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# POST-WAR REVENUES AS EXTRA NON-FISCAL INCOME

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## **Keywords:**

public income, post-war income, extra income, fiscal income, non-fiscal income

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## **Summary**

*In the late 1980's and early 1990's, former socialist countries in Europe were exposed to democratic processes resulting in the dissolution of a number of complex states and the creation of new independent states. Unlike the USSR and Czechoslovakia, where the process of dissolution went peacefully, former Socialist Federal Republic of Yugoslavia fell apart after a war.*

*The Republic of Croatia is one of the countries that emerged after the Socialist Federal Republic of Yugoslavia had fallen apart. After the homeland war and partial normalization of relations with the remaining part of ex-Yugoslavia, that continued existing as a new state under the name of Federal Republic of Yugoslavia, Croatia and other newly formed states have started an international initiative for the apportionment of the formerly joint property.*

*During the first half of last year, first concrete and efficient steps were taken in the acquisition of succession income. However, other results*

regarding the receiving of other post-war income (income from restitutions, contributions and reparations) were not achieved.

In this paper, we shall more thoroughly discuss two most important forms of post-war non-fiscal income, for which alimentionation in the Budget of the Republic of Croatia there are realistic foundations; these are the post-war reparation and succession income.

The paper has the following general framework:

- ◆ *Introductory notes;*
- ◆ *Post-war income in general*
- ◆ *Reparation*
- ◆ *Succession*
- ◆ *Succession of the property of former SFRY,*
- ◆ *Conclusion,*
- ◆ *Literature.*

## 1. INTRODUCTORY NOTES

In financial literature, public income is classified on various grounds, so that, for example, according to the time of inflow we distinguish regular and extra income, and according to the implementation of fiscal sovereignty, there is fiscal and non-fiscal income<sup>1</sup>.

Regular income is the income alimenting continually in regular intervals and it is used to defray public expenditures. Basic characteristic of this income is a steady inflow schedule planned according to the expiration of the planned expenses.

Extra income is the income that has no continuity of inflow; it occurs occasionally and is used to cover contingency expenditures. Such revenues can be collected on a single or multiple basis and they cease to be collected after the expiring of expenses for which covering they have been introduced.

Fiscal revenues<sup>2</sup> are installed by the public authority, i.e. state, by virtue of it authority, that is by virtue of the state's fiscal sovereignty under

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<sup>1</sup> "Public (state) income includes the assets used by the state to finance, i.e., satisfy public (state) needs.", Jelčić, B. Rječnik javnih financija i financijskog prava, Informator, Zagreb, 1981, p. 82

<sup>2</sup> Lat. fiscus – basket used to collect money – in ancient Rome the term was used to denote the place where contributions, usually money, were collected for the financing of

which we understand the constitutional and legal power and right to introduce fiscal income, its introduction and fixing their rate. The forms of fiscal income are: taxes, customs duties, contributions, fees and charges and parafiscal revenues.

According to their alimentation, non-fiscal is different than fiscal; the fundamental distinction arises from the fact that they do not occur as the result of legitimate means of public coercion, and occasionally they occur as receipts from abroad. Their budget alimentation is exclusively the product of the disposal of the state and its citizens. In the budget alimentation of non-fiscal income, there are two financial interests. The first – public – interest is generated by the state, that is, by its units of local self-government, and its objective is the satisfaction of public consumption. The second - private – interest is found in physical and legal persons wishing to make profit by purchasing certain property, exploitation of a concession and the like. It must be emphasized that this sort of public income occurs in various forms and from various sources. From the structural point of view, these revenues are not stable as it is the case with fiscal revenues.

The foundation for alimentation of these revenues can be: ownership (dominium), special forms of financial-monetary activity of the state, and other non-fiscal sources.

It is very difficult to make a precise classification of non-fiscal revenues, because their alimentation is not based on the state's fiscal sovereignty, as it is the case with fiscal income. Financial theoreticians use various classifications, and the most widespread one is the division into: income from public property; income from gifts, inheritance and legacies; public (state) debts; post-war income.

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numerous wars. Later, *fiscus* became synonym for state treasury to which all state income of the Roman Empire was flowing in. In time, *fiscus* assumed two different meanings: a) state in terms of the private law as the holder of ownership rights and other rights deriving from them, and b) state treasury. Most frequently, the term *fiscus* is used to refer to the state treasury in which budget income from taxes, customs duties, fees, contributions and other levies is collected. In addition to that, the term *fiscus* is also used as a synonym for the state or a unit of local self-government as holders of the right to impose and collect certain forms of levies, and to collect certain forms of levies by debt enforcement.

## 2. POST-WAR INCOME IN GENERAL

In international relations, realization of post-war income, that is, of various forms of compensation for war damage is as old as the history of warfare. The victors at war have always charged the defeated to pay for the expenses of war. At first, this was done through various forms of looting; it was later replaced by imposition of contributions or some other forms of duties. In recent times, certain international regulations have been enacted, but there is still no international convention that would exclusively regulate issues of compensation for the committed damage.

Main purpose of the effectuation of post-war income, i.e. of compensation for war damage is the indemnification of the victims of war and their restoration as close as possible to the situation that they were in before the war, that is, to a situation in which they would be able to continue with their development on their own. However, there are other frequent grounds for collection of war damage, such as: punishing the defeated, i.e., the war culprit, getting rich at his expense, achievement of a better political or economic position, transferring war expenses to the defeated, weakening of the opponent in military and other senses, and the like.

Experts dealing with post-war compensation of war damage distinguish the following forms:

- ◆ **Restitution income**<sup>3</sup> (restitution in international relations represents the obligation of the aggressor state to return the other country's property plundered during the war, in other words, to restore the original situation);
- ◆ **Contribution income**<sup>4</sup> (contribution is the sum of money that the defeated state must pay to the winner according to the imposed conditions, and that frequently supercedes the actual damage done);
- ◆ **Reparation income**<sup>5</sup> (reparation is the most frequent form of amending for war damage; it is paid on the basis of a peace treaty in the form of money or in some other way, with the purpose to provide real indemnification for the victim of war);

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<sup>3</sup> Lat. restitutio – return, fix, amend

<sup>4</sup> Lat. contribuere – bring together, subjoin, levy, duty

<sup>5</sup> Lat. reparare – repara, make up for,

- ◆ *Succession income*<sup>6</sup> (in the International Law, the term refers to the succession of property or property rights of the former state that had fallen apart)

*Post-war income is extra non-fiscal income that comes up in the structure of the budget after the end of war, i.e., after the settled peace treaty between the states at war (very frequently under the patronage of the United Nations and other international factors) and the basis for their alimentation is public and private property.*

In this paper, the emphasis was put on the study of reparation and succession income as the most frequent forms of post-war income.

