December 6, 2006 года, когда the UN General Assembly adopted a resolution "On the establishment of a nuclear-weapon-free zone in Central Asia" as a significant event [23] which entered into force on March 21, 2009.

Specialists assess the creation of a nuclear-weapon-free zone in Central Asia differently, for example Zh.M. Amanzholov [24], A.B. Gulimov [25], A.A. Kamildzhanov [26], N. Kutnaeva [27], V.I. Sotnikov [28] note:

1. What, this is the first multilateral agreement in the military-political field and in the field of nuclear disarmament.
2. Existence of common borders with China and Russia possessing nuclear weapons, as well as with close associates - India, Pakistan and Iran, potentially possessing such an opportunity.
3. Basing at one time on the territory of Kazakhstan 108 missiles with 1400 warheads, deployment of 40 strategic bombers with 240 cruise nuclear missiles, construction of large facilities for testing nuclear devices and launching rocket and space technology - the Baikonur cosmodrome, as well as the Semipalatinsk nuclear test site, and a concentration of 148 silo



launchers -with 104 intercontinental ballistic missiles. [29].

four. For the first time in international legal practice, obligations were included to fully comply with the requirements of the Comprehensive Nuclear-Test-Ban Treaty of 1996, the IAEA Safeguards Agreement (INFCIRC/IT53 (Corr.) and "the IAEA Additional Protocol (INFCIRC/ 540 (Corr.)" 1997.

5. In accordance with Article 6 of the Treaty, each party undertakes "to contribute to any efforts for the ecological rehabilitation of territories affected by the so-called "national economic activity using nuclear explosions in the time of the USSR" [30], etc.

CONCLUSION

At the same time, a number of M. Rossini, notes some inconsistency of the Treaty with international legal obligations in accordance with the meaning of the 1969 Convention [31], G. Allison, is more convinced that "the benefits of creating a stable region free from nuclear threats largely outweigh the tactical benefits from the deployment of nuclear weapons in Central Asia" [32].

There are enough views and positions of representatives of states and researchers, we also see this as one of the features of succession in the former USSR. Given features of succession problems in The CIS seems to us to be largely an example of constructive cooperation in the current difficult political situation, the actions of which were aimed primarily at ensuring regional and international security.

REFERENCES

1. Hamant H. Demembrement de L'URSS and Problemes de succession d'etats. - Bruxelles, 2007, p. IX-XVIII.
2. Aksyonov A.B. On citizenship in connection with the succession of states: Abstract of the thesis dis. ... cand. jurid. Sciences. - Kazan: Kazan State University, 2005. - 26 p.; Alimkulov R.S. Theory and practice of state succession (on the example of the Republic of Kazakhstan). Abstract of the thesis dis. ... cand. jurid. Sciences. - Moscow: Peoples' Friendship University of Russia, 2009. - 21 p.; Mikhaleva T.N. Succession of States in matters of nationality: Abstract of the thesis dis. ... cand. jurid. Sciences. - Minsk: Belarusian State



- University, 2011. - 26 p.; Balkhaeva S.B. Entry into force of international treaties of the Russian Federation: Abstract of the thesis dis. ... cand. jurid. Sciences. - Moscow: Institute of Legislation and Comparative Law under the Government of the Russian Federation, 2013. - 32 p.; Sargsyan E.S. Some problems of the succession of states in relation to international legal responsibility: Abstract of the thesis dis. ... cand. jurid. Sciences. - Yerevan: Russian-Armenian (Slavonic) University, 2015. - 22 p.; and etc.
3. Zalinian A.M. State Succession: Problems and Ways to Solve Them. Monograph. - Yerevan: YSU, 2000. - 120 p.; Kremnev P.P. International legal problems associated with the collapse of the USSR. Monograph. - Moscow: RUDN University, 1997. - 352 p.; Bakirova G.Ya. Current aspects of the international legal personality and succession in international law. Monograph. - Kazan: University of Management "TISBO", 2014. - 224 p.; and etc.
 4. Tsybukov V.V. Problems of Succession in the Commonwealth of Independent States. - Moscow: MGIMO, 1994. - 61 p.
 5. Blishchenko I.P. International legal problems of the CIS states // Moscow Journal of International Law. - Moscow, 1997. - No.1. - p.13.
 6. Agreement "On Mutual Recognition of Rights and Regulation of Property Relations" dated 10.09.1992 (As amended by the Decision dated 12.24.1993) // [https:// docs. cntd. en](https://docs.cntd.en)
 7. Agreement "On the property of the former USSR abroad" dated December 31, 1991 // Diplomatic Bulletin. - Moscow, 1992. - No.2-3. - p. 14-15.
 8. Treaty "On Succession in Respect of the External Public Debt and Assets of the USSR" dated 04.12.1991; Agreement on Additions to the Agreement "On the Succession of External Public Debt and Assets of the Former USSR" dated March 13, 1992; and etc.
 9. Memorandum "On mutual understanding regarding debt to foreign creditors of the USSR and its successors" dated 28.10.1991; and etc.
 10. Protocol "On the methodology for determining the shares of sovereign states in the debts and assets of the USSR and the

