

THE ROLE OF UNITED NATIONS SECURITY COUNCIL IN THE DISSOLUTION OF FORMER YUGOSLAVIA

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Abstract

The breakup of former Yugoslavia occurred at the moment of democratic transformations in Central and Eastern Europe. The Cold War balance of power no longer existed and the global system was transformed into a unipolar one. The United Nations Organization tried to play an important role in this new world order to make more acceptable the existing imbalances. The lack of a joint action of the international community in Somalia and Rwanda against the ethnic cleansing and genocide exercised to the local population, had put into question the role of United Nations in protecting human values. United Nations credibility could be established only through action and concrete initiatives. The tragic events related to the dissolution of Yugoslavia brought UN's attention back to the region. Yugoslavia was at the center of Europe and a violent dissolution would have had negative consequences on the precedent to be set. The lack of United Nations involvement in dissolution of Yugoslavia would have further undermined the role of the international organization to maintain international peace and security, unable to fulfill its main goals and principles, unable to provide protection, stability and peace in the world. First resolutions of the UN Security Council in the process of dissolution of Yugoslavia were adopted in the fall of 1991, when the conflict had escalated and posed a threat to international peace and security. UN Security Council has dealt in depth and continuously the problems related to the dissolution of Yugoslavia, while seeking for solutions giving an end to the related conflicts. Dimensions of conflict, war crimes, genocide and ethnic hatred emerged in the highest degree during the breakup of Yugoslavia. UN Security Council from 1991 until 1998 adopted 119 resolutions on the protection of human rights, combating violence against civilian population, protection of special areas, regulating the status and activity of UN peacekeeping missions, including resolutions placing trade and arms embargo on Yugoslavia (FRY). Despite the high number of its resolutions, UNSC concrete involvement in the conflict was skeptical and overdue and continues as such until the conflict in Kosovo, where it takes concrete quick and preemptive measures in preventing a humanitarian catastrophe and spread of conflict beyond its boundaries. Through adopting resolution 1244 (1999), United Nations Security Council decided for a political settlement to the Kosovo crisis, thus restoring peace and stability in the Balkans.

Keywords: *United Nations Security Council, Former Yugoslavia, Conflict, Peacekeeping.*

Introduction:

United Nations Security Council meets on September 25, 1991, at the ministerial level of its member states, to address the deteriorating situation in Yugoslavia, with heavy loss of human life and material damage, which could further escalate to other countries of the region and threaten international peace and security. This concern was raised from Austria, Canada and

Hungary, whose representatives asked for an emergency meeting of Security Council. At this meeting, Security Council member states, unanimously decided under chapter VII of UN Charter, that all states shall immediately implement a general embargo on all deliveries of weapons and military equipment to Yugoslavia, for the purposes of establishing peace and security in Yugoslavia, through adopting SC Resolution 713 (1991). The adoption of this resolution demonstrated the recognition by the international community of the need to limit armaments and aid to the former Yugoslavia, in order to resize the disproportionate force and violence used by the Yugoslav Army.¹ This resolution marked the start of the UN's involvement in the former Yugoslavia. It strengthened sanctions and their enforcement in the context of the conflict in Bosnia and Herzegovina.

Data analysis:

Despite mediation efforts of the European Community to resolve the conflict and the International Peace Conference on Yugoslavia, UN Security Council remained deeply concerned by the fighting in Yugoslavia. UNSC held another meeting on Yugoslavia on November 27, 1991, because of the serious violations of earlier cease-fire agreements between parties in the conflict, causing heavy loss of human life and widespread damage, and aware of its consequences for the countries of the region. UNSC Member States, noting that the continuation and aggravation of this situation constituted a threat to international peace and security, adopted another resolution which supports the ceasefire agreement signed in Geneva on 23 November 1991, and strongly urged the Yugoslav parties to comply fully with that agreement. The resolution approved the efforts of the Secretary-General and his Personal Envoy, and expressed the hope that they will pursue their contacts with the Yugoslav parties as rapidly as possible, so that the Secretary-General can present early recommendations to the Security Council including for the possible establishment of a United Nations peace-keeping operation in Yugoslavia, as requested by the Government of Yugoslavia.²

