

## 資料

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### 国家の「三要素」

モンテビデオ条約 Convention on Rights and Duties of States, December 26, 1933

Article I. The State as a person of international law should possess the following qualifications:

- (a) a permanent population;
- (b) a defined territory;
- (c) government; and
- (d) capacity to enter into relations with other States.

### パレスティナ「国家」

パレスティナ分割決議 UN Doc. A/RES/181 (II)

The General Assembly,...

Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future Government of Palestine, of the Plan of Partition with Economic Union set out below;...

Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem, set forth in Part III of this Plan, shall come into existence in Palestine two months after the evacuation of the armed forces of the mandatory Power has been completed but in any case not later than 1 October 1948. The boundaries of the Arab State, the Jewish State, and the City of Jerusalem shall be as described in Parts II and III below.

パレスティナ独立宣言 [http://www.pna.net/facts/pal\\_independence.htm/](http://www.pna.net/facts/pal_independence.htm/)

(抜粋)

In pursuance of Resolutions adopted by Arab Summit Conferences and relying on the authority bestowed by international legitimacy as embodied in the Resolutions of the United Nations Organization since 1947;...

And in exercise by the Palestinian Arab people of its rights to self-determination, political independence and sovereignty over its territory,...

The Palestine National Council, in the name of God, and in the name of the Palestinian Arab people, hereby proclaims the establishment of the State of Palestine on our Palestinian territory with its capital Jerusalem (Al-Quds Ash-Sharif)...

The State of Palestine proclaims its commitment to the principles and purposes of the United

Nations, and to the Universal Declaration of Human Rights. It proclaims its commitment as well to the principles and policies of the Non-Aligned Movement...

## ユーゴスラヴィアの解体過程における国家承認

### 「ユーゴスラヴィア社会主義共和国連邦」解体年表

- 1990.12.23. スロヴェニア、住民投票。88.5%が独立に賛成
- 1991.5.19. クロアチア、住民投票。93.24%が独立に賛成
- 1991.6.25. スロヴェニア・クロアチア、独立宣言
- 1991.7.7. ヨーロッパ共同体、独立宣言の3カ月凍結を提案
- 1991.8. EC、ユーゴスラヴィア和平会議開催、仲裁委員会設置
- 1991.9.9. マケドニア、住民投票。74%が独立に賛成
- 1991.10.8. スロヴェニア・クロアチア、改めて独立宣言
- 1991.10.15. ボスニア - ヘルツェゴヴィナ、独立宣言
- 1991.11.17. マケドニア、独立国としての憲法採択
- 1991.12.16. EC、ユーゴスラヴィアに関する宣言  
新国家の承認に関する宣言
- 1991.12.19. スロヴェニア・クロアチア、承認申請
- 1991.12.20. マケドニア・ボスニア - ヘルツェゴヴィナ、承認申請
- 1991.12.23. ドイツ、スロヴェニア・クロアチアを承認
- 1992.1.11. 仲裁委員会報告
- 1992.1.15. EC、スロヴェニア・クロアチアの承認を決定
- 1992.2.14. ロシア、スロヴェニア承認
- 1992.2.17. ロシア、クロアチア承認
- 1992.3.1. ボスニア - ヘルツェゴヴィナ住民投票。有権者総数の63%が独立賛成。
- 1992.3.17. 日本、スロヴェニア・クロアチア承認
- 1992.4.4. EC、ボスニア - ヘルツェゴヴィナの承認を決定
- 1992.4.7. アメリカ合衆国、スロヴェニア・クロアチア・ボスニア - ヘルツェゴヴィナ承認
- 1992.4.27. 「ユーゴスラヴィア連邦共和国(セルビア・モンテネグロ)」憲法採択
- 1992.5.1. EC加盟諸国、マケドニア承認
- 1992.5.22. ボスニア - ヘルツェゴヴィナ・クロアチア・スロヴェニア、国連加盟
- 1993.4.7. 「マケドニア旧ユーゴスラヴィア共和国」、国連加盟
- 1993.12.21. 日本、マケドニア承認
- 1996.1.23. 日本、ボスニア - ヘルツェゴヴィナ承認
- 2000.11.1. 「ユーゴスラヴィア共和国連邦」、国連加盟

