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SERBIA AND INTERNATIONAL LAW AT THE CROSSROADS OF CENTURIES – SERBIAN APPROACH TO INTERNATIONAL LAW UNTIL THE BEGINNING OF THE FIRST WORLD WAR

Introduction

Conventional history of Public International Law (PIL)[1] teaches us that the Ottoman Empire – and Serbia as a province of it – had been out of reign of PIL until the second part of XIX century. With fascinating and not much disputed precision it tells us that it was not before 1856 Paris treaty that the Ottoman Empire was accepted as an eligible member of the European Concert and, accordingly a member of the community of Civilized Nations. As for Serbia – official history assure us – it had to wait until 1878 Berlin Congress to be accepted in honourable, exclusive club of states bound by and protected with PIL. In this paper we will demonstrate that these widely accepted views are not as solid as they might seem.

Actually, this article has three major objectives. The first is to provide an overview and analysis of the position of Serbia towards international law of the XIX century. For the purpose of clarity, the article is organized in rather conventional way. Discussion will move chronologically, beginning with the examination of the period stating form 1830 to 1878. Being a province, and latter on a vassal of Ottoman Empire, Serbia was not supposed to approach to PIL directly but through mediation of its sovereign, Ottoman Empire[2]. In order to provide a closer insight into Serbia's

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1 Traditionally PIL is defined as a body of law that "comprises a system of rules and principles that govern the international relations between sovereign states and other international subjects of international law". See Martin Dixon, Textbook on International Law, 6th ed., Oxford University Press, 2007, p. 22.

2 For the more than useful information about the history of Ottoman Empire see e.g. Gabor Agaston, Bruce Masters, Encyclopedia of the Ottoman Empire, Fact on File, 2009, p. 191.

indirect approach towards international law, the authors will point to the institutes of capitulation, consular relations and treaties dealing with the status of Serbia as a subject matter. Strengthening its internal autonomy, Serbia gradually developed its external position and direct approach to the PIL. In the second – central part of the research, the authors will comment upon Serbia's capacity to be bind by international treaties on its own behalf and its treaty making capacity, especially in the field of international law of armed conflict and peaceful settlement of disputes.

The second objective of the article relates to the argument presented in the previous consideration. It aims to reappraise the role of PIL in the process of striving for the internal as well as the external emancipation of Serbia and to revalue PIL tribute to the promulgation of Serbian interest in the eve of World War I.

Finally, the third and last objective of the paper is to enrich the body of knowledge dealing with XIX century PIL. There is strong criticism in contemporary doctrine of IPL on the so called "big history" of IPL.[3] The number of profound studies of the issue is considered to be scandalous,[4] with the XIX century "extraordinary... the last exploited area of the history of international law".[5] The authors of the article will strive to give a modest contribution to the attempts to overcome that real or alleged shortcomings.

Ottoman Empire in the XIX century Public International Law

It was only from the twelfth century onwards that the term Europe was used to denote a particular place whose inhabitants enjoyed a common way of life based on Christianity, particular form of political economy (rural trade), social order, culture and so on. As from the sixteenth and seventeenth centuries, the societies in that space started to organize themselves in a special type of political organization, the modern nation-states characterized with centralization, impersonal bureaucracies and certain core policies, such as tax, public order, law, foreign policy. The distinctive feature of the then European identity was the exclusion from the emerging international community of European states of non-Christians, be they pagans or followers of other faiths, or even their persecution. The benefits of the membership in the exclusive club had to be earned and to be approved by the longstanding members. The distinction between "civilized" and "non-civilized"

3 See e.g. Marti Koskenniemi, *The Gentle Civilizer of Nations, The Rise and Fall of International Law 1870–1960*, Cambridge University Press, 2004, p. 6.

4 Bardo Fassbender and Anne Peters, *Introduction: towards a global history of international law in Bordo Fassbender*, Anne Peters ed., The Oxford Handbook of the History of International Law, Oxford University Press, 2014, p. 20.