- absolute values of debts" dated 04.12.1991; Protocol "On External Debt and Assets" dated March 13, 1992; and etc.
- 11.** Agreement "On succession in relation to the state archives of the former USSR" dated 07.06.1992 // Bulletin of international treaties of the Russian Federation. - Moscow, 1993. - No.8. - pp. 8-9.
- 12.** A/CN. 4/149. - p. 8, quoted in O'Connell, op. cit. Vol. I., p. 187.
- 13.** Summary of Judgments, Advisory Opinions and Orders of the International Court of Justice. 1948-1991. - New York: UN, 1993. Doc.ST/LEG/SER. f/1. - pp. 4-6, 11-12.
- 14.** Chernichenko S.V. Is Russia the successor or successor of the USSR? // International Law, 2001. - No.3. - p. 31.
- 15.** Kremnev P.P. On new concepts and categories of state succession: theoretical and practical issues // Journal of international law and international relations. - Minsk, 2010. - No.10. - pp. 24-33.
- 16.** Agreement "On Joint Measures with regard to Nuclear Weapons" of December 21, 1991 // International Law in force. In 3 volumes // Comp. Yu.M. Kolosov, E.S. Krivchikova. T.1. - M.: MNIMP, 1996. - pp. 494-495.
- 17.** Diplomatic Gazette. - Moscow, 1992. - No.1. - pp. 9-10.
- 18.** Vedomosti of the Supreme Soviet of the Ukrainian SSR. - 1990. - No. 31. Art. 429; Collection of laws, decrees of the Presidium of the Supreme Council, resolutions of the Council of Ministers of the Byelorussian SSR. - 1990. - No. 22. Art. 432.
- 19.** Karimov I.A. Speech at the 48th session of the UN General Assembly - New York, September 28, 1993 // Our goal: a free and prosperous Motherland. - T.: "Uzbekistan", 1996. T.2. - pp. 45-55.
- 20.** See additional: Kasymov A.M., Neklessa G.G. International legal aspects of the creation of zones free from nuclear weapons. Monograph. - T.: STI "Uzbekiston" milli encyclopediasini, 1999. - 112 p; Kamildzhanov A.A. Yadroviy khaff va kernel qyrolidan holi hududlar. Monograph. - Tashkent: "Yangi asr avlodi", 2009. - 144 p.; Gulimov A. Central Asia - a zone

- free from nuclear weapons. Monograph. - Tashkent: UWED, 2009. - 176 p.
- 21.** Folk word. 2000., 12-th of September.
- 22.** Treaty on a nuclear-weapon free zone in Central Asia (<https://online.zakon.kz>).
- 23.** Res. UNGA 61/88 of December 6, 2006.
- 24.** Amanzholov Zh.M. On the issue of creating a zone free from nuclear weapons in Central Asia // Moscow Journal of International Law. 2000. - No. 4. -pp. 219-220.
- 25.** Gulimov A.B. International legal problems of turning Central Asia into a nuclear-free zone: Abstract of the thesis dis cand. jurid. Sciences. - Tashkent: UWED, 2006. - 30 p.
- 26.** Kamildzhanov A.A. Yadroviy khaff va kernel qyrolidan holi hududlar. Monograph. - Tashkent: "Yangi asr avlodi", 2009. - 144 p.
- 27.** Kutnaeva N. Prospects for Concluding an Agreement on the Creation of a Nuclear Weapons Free Zone in Central Asia // Nuclear Control. 2006. - No.1. - p. 59.
- 28.** Sotnikov V.I. On the establishment of a zone free of nuclear weapons in Central Asia. - Moscow: MGIMO, Vol. 8, June 2008. - 29 p.
- 29.** Military encyclopedia. // Ed. Yu.V. Shokareva. - M.: "Rosmen-Press", 2007. - p. 48.
- 30.** Treaty on a nuclear-weapon-free zone in Central Asia. Semipalatinsk, 08.09.2006 // Reference - legal Paragraph system. - 2012.
- 31.** Roscini M. Something Old, Something New: The 2006 Semipalatinsk Treaty on a Nuclear Weapon-Free Zone in Central Asia // Chinese Journal of International Law. - 2008. - No. 7., p. 598.
- 32.** Kazakhstan truth. 2002 г., February 21.