## 2.1. REPARATION

Reparation is paid by the defeated state to the winner in war. The request for the payment for the damage caused by the war is regulated through the post-war peace agreement or through a separate agreement. The agreement determines the obligation to compensate the whole damage or a part of it. The starting premise for the realization of reparation is the request for reparation submitted by the state that had suffered the aggression. The amount of the reparation is determined directly at the peace conference, or it may be left to special reparation commissions for determination. These commissions analyze the request and control the execution of the accepted request.

There are different forms of reparation, of which the following are best known:

- ◆ Re-instatement of the former situation;
- ◆ Construction of the demolished buildings;
- ◆ Reconstruction of the damaged buildings;
- ◆ Delivery of industrial and agricultural products, raw materials, machines and equipment
- ◆ Engagement of the countries' own work and expert teams for reconstruction works;
- ◆ Compensation for damage in form of money;
- ◆ Ceding parts of the territory, and the like.

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<sup>6</sup> Lat. successio – sequence, succession, inheritance

There are many examples of attempts to collect reparation from the defeated countries in the history. The first examples are found in the Greek and Roman civilization. In 202 B.C. Carthage paid Rome reparation of ten thousand talents over the period of ten years. At that time, this was a huge amount of money. The way in which the payments of the reparation were determined resembles the modern reparation regulation. Thus, through history, the practice of collecting compensation for war damage became a traditional right of the winner, which has never been disputed in practice. The winners have requested compensation for the expenses of war from the won territories or from the defeated states, so that the war expenses became an important part of the international position of the defeated side. But the institutionalization of this practice in international relations is of a more recent date. All the way until the mid 18<sup>th</sup> century, reparations were in some way covering mainly the expenses of war. Since then, however, reparation requests have been constantly growing with the justification that reparation is required for the reconstruction and to make up for the consequences of war. Reparation requests also frequently contain the intention to weaken the defeated country over a longer period of time or even permanently.

In 1842, China was forced to pay 21 million dollars as reparation to Great Britain because it had imprisoned and threatened with death some British subjects who were trading with China. China also had to settle all debts of Chinese citizens towards British subjects and to pay the expenses of British expedition corps (the Nanking agreement). After that, China again agreed to pay war damage to Great Britain in the amount of 8 million taels (the Beijing agreement of 1860). China also had similar obligations towards France (war expedition expenses in 1860 and 1868). Through peace contract signed in Tetuan in 1860, Spain collected reparation from Morocco in the amount of 20 million piaster. Spain also collected 13 million pesetas from Peru in 1865.

For the first time in history, the Vienna Congress<sup>7</sup> held after Napoleonic wars, forced an aggressor state – France – to sign the peace treaty containing numerous obligations, including the compensation of war damage. At the Congress, the international community for the first time in history practically discussed the problem of a state's responsibility for the crimes committed during the war.

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<sup>7</sup> The Congress was held in Vienna between September 1814 and 9<sup>th</sup> of June 1815 with participation of all European countries that were in any form involved first in the wars caused by the French revolution, and then also in Napoleonic wars.

After the war between France and Prussia, the ideas of the Vienna Congress were repeated in the Frankfurt peace treaty<sup>8</sup> in 1871. France started the war, because it could not live with the fact that Prussia emerged on the European political scene and that German states have formed a union in the immediate French neighborhood. France lost the war, which ended with the Preliminary Treaty in Versailles and was finally settled by the Peace Treaty signed in Frankfurt on the Main in 1871. By that treaty, France lost some territories in the northeastern part of the country and was bound to pay war reparation of five billion francs – the highest amount ever set by that time.

Another example of high war reparation is found in Turkey that in 1878 and the following 5 years had to pay large amounts of money and give some territories to Russia. After the war between Russia and Turkey (1876 to 1878), the Peace Treaty was signed in Constantinople in 1879. In this Treaty, Turkey was bound to pay the compensation partially in money and partially in territories. The total amount of compensation was set at 1 billion and 410 million rubles.

Only in the 20<sup>th</sup> century war reparations were more concretely implemented in international relations. After the World War I, Central Powers were bound by the Versailles Peace Treaties<sup>9</sup> that also included the peace treaties signed in Lausanne<sup>10</sup>, Saint-Germain-en-Laye<sup>11</sup>, Neuille-sur-

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<sup>8</sup> The Frankfurt Peace Treaty was signed between France and Prussia after the French – Prussian war (1870-1871) on the 10<sup>th</sup> of May 1871. By virtue of that treaty, France gave Germany the region of Alsace (without Belfort), the German speaking territory of Lorraine and Metz with its surrounding area. As guarantee, until the payment was done, Germany held northeastern part of France under occupation.

<sup>9</sup> Peace treaty signed in Versailles on 28<sup>th</sup> April 1919 between Germany and the forces of Entente after the Central Powers lead by Germany had been defeated in World War I (1914 – 1918).

<sup>10</sup> The Peace Treaty signed in Versailles after the World War I between Allied countries and Turkey. Turkish National Assembly, presided by Kemal Pasha, did not accept all of the stipulations of the Versailles Peace Treaty. Therefore, a new conference was organized in Lausanne with the participation of Great Britain, France, Greece, Italy, Japan, Bulgaria, the Kingdom of the Serbs, Croats and Slovenes, Turkey and the United States of America (as observer). The peace treaty was signed on 24<sup>th</sup> July 1923. Turkey got back Eastern Thrace up to the Maritsa River with Adrianopolis (Edirne) and Anatolia with Izmir, and it also received sovereignty over the Dardanelles, Constantinople, Asia Minor and Western Armenia.