5 Stephen C. Neff, *A short history of international law*, in: International Law, ed. by Malcom D. Evans, 1st ed. Oxford University Press, 2003, p. 41. See also David Kennedy, *International Law and Nineteenth Century: History of an Illusion*, Vol. 17 QLR, 1997, pp. 106 and *passim*.

nations survived XIX century and strongly influenced doctrinal thoughts of PIL even at the beginning of XX century.[6]

In 1905 in one of the most influential and most cited treatise of PIL ever,[7] Lassa Oppenheim determined the "range of Dominion of the Law of Nations" as follows: "The old Christian States of Western Europe are the original members of the Family of Nations, because the Law of Nations grew up gradually between them through custom and treaties. Whenever afterwards a new Christian State made its appearance in Europe, it was received into the charmed circle by the old members of the Family of Nations."[8]

The reception of the Ottoman Empire into the European Concert and in the realm of PIL done through Article 7 of Paris Treaty that solemnly "déclarent la Sublime Porte admise à participer aux avantages du droit public et du concert européens"[9] allegedly caused fundamental change of the nature of PIL: "International Law ceased to be a law between Christian States solely. Since that time Turkey has on the whole endeavoured in time of peace and war to act in conformity with the rules of International Law, and she has, on the other hand, been treated accordingly by the Christian States. No general congress has taken place since 1856 to which Turkey has not been invited to send her delegates."[10]

But such an optimistic perception of the 19th century position of Turkey could not sustain Lauterpacht's devotion to make "highly reliable depiction and analysis

6 *For the perception of Turkey as archetype of barbarous state situated between civilised states and savage peoples see James Lorimer*, The Institutes of the Law of Nations: A Treaties of the Jural Relations of Separate Political Communities, W. Blackwood and Sons, Edinburgh 1883, p. 123, 464. For the more elaborated discussion on the policy of exclusion see e.g. Marty Koskenniemi, The Gentle Civilizer of Nations, *The Rise and Fall of International Law*, 1870–1960, Cambridge University Press, 2004.

7 Mathias Schmoeckel, *Lassa Oppenheim (1858–1919) in Bardo Fassbender and Anne Peters*, The Oxford Handbook of the History of International Law, Oxford University Press, 2014, 1152, at 1155; Wight, The Balance *of Power*, in H. Butterfield and M. Wight (eds), Diplomatic Investigations, Allen and Unwin, London, 1966, 149, p. 172; A. Nussbaum, A Concise History of the Law of Nations, Macmillan Co., 1947, p. 247.

8 L. Oppenheim, *International Law*, A Treatise, Vol. I. *Peace, sec. ed. Longmans, Green and Co.*, Lonodon, New York, Bombay and Calcutta, 1912, pp. 32, 33, www.gutenberg.org/files/41046/41046-h/41046-h.htm#Page_140 Footnotes omitted. For an assessment of Oppenheim's book see e.g. Mathias Schmaeckel, The Internationalist as a Scientist and Herald: Lassa Oppenheim, EJIL, 11 (2000), pp. 699–712.

9 For the more elaborated discussion on Paris Treaty see e.g. Hugh McKinnon Wood, „The Treaty of Paris and Turkey's Status in International Law", *American Journal of International Law*, Vol.37, No. 2, April 1943, p. 262 and *passim*. See also See also Harold Temperley, „The Treaty of Paris of 1856 and Its Execution", *The Journal Modern History*, Vol. 4, No. 3 (Sep., 1932), pp. 387–414. of Modern History, Vol. 4, No. 3 (Sep., 1932), pp. 387–414.