The Security Council during the period of late 1991 and early 1992, adopted the peacekeeping plan for Croatia, whose implementation is considered to facilitate the task of the Conference on Yugoslavia in reaching a political settlement and continues to follow this process through increasing the authorized strength of the military liaison mission that will monitor this peacekeeping plan through adopting its resolutions S/RES/724, and S/RES/727 S/RES/740.³

The Security Council, based on the recommendations of the United Nations Secretary General and its previous resolutions, adopted on February 21, 1991 the UN peacekeeping mission in Croatia, UNPROFOR, for an initial period of 12 months. The Council confirmed that the Force should be an interim arrangement to create the conditions of peace and security required for the negotiation of an overall settlement of the Yugoslav crisis within the framework of the European Community's Conference on Yugoslavia. It requested the Secretary-General to deploy immediately those elements of UNPROFOR which could assist in developing an implementation plan for the earliest possible full deployment of the Force. After the report and recommendations of UN Secretary-General UNPROFOR, after the recommendations of the Secretary General that all the Force Commander's interlocutors had

¹ United Nations Security Council resolution, UN document S/RES/713, 25 September 1991

² SC resolution S/RES/721

³ S/RES/724, and S/RES/727, S/RES/740 on February 7, 1992

emphasized the need for the earliest possible deployment of UNPROFOR, the Security Council, by its resolution 749 (1992), authorized the full deployment of the Force.⁴

The extent of the ethnic conflict in Croatia influenced the concern of the Security Council about the serious situation in certain parts of the former Socialist Federal Republic of Yugoslavia, and in particular about the rapid and violent deterioration of the situation in Bosnia-Herzegovina, which is clearly expressed in its resolution S/RES/752 of 15 May 1992, which asks to stop fighting and foreign intervention in Bosnia Herzegovina.⁵

Through assessing the situation in Croatia, the lack of consensus for the secession of the republics and also considering the possibility of extending the ethnic conflicts in other parts of Yugoslavia, the Security Council approves three resolutions in May 1992, by which recommends recognition of Slovenia, Croatia and Bosnia-Herzegovina. While the recognition of Croatia and Slovenia and their admission as member states of the United Nations Organization happened with some delay, the rapid recognition of Bosnia-Herzegovina was due to prohibition of any ethnic war scenario, in a state with a wide-range of problems related to ethnic Serbs, Bosniak, Bosnian Croat, Muslim, Turkish, etc.⁶

The recognition of the three republics by the Security Council and the respective recommendations for recognition by the General Assembly of the United Nations was accompanied by a new resolution of the Security Council, adopted under Chapter VII of UN Charter, namely resolution 757 (1992) of 30 May 1992 and decides on the mandatory sanctions against FRY (Serbia and Montenegro).⁷

In mid 1992 the Security Council expressed concern about the humanitarian situation in Bosnia-Herzegovina, the opening of Sarajevo airport, through standing in this matter specifically in resolutions 761 (1992) of 29 June 1992 and 18 June 1992 S/RES/760, resolution 764 of 13 July 1992 on Additional deployment of UNPROFOR to Sarajevo airport, and resolution 770 of 13 August 1992 on delivery of humanitarian aid and access to camps, etc., (BH).

UN Security Council continued to closely monitor the situation in the territory of Former Yugoslavia and strongly condemned the violation of human rights in Bosnia and Herzegovina, violations of international humanitarian law, including those involved in the practice of "ethnic cleansing" and demanded that all parties and others concerned in the former Yugoslavia, and all military forces in Bosnia and Herzegovina, immediately cease and desist from all breaches of international humanitarian law through its resolution S/RES/771 adopted on August 13, 1992. This monitoring and condemnation is followed by another resolution which authorized the UN Protection Force to assume responsibility for monitoring the arrangements agreed, to monitor the demilitarization of Prevlaka⁸, and another resolution which decided to establish, as a matter of urgency, an impartial Commission of experts to investigate human rights violations⁹ adopted in the same day.

⁴ S/RES/749. 7 April 1992.

⁵ S/RES/752 of 15 May 1992.

⁶ Warren Zimmerman, *The Last Ambassador, A Memoir of the Collapse of Yugoslavia*, *Foreign Affairs*, 1995.