<sup>11</sup> The peace treaty in Saint-Germain was signed on 10<sup>th</sup> September 1919 between the defeated Austria and the Entente countries as winners. Austria confirmed the dissolution of the Austro-Hungarian Monarchy and recognized the newly formed states of



Seine<sup>12</sup>, Trianon<sup>13</sup> and Sevres<sup>14</sup> to compensate for the damage done to the Entente countries. An international reparation commission, formed to determine the amount of reparation and to control its payment, estimated the total amount of reparation at 132 billion golden francs<sup>15</sup>. Germany was supposed to pay the greatest part of that amount, 126.3 billion golden marks, in a period of thirty years. Finally, the total sum that Germany had to pay as reparation was reduced to 117 billion golden marks. Between 1924 and 1930, Germany paid only 11 billion marks, and in 1931, Germany was allowed a grace period of one year because of the great economic crisis that had paralyzed the life in the country at that time. Because of the economic crisis, the reparation that Germany had to pay was finally reduced at the Conference in Lausanne to only 3 billion golden marks. However, when the Nazis and Hitler seized power in Germany in 1933, they cancelled the payment of war reparations.

**Table No. 1**

| <i>Participation of the injured states in the distribution of reparation funds<sup>16</sup></i> |                                |                     |
|---|--------------------------------|---------------------|
| <b>Country</b>  | <b>Billion of golden marks</b> | <b>Portion in %</b> |
| France  | 68,640                         | 52,00               |
| England   | 29,040                         | 22,00               |
| Italy   | 13,200                         | 10,00               |
| Belgium   | 10,560                         | 8,00                |
| Kingdom of the Serbs, Croats and Slovenes, Rumania and Greece                                   | 8,580                          | 6,50                |
| Japan   | 0,990                          | 0,75                |
| Portugal  | 0,990                          | 0,75                |
| <b>Total:</b>   | <b>132,000</b>                 | <b>100,00</b>       |

Czechoslovakia, Hungary, the Kingdom of the Serbs, Croats and Slovenes, and Poland. It also surrendered its navy as reparation.

<sup>12</sup> Neuilly-sur-Seine is the northwestern industrial suburb of Paris, where the peace treaty between the Entente and Bulgaria was signed on 27<sup>th</sup> of November 1919. As reparation, Bulgaria lost some territories at its borders. These territories went on Rumania, Greece and the Kingdom of the Serbs, Croats and Slovenes.

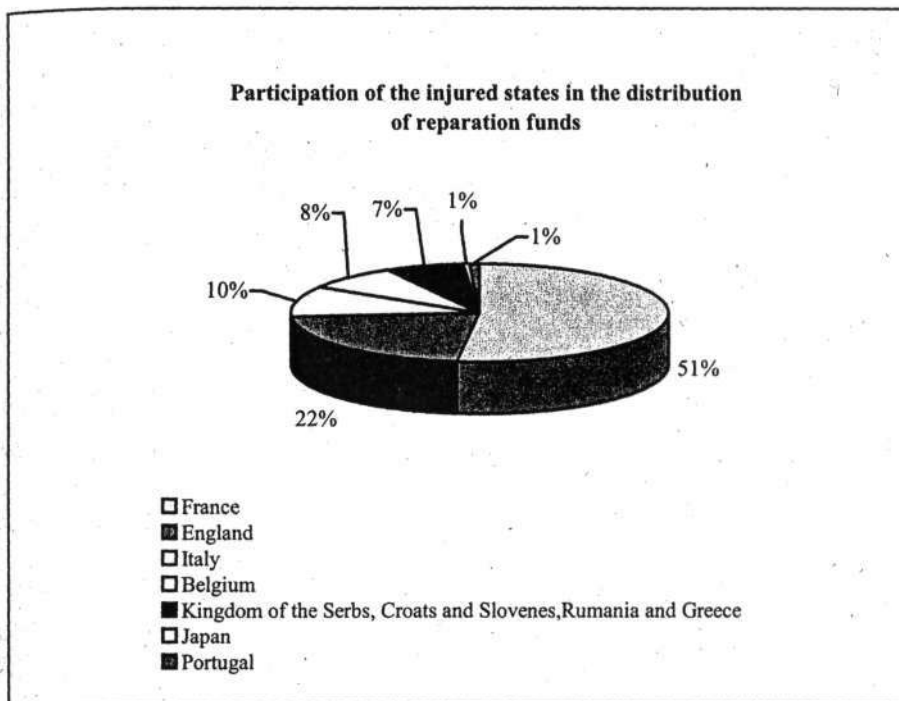
<sup>13</sup> The Trianon Peace Treaty was signed on the 4<sup>th</sup> June 1920 in the Trianon Palace in Versailles between Hungary and the Entente countries

<sup>14</sup> Sevres is the western suburb of Paris, where the peace treaty was signed between Turkey and the Entente that dictated the treaty terms. After some resistance, the Sultan's representatives finally signed the Sevres Peace Treaty on the 10<sup>th</sup> of August 1920.

<sup>15</sup> V. Table and graphic presentation, Table 1 and Chart 1

<sup>16</sup> Bertoš, M.: Njemačke reparacije poslije Drugoga svjetskog rata, (German Reparation after the World War II) Politička biblioteka No.39, Beograd, 1948 p.3.

Chart No. 1



After the World War II, the reparations that Germany was supposed to pay were discussed at the Crimean Conference<sup>17</sup>. The Allies were aware of the fact that Germany was not able to come up with the money necessary to compensate for all war damage, so they decided that reparation should be carried out in kind and the Protocol on the Talks between the Heads of Three Governments at the Crimean Conference on the Question of the German Reparations in Kind was approved.

The following are the most important provisions of the Protocol:

1. Germany must pay in kind for the losses caused by her to the Allied nations in the course of the war. Reparations are to be received in the first instance by those countries, which have borne the main burden of the war, have suffered the heaviest losses and have organized victory over the enemy.

<sup>17</sup> The Yalta or Crimean Conference, with the participation of the highest representatives of the USA, USSR and Great Britain, took place in Yalta on the island of Crimea between the 4<sup>th</sup> and 11<sup>th</sup> of February 1945.

2. Reparation in kind is to be exacted from Germany in three following forms:

**A** Removals within two years from the surrender of Germany or the cessation of organized resistance from the national wealth of Germany located on the territory of Germany herself as well as outside her territory (equipment, machine tools, ships, rolling stock, German investments abroad, shares of industrial, transport and other enterprises in Germany, etc.), these removals to be carried out chiefly for the purpose of destroying the war potential of Germany.