## スロヴェニア独立宣言 1991年6月25日

<http://www.uvi.si/10years/path/documents/declaration/>

On the basis of the fundamental principles of natural law, i.e. the right of the Slovene nation to self-determination, on the principles of international law and the Constitution of the Republic of Slovenia, and on the basis of the absolute majority vote in the plebiscite held on December 23, 1990, the people of the Republic of Slovenia will no longer be part of the Socialist Federal Republic of Yugoslavia. On the basis of an unanimous proposal by all parliamentary parties and group of delegates and in compliance with the plebiscitary outcome, the Assembly of the Republic of Slovenia adopted the Constitutional Act on the sovereignty and independence of the Republic of Slovenia at the sessions of all its chambers on 25 June 1991...

V. The Republic of Slovenia is a legal entity and a social state, whose environment is suitable for market economy. Slovenia pledges to observe human rights and civil liberties, the special rights of autonomous nationalities, as well as the European achievements of industrial democracy (above all socio-economic rights, the rights of the employed to take part in decision-making processes and independent unions), the inviolability of property and the freedom of association in a civil society. Slovenia pledges to guarantee multiparty democracy and local, or regional, self-rule. Slovenia guarantees that political or other form of persuasion will not be used as a basis for instigating inequality or discrimination of any kind. It further pledges to solve all contentious internal and external issues in a peaceful, non-violent manner and to strive to improve cooperation, on an equal footing, with all nations and citizens of Europe where the people, regions, nations and states are free and equal.

## クロアチア独立宣言 1991年6月25日 BBC Summary of World Broadcasts より

The Declaration proceeds from "the 13-century old state and legal tradition on the territory between the Adriatic Sea and the rivers of Drava and Mura and the right to individuality and independence in an autonomous and sovereign state of Croatia".

"In the period of the imposed centralist and totalitarian system of the SFRY, the Republic of Croatia could neither progress nor safeguard its political, economic, cultural and other interests. As a result the aspiration continued to gain ground towards dissociation from the Yugoslav state community", the Declaration states. The Declaration goes on to emphasise that with this move "the Republic of Croatia is embarking on the process of dissociation from other republics and the SFRY with the desire to see this process completed as soon as possible in a democratic and peaceful way with the respect for the interests of all the republics and autonomous provinces which Yugoslavia was comprised of".

In conclusion the Declaration calls on other republics from the present-day SFRY to set up an alliance of sovereign states. The terms for this are "the recognition of state sovereignty and territorial integrity in relation to each other, mutual respect, the recognition of political pluralism and democracy, the pluralism of ownership forms and market economy, an effective respect for human rights, the rights of national minorities and other civilisational values as recognised by the free world as well as the readiness to enter into reciprocal agreements and contracts on all controversial issues which now exist between individual republics, i.e. sovereign states".

#### クロアチア大統領議会声明 1991年6月25日 BBC Summary of World Broadcasts より

The very politically unscrupulous act of preventing Croatia's representative Stjepan Mesic - in accordance with the SFRY constitution and the established rotation - from becoming President of the SFRY Presidency, is one of the most flagrant but not infrequent attempts to keep Croatia in an unequal position in the Yugoslav federation. This act, received with amazement by both Croatia's and the democratic world's public, and also with concern by the most responsible factors in international affairs, serves to remind us that the reality of the post-war Yugoslavia was neither conducive to the expression nor to the implementation of equality and the equal distribution of duties and rights between all nations and republics.

Its entire state and social system has deviated so much from the constitutional commitments of the AVNOJ, ZAVNOH [Anti-fascist Council of the National Liberation of Yugoslavia Regional Council of the National Liberation of Croatia - wartime parliaments of Yugoslavia and Croatia] , and those adopted at a later stage as to have become the mainstay of an anti-Croatian policy which was instrumental in encouraging pogroms against Croats, in stifling Croatian identity and in eradicating Croatian national self-awareness to such an extent that ordinary Croatian people were persecuted for [promoting] Croatian symbols and for expressing their love for their homeland.