⁷ United Nations Security Council, Document of SC S/RES/757, 30 May 1992.

⁸ United Nations Security Council, Document of SC S/RES.779, 6 October 1992.

⁹ United Nations Security Council, Document of SC S/RES.780, 6 October 1992.

Humanitarian action *versus* political action of UNSC

The United Nations Protection Force for Former Yugoslavia (UNPROFOR) was established by the Security Council resolution of 21 February 1992 S/RES/743. This resolution, adopted under Chapter VII of the UN Charter, expressed its concern that the situation in Yugoslavia continues to constitute a threat to international peace and security, and recalled Security Council primary responsibility under the United Nations Charter for the maintenance of international peace and security.¹⁰

The initial plan of the United Nations relied on two key elements:

1) The withdrawal of Yugoslav forces (JNA) from the whole territory of Croatia and demilitarization of Protected Areas of the United Nations, and

2) The continued functioning at a temporary base existing local authorities and police, under UN supervision, to achieve a comprehensive political solution to the crisis.

UNPROFOR was established for Croatia and not conceived either as part of the humanitarian intervention or with a role in the humanitarian assistance operation.¹¹ UNPROFOR was initially set in Croatia for a period of 12 months to ensure the demilitarization of certain specified areas, and within the first year of its operation, its mandate was revised three times. UNPROFOR mandate later expanded to Bosnia to support the delivery of humanitarian aid and monitor "no fly zones" and "safe areas". Its mandate later expanded to the Former Yugoslav Republic of Macedonia for preventive monitoring in its border areas.

UNPROFOR in Bosnia was not intended to provide a military deterrence against the intentions of the parties in conflict. The presence of UNPROFOR was intended to act as a limiting factor for all parties, to facilitate the effects of war on the civilian population and to provide some stability and security to the besieged populations, while continuing to achieve a political solution. Although UNPROFOR was essentially a peacekeeping mission, elements of peace enforcement in its mandate can not be ignored.¹²

The deteriorating situation in Bosnia-Herzegovina compels the Security Council to Establish No-Fly Zone over Bosnia-Herzegovina¹³, which is further enhanced through adoption of the resolution that decided to establish observers for border control in Bosnia and Herzegovina¹⁴. The measures taken by these resolutions demonstrate the peacekeeping character of Security Council actions to assist in bringing peace and stability in the region and to prevent the spread of the conflict in other neighboring countries. These decisions and actions of UNSC were accompanied by the mandate given to humanitarian operations to create the basic conditions of existence of the civilian population involved in conflict.

Humanitarian action was a major component of the response of the international community to the break-up of former Yugoslavia and to the large-scale violations of human rights there. The lead agency for the United Nations was UN High Commissioner for Refugees (UNHCR), and its humanitarian operations were an alternative substitute for the political action not undertaken by member states of UNSC. UNHCR was expected to deliver what the

¹⁰ United Nations Security Council, Document of SC S/RES/743 resolution, February 21, 1992.

¹¹ Jennifer M. Welsh ed, *Humanitarian Intervention and International Relations*, Oxford University Press, New York, 2004, p. 103.

¹² Yasushi Akashi, *The Use of Force in a United Nations Peace-Keeping Operation: Lessons Learnt from the Safe Areas Mandate*, *Fordham International Law Journal*, Volume 19, Issue 2, 1995, fq. 312-323

¹³ United Nations Security Council, Document of SC S/RES/781, 9 October 1992.

¹⁴ United Nations Security Council, Document of SC S/RES/787, 16 November, 1992.

military intervention and political process had failed to achieve: the reversal of ethnic conflict.¹⁵

The policy “containment through charity” was used in the case of Bosnia and Herzegovina, where humanitarian aid was used to prevent the spread of conflict. The prominent role of the UN and UNHCR in Bosnia was a result of conflicting policies of different European countries and their will not to be involved rather than the result of a well thought-out plan.¹⁶ Thirty thousand UN troops were deployed until the end the conflict in 1995. They were not authorized to use their weapons in defense of anyone except themselves, and to continue assisting in their mission. The duration of the conflict and the deterioration of the humanitarian situation in Bosnia Herzegovina constitute ‘*a case study in the politics of impotence*’, as stated by Jose Maria Mendiluce, UNHCR first special envoy to the Balkans.¹⁷

Main features of the SC action in the conflict in Bosnia and Herzegovina

United Nations Security Council demonstrated some special characteristics during the handling of the ethnic conflict in Bosnia and Herzegovina.