**B** Annual deliveries of goods from current production for a period to be fixed.

**C** Use of German labor.

For the working out on the above principles of a detailed plan for exaction of reparation from Germany an Allied reparation commission will be set up in Moscow. It will consist of three representatives - one from the Union of Soviet Socialist Republics, one from the United Kingdom and one from the United States of America.

With regard to the fixing of the total sum of the reparation as well as the distribution of it among the countries which suffered from the German aggression, the Soviet and American delegations agreed as follows: The Moscow reparation commission should take in its initial studies as a basis for discussion the suggestion of the Soviet Government that the total sum of the reparation in accordance with the points A and B of the Paragraph 2 should be 22 billion dollars and that 50 per cent should go to the Union of Soviet Socialist Republics."

German obligations regarding war reparation were elaborated at the Potsdam Conference<sup>18</sup>. At the Conference, Germany was divided into two occupation zones: the Eastern Occupation Zone under the control of the Soviet Union (this zone later became the German Democratic Republic) and the Western Occupation Zone controlled by the USA, Great Britain and France (which later became the Federal Republic of Germany). Soviet

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<sup>18</sup> Potsdam, city and port on the Havel river in Germany where the Potsdam Conference of three allied forces: USA USSR and Great Britain was held from 17<sup>th</sup> July to 2<sup>nd</sup> August 1945. The Conference was attended by: H. S. Truman, J. V. Stalin and W. Churchill, who was replaced on 28<sup>th</sup> July by C. R. Attlee (after the elections in Great Britain were won by Labour Party), their ministers of foreign affairs and heads of general staffs. Principal decisions of the Conference were: German Nazism and militarism must be eradicated; measures must be undertaken, so that Germany never again becomes a threat to its neighbors and to global peace.

Union and Poland were entitled to secure reparation from the Eastern Zone and the USA, Great Britain, France and the remaining 19 countries that have suffered war damage caused by Germany got the right to secure their reparation from the Western Zone. It must be emphasized that the USSR was given the additional right for reparation from the Western Zone (10 % of the industrial plants that were not necessary for German peacetime economy).

The Paris Agreement regulated the rights to get reparation from the Western Zone and formed the Inter-allied Agency for Reparation and Restitution of Monetary Gold. The text of the Agreement contains provisions on reparation securing through the dismantling of industrial plants and objects, confiscation of German property abroad, confiscation of German merchant fleet, confiscation of provisions and materials and confiscation of a part of current German industrial production.

The Potsdam Conference divided the sources of reparation into the following categories<sup>19</sup>:

- ◆ Forbidden industry;<sup>20</sup>
- ◆ Relatively forbidden industry;<sup>21</sup>
- ◆ The volume of German industry shall be reduced to the level satisfying domestic civilian peacetime needs and the export necessary to allow for the import of the quantities of some goods required to satisfy German needs;
- ◆ Part of the German merchant marine that is not necessary for its peacetime economy;
- ◆ Monetary and non-monetary gold found in Germany;
- ◆ German investments abroad;
- ◆ German current production, if it exceeds the amounts needed to keep the German trade balance in equilibrium;
- ◆ Confiscated provisions and materials.

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<sup>19</sup> Report of the Crimean Conference, 11<sup>th</sup> February 1945, London, 1945

<sup>20</sup> Through the Potsdam Agreement the Allies bound Germany to get rid of all industrial plants used directly for the purposes of war, including such that can be easily transformed into war industry. Such plants were dismantled and delivered to the Allies on the account of war reparation; the plants that the Allies did not take were destroyed.

<sup>21</sup> As relatively forbidden industry, the Potsdam Agreement marked the industry, which does not serve German war potentials but is used exclusively for civilian purposes. This industry was specified because it can be used as the foundation for re-armament of Germany and therefore the Agreement prescribed the total capacities that Germany can keep, whereas the rest was surrendered to the Allies on the account of war reparation.

Reparation has been apportioned to the affected countries according to the determined procedure and the category of damage. Two categories were provided: category "A", which included German property abroad, materials and current production, and category "B", which included industrial plants and equipment and ships for marine and inland navigation.<sup>22, 23</sup>

**Table No. 2**

| <b>Value of the collected German reparation of the "A" category in the first six years after the end of the war – situation on the 15<sup>th</sup> May 1951 in millions of dollars (Dollar value 1938)<sup>24</sup></b> |                           |                       |
|---|---------------------------|-----------------------|
| <b>Users</b>  | <b>Apportionment Plan</b> | <b>Total Received</b> |
| Albania   | 0,026                     | 0,026                 |
| USA   | 112,076                   | 112,076               |
| Austria   | 1,484                     | 1,484                 |
| Belgium   | 8,800                     | 8,800                 |
| Canada  | 3,719                     | 3,719                 |
| Denmark   | 21,608                    | 21,608                |
| Egypt   | 2,641                     | 2,602                 |
| France  | 43,024                    | 43,024                |
| Great Britain   | 55,192                    | 55,192                |
| Greece  | 2,954                     | 2,954                 |
| India   | 4,322                     | 4,322                 |
| Luxemburg   | 0,839                     | 0,615                 |
| Norway  | 7,767                     | 7,767                 |
| New Zealand   | 0,393                     | 0,393                 |
| Pakistan  | 0,187                     | 0,187                 |
| The Netherlands   | 34,171                    | 32,029                |
| Czechoslovakia  | 6,365                     | 6,365                 |
| Union of South Africa   | 11,157                    | 11,157                |
| Yugoslavia  | 7,891                     | 7,891                 |
| <b>Total:<sup>25</sup></b>  | <b>325,320</b>            | <b>321,467</b>        |

<sup>22</sup> Serb L., Jugoslavija i njemačke reparacije poslije Drugog svjetskog rata, Zbornik Pravnog fakulteta u Zagrebu, No. 3-4, 1966, p. 378

<sup>23</sup> v. Table and chart presentatios, tables 2 and 3 and charts 2 and 3.

<sup>24</sup> Source: Izvješće Agencije za reparacije, Agence Paris, 1951, pp. 24-25.