This policy kept Croatia in a subordinate position from any point of view, even when it came to deciding who was suitable to represent it in the federal bodies. Precisely because we succeeded in putting an end to such a

中東欧諸国承認ガイドライン ヨーロッパ共同体 1991年12月16日

*International Legal Materials*, vol. 31, 1992, p. 1485.

DECLARATION ON THE "GUIDELINES ON THE RECOGNITION OF NEW STATES IN EASTERN EUROPE AND IN THE SOVIET UNION"

The Community and its Member States confirm their attachment to the principles of the Helsinki Final Act and the Charter of Paris, in particular the principle of self-determination. They affirm their readiness to recognise, subject to the normal standards of international practice and the political realities in each case, those new states which, following the historic changes in the region, have constituted themselves on a democratic basis, have accepted the appropriate international obligations and have committed themselves in good faith to a peaceful process and to negotiations.

Therefore, they adopt a common position on the process of recognition of these new states, which requires:

- respect for the provisions of the Charter of the United Nations and the commitments subscribed to in the Final Act of Helsinki and in the Charter of Paris, especially with regard to the rule of law, democracy and human rights;
- guarantees for the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE;
- respect for the inviolability of all frontiers which can only be changed by peaceful means and by common agreement;
- acceptance of all relevant commitments with regard to disarmament and nuclear non-proliferation as well as to security and regional stability;
- commitment to settle by agreement, including where appropriate by recourse to arbitration, all questions concerning state succession and regional disputes.

The Community and its Member States will not recognise entities which are the result of aggression. They would take account of the effects of recognition on neighbouring states...

ユーゴスラヴィア和平会議仲裁委員会（同委員会については、判例 15 参照）

意見第 1 1991年11月29日 承認に関する基本的立場

1) The Committee considers:

a) that the answer to the question should be based on the principles of public international law which serve to define the conditions on which an entity constitutes a State; that in this respect, the existence or disappearance of the State is a question of fact; that the effects of recognition by other States are purely declaratory;

b) that the State is commonly defined as a community which consists of a territory and a population subject to an organized political authority; that such a State is characterized by sovereignty;

#### 意見第4 ポスニア - ヘルツェゴヴィナについて 1992年1月11日

1. By an instrument adopted separately by the Presidency and the Government of Bosnia-Herzegovina on 20 December 1991 and published in the Official Journal of the Republic on 23 December these authorities accepted all the commitments indicated in the Declaration and the Guidelines of 16 December 1991...

3. The Commission notes:

(a) that the declarations and undertakings above were given by the Presidency and the Government of the Socialist Republic of Bosnia-Herzegovina, but that the Serbian members of the Presidency did not associate themselves with those declarations and undertakings...

4. In these circumstances the Arbitration Commission is of the opinion that the will of the peoples of Bosnia-Herzegovina to constitute the SRBH as a sovereign and independent State cannot be held to have been fully established...

#### 意見第7 スロヴェニアについて 1992年1月11日

The background to the application for recognition may be summarized as follows:

A plebiscite on the possibility of the Republic of Slovenia declaring its independence was held on 23 December 1990. An absolute majority of those voting replied in the affirmative to the question "Should Slovenia become a sovereign and independent State?" According to figures provided by the Republic, 88.5% voted for independence and 4% against...

(a) Respect for the provisions of the United Nations Charter... is stated in the Declaration of Independence of 25 June 1991...

(b)...In its application for recognition the Republic of Slovenia declares that its Constitution and its laws respect [human and minorities'] rights...

(c) The commitment of the Republic of Slovenia to respect the inviolability of territorial boundaries made in the Declaration of Independence is repeated in the application for recognition...

4. The Arbitration Commission consequently takes the view that the Republic of Slovenia satisfies the tests in the Guidelines on the Recognition...