- First, fact-finding missions. The establishment of fact-finding and investigative missions was used as a practice by the Security Council in the case of BiH through the adoption of its resolution 819 of 16 April, 1993, mandating a mission composed of members of UNSC to evaluate the situation and report about it at the Security Council.
- Second, conflict resolution through international mediation and negotiation missions of special importance to bring peace to the ethnic conflict. During this period, the international community and especially the Security Council supported the missions and peace plans of Carrington-Cutileiro, Vance Owen, Owen-Stoltenberg and the Contact Group.
- Thirdly, the use of force. UN Security Council during the first forty years of its existence adopted only 22 resolutions, based on Chapter VII of the UN Charter or using its terminology.¹⁸ During the period of 1990-1999, Security Council adopted 179 resolutions under Chapter VII of the Charter.¹⁹ Most of these resolutions adopted under this chapter, during this period, concern the situation in the former Yugoslavia and especially the war in Bosnia and Herzegovina. The increased use of resolutions adopted under this chapter, authorizing the use of force, demonstrates a greater willingness by the international community to address inter-state conflicts or internal conflicts as a matter of international legitimate concern and, in extreme cases, to take enforcement actions in response to massive violations of human rights. Despite the adoption of numerous resolutions under Chapter VII of the UN Charter, Security Council members were more likely to give the impression they were dealing with the issue than to undertake concrete actions on the ground. Security Council demonstrated

¹⁵ Nicholas Morris, *Humanitarian Intervention in the Balkans, Humanitarian Intervention and International Relations*, Oxford University Press, 2004, pg. 98-119.

¹⁶ David Reef, *Bosnia, Humanitarianism in Crises*, Simon and Schuster, p. 131.

¹⁷ *Ibid.*, p.134.

¹⁸ Sydney d. Bailey dhe Sam Daws, *The procedures of UN Security Council*, 3rd edition, Oxford:Clarendon, 1998, f.273 .

¹⁹ Sally Morphet, *China as a permanent member of the Security Council, Security Dialogue*, June 2000; 31 (2), fq. 154.

no intention to renounce the principles of peacekeeping in favor of enforcement actions.²⁰

Critical analysis of Security Council activity in the break-up of Former Yugoslavia

The Security Council has dealt in depth and continuously with the conflicts in the former Yugoslavia. Dimensions of conflict, war crimes, genocide, and ethnic hatred that emerged during the breakup of Yugoslavia are of the highest degree. UN Security Council from 1991 to 1998 has adopted over 119 resolutions on the protection of human rights, violence against women, protection of special areas, regulating the status and activity of peacekeeping missions until the embargo resolutions on former Yugoslavia.

One of the key moments of the UN Security Council is the adoption of resolution 827 of 25 May 1993, which decides to establish International Tribunal for Crimes in Former Yugoslavia (ICTY). The adoption of this resolution demonstrates the new position of the international community on state sovereignty *versus* protection of human rights and fundamental freedoms of citizens. The establishment of this Court represents a strong warning to all authoritarian regimes, which exceeded their rights towards their citizens, upon which their sovereignty was exercised.

In a critical analysis of Security Council activity in the process of break-up of former Yugoslavia, we can mention some basic arguments:

- First, despite the enormous number of resolutions approved by the SC, the action of the international community was initially skeptical and slow. Some of the resolutions were reactive in character. The response of the international community continues as such until 1995 and the negotiation of the Dayton Agreement, which gave an end to the ethnic conflict in Bosnia-Herzegovina. With the escalation of the conflict in Kosovo, the international community becomes aware of the need to take a rapid and preventive action.
- Secondly, the SC resolutions and UN forces failed to prevent massacres and genocide in Srebrenica, Zepa, Gorazë, to prevent humanitarian catastrophe. This lack of action reflects the divisions and doubts of the international community about the process of the disintegration of Yugoslavia.
- Thirdly, UNSC established for the first time the International Court for Crimes in the Former Yugoslavia (ICTY), an ad-hoc influential body created to paralyze the criminal power in carrying out crimes against humanity.²¹ Through these institutions, Security Council set the standard that every crime will be tried and justice will be served in every case, regardless of the time.
- Fourth, the resolutions of the Security Council on Yugoslavia mandated the peacekeeping missions with the task of human rights protection as an integral part of their mandates. This development in the work of UNSC, observed and expanded significantly after the Cold War, is clearly expressed and integrated in the mandate of peacekeeping missions in the former Yugoslavia.²²