<sup>25</sup> Note: the figures have been rounded

Chart No. 2

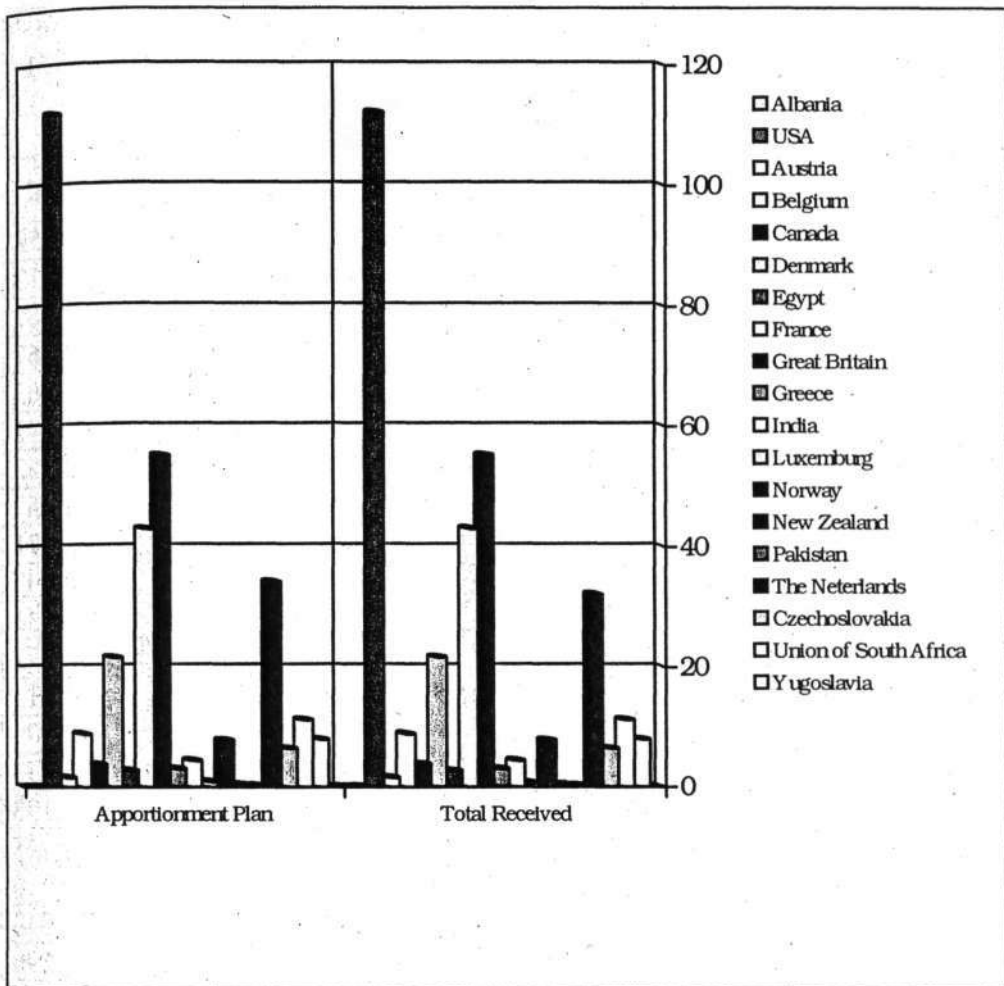


Table No. 3

| Value of the collected German reparation of the "B" category in the first six years after the end of the war – situation on the 15 <sup>th</sup> May 1951 in millions of dollars (Dollar value 1938) <sup>26</sup> |                    |                |
|--|--------------------|----------------|
| Users  | Apportionment Plan | Total Received |
| Albania  | 0,976              | 1,050          |
| USA  | 4,387              | 12,312         |
| Austria  | 2,187              | 2,467          |
| Belgium  | 6,758              | 2,467          |
| Canada   | 0,055              | 0,963          |
| Denmark  | 0,393              | 1,242          |
| Egypt  | 0,179              | 0,352          |
| France   | 24,481             | 41,957         |
| Great Britain  | 24,535             | 50,471         |
| Greece   | 8,206              | 10,633         |
| India  | 4,586              | 5,631          |
| Luxemburg  | 0,488              | 0,577          |
| Norway   | 1,210              | 5,815          |
| New Zealand  | 0,589              | 0,909          |
| Pakistan   | 1,157              | 1,191          |
| The Netherlands  | 5,418              | 8,198          |
| Czechoslovakia   | 7,807              | 8,141          |
| Union of South Africa  | 0                  | 0              |
| Yugoslavia   | 25,969             | 28,043         |
| <b>Total:</b> <sup>27</sup>  | 124,385            | 187,590        |

<sup>26</sup> Source: Ibid., 1951, pp. 24-25.

<sup>27</sup> Note: The figures have been rounded

Table No. 3

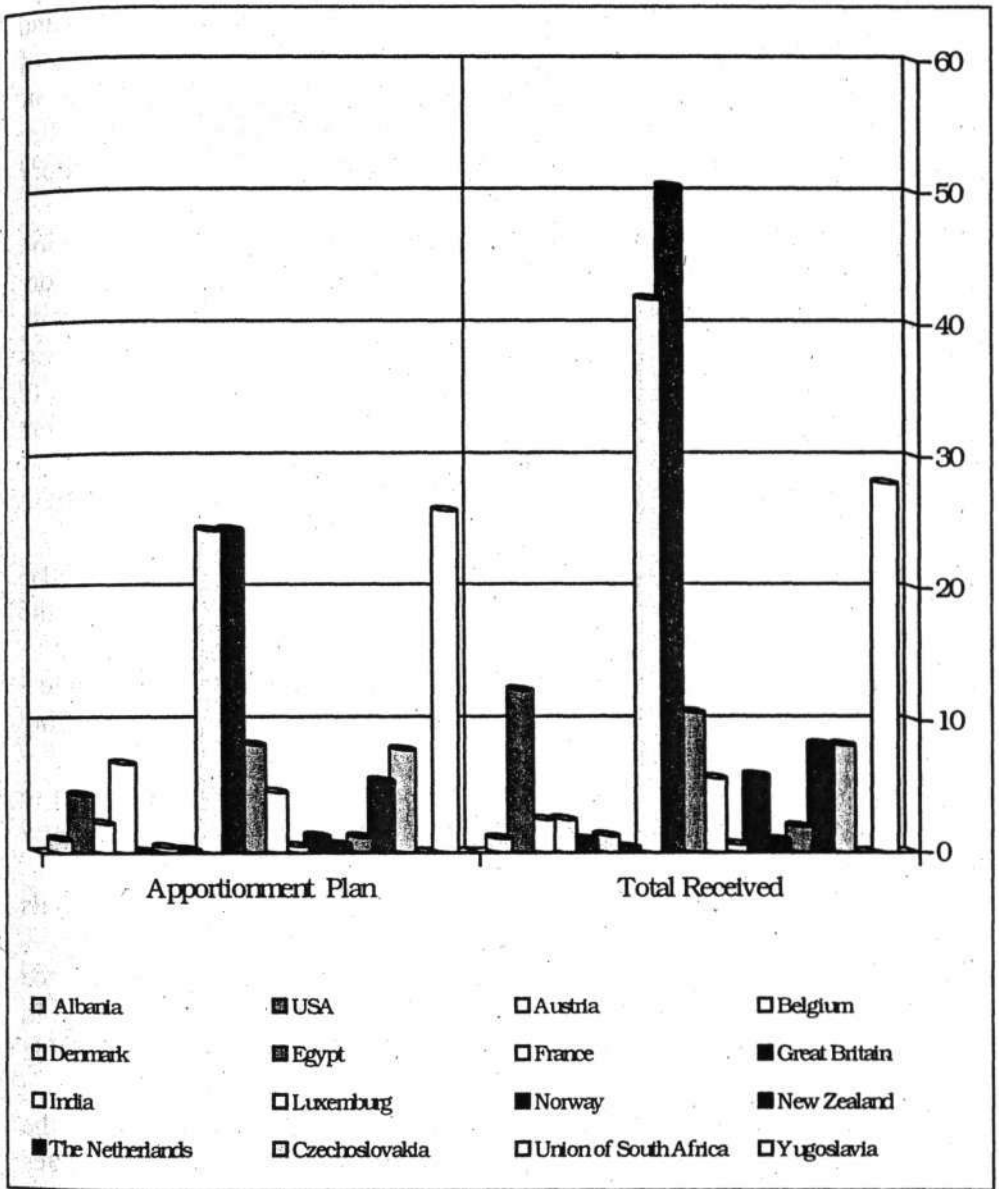
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<sup>27</sup> Note: The figures have been rounded



Chart No. 3



## 2.2. SUCCESSION

In terms of the International Law, **succession** is a group of rights and duties related to the transfer of the whole or of a part of the state territory of one state under the jurisdiction of another state. Hence, we may speak of succession when the state predecessor loses a part of its territory or perishes altogether and when the successor state acquires a new part of the territory or when it is in the very process of emerging.

Because of the poorly developed common law, the UN Commission for International Law has drafted two conventions relating to succession. The first was the Vienna Convention on the Succession of the States with Respect to International Agreements, ratified in 1978, and the second was the Vienna Convention on the Succession of States With Respect to Property, Archives and Debts, ratified in 1983. Both of them have common law character and apply even to the states that did not ratify them.

The provisions of the International Law on succession are applied in all cases in which there is no other agreement of the interested sides.

In its Article 18, the Vienna Convention on Succession Regarding Property, Archives and Debts contains provisions about state property in case of the dissolution of the state:

“1. When a state dissolves and ceases to exist, when parts of that state’s territory create two or more succeeding states, and unless these succeeding states do not agree otherwise:

- a) Immovable state property of the predecessor state is transferred to the succeeding state on the territory of which the respective property is found;
- b) Immovable state property of the predecessor state outside of its territory is transferred to the succeeding states in just proportions;
- c) Movable state property of the predecessor state related to the activities of the predecessor state with respect to the territory to which succession refers is transferred to the respective succeeding state;
- d) Movable state property of the predecessor state, other than the property mentioned under c), is transferred to the succeeding states in just proportions.

2. Provisions of Paragraph 1 do not prejudice the issue of fair compensation between the succeeding states that may arise as the result of the succession of states.”

## 2.2.1. SUCCESSION OF THE PROPERTY OF THE FORMER SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA (SFRY)

The agreements on succession between the states that have come to existence after the disintegration of the USSR, as well as the agreements between the Czech Republic and Slovakia were reached relatively easy, because both USSR and Czechoslovakia fell apart upon agreement of their constituent parts. On the other hand, there were great difficulties in reaching an agreement between the states that have been created after the disintegration of the former SFRY (Federal Republic of Yugoslavia, Macedonia, Bosnia and Herzegovina, Slovenia and the Republic of Croatia). The difficulties arose primarily from the fact that the Federal Republic of Yugoslavia was insisting on having the sole right of continuity of the former state. Federal Republic of Yugoslavia had no legal foundations for such a demand, because even the state that keeps its continuity in terms of the International Law can not be the exclusive successor of the agreements, property, archives and debts; these are a part of the joint heritage of all succeeding states. However, the remaining four states succeeding the former SFRY contested the claim and the attitude of the Federal Republic of Yugoslavia that, regarding its subjectivity in terms of the International Law intended to restore *status quo ante bellum*.<sup>28</sup> Finally, after long negotiation between the succeeding states of the former SFRY, the Agreement on the Succession of the Property of the SFRY was finally signed Brussels on the 25<sup>th</sup> May 2001.

Total amount of the estate has been approximated to reach between 80 and 200 billion dollars. However, since a greater part of the estate was military property, which was largely destroyed, some financial experts believe that only about 30 billion dollars remained for apportioning. Experts of the International Monetary Fund, having analyzed the financial indicators of the former SFRY, came up with a suggestion according to

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<sup>28</sup> In the course of negotiations, i.e. in the alimentation of the succession revenues, it is very important to understand the distinction between the term secession and disintegration of states. (In the case of secession (separation, secession, splitting off), the predecessor state continues to exist, and its international subjectivity remains intact (e.g., separation of India and Pakistan); on the other hand, in the case of complete disintegration (dissolution), the predecessor states (regardless whether they were unitary, federal or confederal states) lose their subjectivity in terms of the International Law and cease to exist. Therefore *status quo ante bellum* is not restored.

which the participation in the total gross product of former Yugoslavia should be the principal criterion in the apportioning of the total remaining property. According to the IMF formula, Federal Republic of Yugoslavia should get most of that property, 36.50 %, followed by Croatia with 28.49 %, Slovenia with 16.39 %, Bosnia and Herzegovina with 13.20 % and Macedonia with 5.40 % of all claims but also of all obligations of the former state.