²⁰ Mats Berdal, *The UN Security Council; From the Cold War to the 21st Century*, pg. 460.

²¹ Since its establishment in 1993 it has irreversibly changed the landscape of international humanitarian law and provided victims an opportunity to voice the horrors they witnessed and experienced. Document of United Nations Security Council, Resolution S/RES/827 (1993), 25 May 1993.

²² Joanna Weschler, *Human Rights, UN Security Council from the Cold War to the 21st Century*, Lynne Rienner Publishers, 2004, 55-68.

New role of UN Security Council in Kosovo Conflict

The escalation of the conflict in Kosovo and the recommendation of Contact Group influenced the inclusion of Kosovo conflict in the agenda of United Nations Security Council. The violent acts against the civilian population from the FRY authorities and Serbian police and paramilitary forces, raised the awareness of the world public opinion and the international community. The first meeting of SC on Kosovo conflict, concluded with the adoption of Resolution 1160 (1998), adopted under Chapter VII of UN Charter, which considers the conflict as critical to peace and international security. This resolution placed arms and economic embargo to Serbia. The aims of these sanctions were to stop the police and paramilitary violence against the civilian population of Kosovo Albanians. This resolution requests also the Prosecutor of International Court for Crimes in Former Yugoslavia, to gather information on the committed crimes from the police forces against the civilian population. The resolution requests the conflicting parties to immediately stop violent acts and to cooperate in achieving their aims in a peaceful way. This resolution was adopted with 14 votes in favor and one abstention (China), for the sake of the influence of Kosovo case as a possible precedent for its internal issues.

United Nations Security Council continued to follow the Kosovo conflict and adopted another resolution - Resolution 1199 (1998) - on 23 September 1998. Through this resolution, UNSC Member states expressed concern at the intense fighting in Kosovo, in particular the excessive and indiscriminate use of force by Serbian security forces and the Yugoslav Army, resulted in numerous civilian casualties, and the flow of refugees into northern Albania, Bosnia and Herzegovina and other European countries as a result of the use of force in Kosovo, as well as the increasing numbers of displaced persons within Kosovo, and other parts of the Federal Republic of Yugoslavia.”²³ This resolution requested:

- To cease hostilities and maintain a ceasefire in Kosovo, which would enhance the prospects for a meaningful dialogue between the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership and reduce the risks of a humanitarian catastrophe;²⁴
- Demanded that the authorities of the Federal Republic of Yugoslavia and the Kosovo Albanian leadership take immediate steps to improve the humanitarian situation and to avert the impending humanitarian catastrophe;
- Demanded from the parties in conflict - authorities in the Federal Republic of Yugoslavia and the Kosovo Albanian leadership - to enter immediately into a meaningful dialogue without preconditions and with international involvement, to a clear timetable leading to an end of the crisis and to a negotiated political solution to the issue of Kosovo.²⁵

The Resolution 1203 (1998), adopted a month later by UNSC, confirmed the continuation of "a grave humanitarian situation throughout Kosovo" and underlined "efforts to prevent humanitarian catastrophe." Resolution 1203 (1998) of the Security Council also welcomed the agreement reached between the FRY and the OSCE to establish a verification mission in Kosovo²⁶, including the undertaking of the Federal Republic of Yugoslavia to comply with

²³ Report of United Nations Secretary General, S/1998/834, 4 September 1998. This report is submitted to the United Nations Security Council, based on the request of UNSC Resolution 1160 (1998).

²⁵ Document of United Nations Security Council, Resolution 1199 (1999), adopted on 23 September 1999.