Financial claims and debts that were at issue in succession include all financial claims and debts of the former SFRY on the 31<sup>st</sup> December 1990. The claims include:

- ◆ Accounts and other financial claims on behalf of the Ministries and of the Federal Government of the former SFRY;
- ◆ Accounts and other financial claims on behalf of the National Bank of Yugoslavia;
- ◆ Claims of foreign currency, including the gold reserves and reserves of other precious metals that belonged to former SFRY and to the National Bank of Yugoslavia;
- ◆ Sums of the National Bank of Yugoslavia from other banks that are the results of unfinished bank agreements on clearing;
- ◆ Financial quotas and the right to withdraw the money of the former SFRY, of the national Bank of Yugoslavia and of other federal organs or institutions, in international financial institutions, as well as the financial claims held by such organizations.

As far as the debts are concerned, succession includes the external debts of the former SFRY to official creditors, international financial institutions, commercial creditors, and the amounts payable by the National Bank of Yugoslavia to other banks, as well as the guarantees of the former SFRY and of the National Bank of Yugoslavia for the savings in hard currency deposited prior to a specified date with commercial banks and with the Postal Savings Bank in any of the Republics of the former SFRY. However, some of the said claims and debts of the former SFRY have in the past 10 years been distributed through all forms of international agreements of the succeeding countries and through their agreements with international financial institutions. At issue here are the claims and debts with the IMF, the shares and debts with the World Bank for Reconstruction and Development; debts towards the European Investment Bank; gold, reserves and shares in the Bank for International Settlement in Basel; guarantees for

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the savings with the Postal Savings Bank, and foreign debts towards the members of the so-called "Paris" and "London" Club.

Prior to the signing of the Agreement on the Succession of the property of the former SFRY in April last year, there was a meeting of the delegations of Bosnia and Herzegovina, Croatia, Macedonia, Slovenia and Yugoslavia, whose work was coordinated by Arthur Watts, special negotiator for succession of the former SFRY. The reason for the meeting was the apportionment of the gold deposited in the Bank for International Settlements<sup>29</sup>, where, according to estimation, there are 46 tons of gold (the counter-value of 414 million dollars) in joint ownership.<sup>30</sup> On this occasion, the delegations have agreed that the gold and other reserves and shares kept in the Bank shall be apportioned as follows: FRY 36.52 %, Croatia 28.49 %, Slovenia 16.39%, Bosnia and Herzegovina 13.20 % and Macedonia 5.40 %. In the course of negotiations, Croatia represented the idea that it is necessary to again determine the total value of the joint property (property in the Bank for International Settlements, deposits in foreign banks, claims abroad, former state's hard currency reserves, internal claims, archives, military property, immovable property abroad...) and set up the rules for apportionment, where the principle of justness must be applied to the maximum.

"When the movable and immovable property on the territory of the predecessor state or the succeeding state, the provisions about the succession of the states, special categories of separation and dissolution contain two prevailing objective criteria, i.e., the criterion of location and the criterion of personal connection: the criterion of justness serves only to put aside the unbalanced results and re-establish balance; here justice plays only a creative role, i.e., it corrects the formalistic aspect of the legal rule."<sup>31</sup>

This meeting was an excellent foundation for the continuation of negotiations that preceded the signing of the Agreement on the Succession

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<sup>29</sup> The Bank for International Settlements (BIS) was established by central banks of Belgium, Great Britain, Germany, Italy, Japan and the USA in Basel in 1930. It was founded with the purpose to set up mechanisms of cooperation between the central banks and of their international payments, and since 1960; the Bank is also functioning as the Center for Stability of Parity Rates and as an auxiliary organ of the IMF and the World Bank.

<sup>30</sup> Communication of the Croatian National Bank from 12th June 2001 – [www.hnb.hr](http://www.hnb.hr)

<sup>31</sup> Metelko, J.: Pravičnost u sukcesiji država, Pravni fakultet, Zagreb 1995, p. 137

of the Property of the former SFRY. Most problems were caused by the key that the MMF had proposed for the apportionment of the gold from the Bank for International Settlements. This key was, namely, supposed to be applied in the apportionment of the remaining financial property and responsibility as well. Due to the fact that such apportionment would be damaging for Bosnia and Herzegovina and Macedonia, no unified key was determined. To achieve justice in the process of succession, it has been agreed that the shares in the total estate shall be estimated by taking the mean value between the foreign debt rate and the currency-claiming rate that will be assigned to each of the succeeding states. According to that criterion, FRY should get 392 million dollars or 38 % of the entire property, Croatia should get ca. 237 million dollars or 23 %, Slovenia ca. 165 million dollars or 16 %, Bosnia and Herzegovina ca 160 million dollars or 15.50 %, and Macedonia ca. 77 million dollars or 7.50 %. This is the so-called initial apportionment of the available financial claims, consisting of 70.18 million dollars of monetary gold and 962.64 million dollars from currency accounts. The Agreement provided that the governors of the succeeding countries' central banks should meet within one month to arrange the ways in which the money will be apportioned.

It must be emphasized that financial claims and debts are the most important entry of the signed Agreement that contains all solutions with respect to movable and immovable property, diplomatic and consular property, archives, pensions, all other rights and duties, as well as private property and acquired rights of physical and legal persons.

He text of the Agreement provides that the immovable property of the former SFRY will belong to the succeeding states on the territory of which such property is located. Further, there is an obligation of the Federal Republic of Yugoslavia to transfer two adequate immovables in Belgrade to each of the remaining succeeding states, so that these buildings may serve for diplomatic and consular purposes. The same principle determined for immovable property applies also to the movable property, with the exception of the works of art, manuscripts, books and other objects of artistic, historical or archaeological interest, scientific collections and important collections of books and archives of importance for the cultural heritage of a particular succeeding state.

As far as the temporary and partial apportionment of the diplomatic and consular property is concerned, Bosnia and Herzegovina has chosen the former embassy building of the SFRY in London, Macedonia has taken the general consulate building in Paris, Slovenia the embassy building in

Washington, while Croatia and the Federal Republic of Yugoslavia still have to decide which buildings they would take. All states must enter into the possession of the said property by the 30th November 2001, which date was set as deadline. The Agreement has specified that in final distribution, FRY will get 37.5 %, Croatia 25 %, Bosnia and Herzegovina 15 %, Slovenia 15 % and Macedonia 7.5 % of the diplomatic and consular property<sup>32</sup>.

With respect to pension rights, the Agreement has specified that each state should take the responsibility for legally earned pensions financed by the respective state in the earlier capacity of the constitutive unit of the SFRY, and that they shall regularly pay the pensions, regardless of the nationality, citizenship, place of living and domicile of the user. The same principle applies to the pensions of former Yugoslav state and army officers' pensions if they were financed from the state budget or other federal sources of the former SFRY. If citizens of more than one country are in question, pensions will be paid by the state in which the pensioner is a domicile person, or the state whose citizen that person was on 1st June 1991. In addition to that, it was agreed that the states will sign bilateral agreements to secure the payment of pensions "for persons living in a state other than the one paying the pensions for them, for transferring the necessary funds to secure the payment of pensions, and for the payment of pensions in proportion to the paid contributions".

As far as the execution of the Agreement is concerned, a Permanent Joint Commission was established, including representatives of all states, with the task to observe the efficiency of the implementation of the Agreement. The Commission will meet within two months from the day the Agreement is set in force. The Agreement will become effective one month after all documents about its ratification have been deposited with the depositary and sent to the Secretary General of the United Nations.

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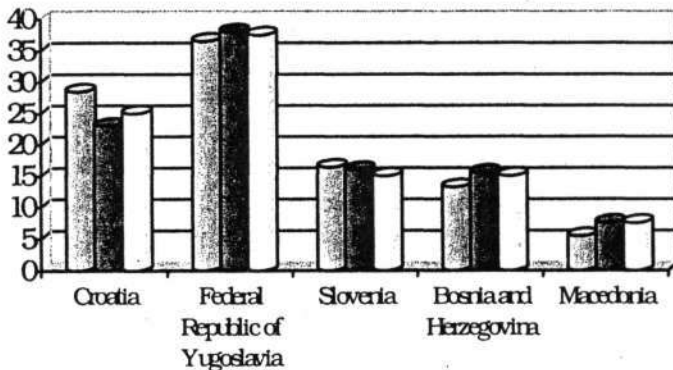
<sup>32</sup> Table and chart presentation - Table No. 4 and Chart No. 4



**Table No. 4**

| <b>Succession of the Property of the Former SFRY</b> |  |   |  |
|--|--|---|--|
| <b>Country</b>                                       | <b>Apportionment of the Property Deposited in the Bank for International Settlements According to the IMF Criteria</b> | <b>Apportionment of the Total Financial Property and Responsibilities</b> | <b>Apportionment of Diplomatic and Consular Property</b> |
| Croatia  | 28.49%   | 23.00%  | 25.00%   |
| Federal Republic of Yugoslavia                       | 36.50%   | 38.00%  | 37.50%   |
| Slovenia   | 16.39%   | 16.00%  | 15.00%   |
| Bosnia and Herzegovina                               | 13.20%   | 15.50%  | 15.00%   |
| Macedonia  | 5.40%  | 7.50%   | 7.50%  |
| <b>Total:</b>  | <b>100%</b>  | <b>100%</b>   | <b>100%</b>  |

**Chart No. 4**



- Apportionment of the Property Deposited in the Bank for International Settlements According to the IMF Criteria
- Apportionment of the Total Financial Property and Responsibilities
- Apportionment of Diplomatic and Consular Property

### 3. CONCLUSION

After the end of war it is extremely important to generate some post-war income, because in the wartime, the limits of the citizens' fiscal burden were extended to their maximum, whereas the investment cycles in most branches of economic activity had reached their bottom level.

Legal science, especially its part dealing with the study of Financial Law and of Public International Law, should pay more attention to the study of post-war income as extra non-fiscal revenue of primary importance in most countries after the re-installment of peace and repeated complete re-socialization of the population on the re-integrated territories.

Croatia, Bosnia and Herzegovina and Slovenia must take a coordinated approach towards solving the problems of the present situation; they must contest the thesis that the war fought on the territory of the former Socialist Federal Republic of Yugoslavia was a civil war, as it is asserted by some political circles in the Federal Republic of Yugoslavia, and they must prove that the war they were fighting was a defense war. It is therefore necessary to make some concrete steps in terms of getting other forms of post-war income (restitutions income, contributions income and reparations income) and it must not be allowed for the succession income to be the only income.

## **4. LITERATURE:**

### **Books and Papers:**

- Andrassy, J.: Međunarodno pravo, "Školska knjiga", Zagreb 1978;
- Bertoš, M.: Les nouveaux Etats et les traités internationaux, JRMP, No. 2, Belgrade, 1962;
- Bertoš, M.: Njemačke reparacije poslije Drugoga svjetskog rata, Politička biblioteka broj 39, Beograd, 1948;
- Brekalo, M.: Nefiskalni prihodi, pravni i financijski učinci, Pravni fakultet, Osijek 2000;
- Brekalo, M. – Matić, B.: Nefiskalni prihodi u strukturi financiranja lokalne samouprave (Prvi znanstveni kolokvij katedri za financije Ekonomskih fakulteta Hrvatske), Ekonomski fakultet, Osijek 2001;
- Jelčić, B.: Rječnik javnih financija i financijskog prava, Informator, Zagreb, 1981;
- Metelko, J.: Pravičnost u sukcesiji država, Pravni fakultet, Zagreb 1995;
- Metelko, J.: Pravičnost u znanosti Međunarodnog prava, Zbornik Pravnog fakulteta, No. 3-4, Zagreb 1981;
- Serb, L., Jugoslavija i njemačke reparacije poslije Drugog svjetskog rata, Zbornik Pravnog fakulteta u Zagrebu, Nr. 3-4, 1966.

### **International Treaties, Conventions and Reports:**

- Convention on Succession of States in Respect of State Property, Archives and Debts, A/CINF.117/14, 7 April 1983 (ILM);
- Report of the Agency for Reparations, Agence Paris, 1951;
- Report of the Crimea Conference, 11<sup>th</sup> February 1945, London, 1945;
- Communication for the Public of the Croatian National Bank on 12<sup>th</sup> June 2001, [www.hnb.hr](http://www.hnb.hr).