²⁶ United Nations Security Council document, S/1998/978.

resolutions 1160 (1998) and 1199 (1998), as well as the agreement between the FRY and NATO on air verification of the situation in Kosovo through NATO. This resolution was adopted with 13 votes in favor and two abstentions from China and the Russian Federation.²⁷ UNSC Resolution 1239 (1999) of 14 May 1999 – ‘the humanitarian resolution’ - expressed "grave concern about the humanitarian aspects of the situation in Kosovo and the situation of refugees and displaced persons." This resolution emphasized that the humanitarian situation will continue to deteriorate in the absence of a political solution to the crisis consistent with the principles adopted by the Foreign Ministers of Canada, France, Germany, Italy, Japan, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America (Contact Group) on 6 May 1999²⁸, and urged all concerned to work towards this aim.²⁹

Findings:

UNSC Resolution 1244 (1999) is the main resolution of UNSC that paved the way to the political settlement of Kosovo case and its future status. This resolution is adopted under Chapter VII of UN Charter and contains some decisive elements with respect to Kosovo future status:

- The political settlement of Kosovo should be based on general principles decided by the international community (annex 1 and 2 of UNSCR 1244)
- Decides for the operation of international security forces and civil administration under UN supervision
- Authorizes UNSG to establish an international civilian presence in Kosovo to create an interim administration so that its citizens may enjoy substantial autonomy within FRY. This transitional administration will enable to build the provisional self-governing democratic institutions to ensure pacific conditions for a normal co-existence of all Kosovar citizens.
- UNSC Resolution 1244 (1999) embodies the agreement between parties in a wild ethno-national conflict and achieved the aims of the international conflict
- From the political point of view, UNSCR 1244(1999) considers the settlement of future political status of Kosovo within a normal and free political process with all the options available: Wider autonomy within FRY or respect for the self-determination of Kosovar people. The ambiguity of the resolution for the future political status of Kosovo was based on the principles of UN Charter, for a continuity and respect of state sovereignty as one of the basic principles of the right of self-determination.
- From the organizational point of view, it creates an international civilian administration and an international force considering Kosovo an international protectorate. UNMIK would enable to build provisional self-governing institutions for a free, democratic and multi-ethnic society. KFOR would offer the safety and stability of the region. The withdrawal of Serbian police force would build the needed confidence and provide safety to Kosovo people.
- UNSCR 1244 (1999) does not recognize a national entity in its path towards international legitimacy. It regulates the existing conflicting relations, created the

²⁷ Document of United Nations Security Council S/RES/1203 (1998), 24 October 1998.

²⁸ Document of UN Security Council, S/1999/516, 6 May 1999.

²⁹ Document of United Nations Security Council S/RES/1203 (1998).

premises for an international future solution, and enabled the possibility for the Kosovo people to decide on their political future, after the termination of the international provisional administration.

Conclusions:

The process of breakup of Yugoslavia highlights some conclusions with regard to the involvement of the Security Council and its role in the process.

- First, the international community was not prepared for a conflict of such proportions. Instruments of peace were necessary but not sufficient to end the conflict. The idea of keeping Yugoslavia intact, supported from a part of the global political actors, delayed the political decision-making and didn't succeed to avoid genocide, ethnic cleansing in the region. Mediating missions and peace plans of Vance Owen, Owen-Stoltenberg etc., failed to address the core problem.
- Secondly, the preventive action of United Nations. The peacekeeping missions failed to transform into peace enforcement missions, something necessary in ethnic conflict. The event of the withdrawal of Dutch UN forces in Srebrenica, resulted in the massacre of 8,000 Bosniaks.
- Third, the conflict in former Yugoslavia demonstrated that EU was not prepared to resolve such issues without U.S. assistance. Only when the U.S. intervened in the conflict, as a result of world public opinion shocked by the crime and genocide against the civilian population in the region, the conflict succeeded to be managed.
- Fourth, the conflict in former Yugoslavia openly demonstrated that classical manner remained the way in solving conflicts. State sovereignty prevailed over the principle of the right of peoples to self-determination. The conflict lasted for 10 years and the case of Kosovo is a sui generis one in gaining the right to self-determination through a process risen out of the need to avoid the humanitarian catastrophe in the country.

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