10 L. Oppenheim, *International Law A Treatise*, Vol. I. Peace, sec. ed. Longmans, Green and Co., London, New York, Bombay and Calcutta, 1912, pp. 32–33, www.gutenberg.org/files/41046/41046-h/41046-h.htm#Page_140 Footnotes omitted.

of current legal issues".[11] Even though it was eligible, Turkey was seldom recognized as a equal, full member of the Family of Civilized Nations. "There is no doubt that Turkey, in spite of having been received into the Family of Nations, has nevertheless hitherto been in an anomalous position as a member of that family, owing to the fact that her civilisation has not yet reached the level of that of the Western States."[12]

It seems that John Westlake, another outstanding international, was much more generous commenting upon "anomalous" position of Ottoman Empire, but not less realistic. In his treatise on international law published five years letter that of Oppenhiem, in 1910, he wrote: "Beyond the above limits the international society exercises the right of admitting states to parts of its law without admitting them to the whole of it. Such is the case with Morocco, Turkey, ...The European and American states maintain diplomatic intercourse and conclude treaties with them [Turkey and Japan], they regard their territories as being held by titles of the same kind as those by which they hold their own, and when at war with them they regard the laws of war as being reciprocally binding just as between themselves. But the civilization of those countries differs from that of the Christian world in such important particulars, especially in the family relations and in the criminal law and its administration, that it is deemed necessary for Europeans and Americans among them to be protected by the enjoyment of a more or less separate system of law under their consuls."[13]

The "anomaly" that provoked so many quarrels in the late XIX and early XX century was preceded by and imbedded in the concept of capitulations. There are still some ambiguities surrounding the origin of the term and the time when it came into use. It seems that the prevailing opinion advocates that the term capitulation is derived from a bit corrupted Latin word "capitulum" meaning "chapters" and that its usage is connected with 1535 Treaty between Ottoman Empire and France that was organized in articles or chapters.[14] Although the practice of granting extra-territorial rights to foreigners highly precedes the formation of Ottoman Empire and PIL as such, it is considered that the Christian powers obtained the principal capitulations in Ottoman Empire between the fifteenth and nineteenth century.

11 Mathias Schmoeckel, *o. c*. 1155.

12 L. Oppenheim, *International Law A Treatise*, Vol. I. Peace, *o. c.*, p. 34. Several great internationalists reedited the book, including Hersch Lauterpacht. In the last issue printed under his edition the cited statement was a bit mitigated: „ But her position as a member of the Family of Nations was anomalous, because her civilisation was deemed to fall short of that of the Western States". Cf. International Law, A treatise by L. Oppenheim, Vol. I, Peace, edited by H. Lauterpacht, eight ed. Longman, 1955, p. 43. Lauterpacht's editions are considered to „gain an authority unmatched by any other textbook of the time", Mathias Schmoeckel, *o. c.*, p. 1155.

13 John Westlake, *International Law*, Part I, Peace, Cambridge, 1910, p. 40.

14 See e.g. Umit Ozsu, Ottoman Empire, in The Oxford Handbook of the History of International Law ed. by Bardo Fassbender and Anne Peters, Oxford University Press, 2014, 429–448, at 430; Lucius Ellsworth Thayer, The Capitulations of the Ottoman Empire and the Questions of their Abrogations as Affects the United States, AJIL, Vol. 17, No. 2, 1923, pp. 207–233, at p. 210.

Originally, the immunities were based on imperial decrees, unilaterally granted and unilaterally revocable personal pledges of lasting for the life of the grantor. The capitulation were designed in order to reconcile rigid provisions of Koran preventing peaceful relations with non-believers with pressing need to conduct economic relations with Christian States and to persuade their merchants to do business in Turkey. But the regime of capitulation was destined to go through tremendous changes that corrupted its purpose, legal nature and functions. Created as a *modus vivendi* for the commerce between Ottoman Empire and Christian States, it turned to be a powerful instrument for restricting Empire's sovereignty on its territory and for intervention in its internal affairs.

It was as late as mid-18th century that the Western States started to raise more frequently their claims that the legal basis for capitulation lies in bilateral treaties that cannot be revoked unilaterally.[15] Until the 19th century the content of capitulations was extended enormously encompassing not only immunities and privileges enumerated in the treaties, but also those stemming from the custom, usages, interpretations, protocols, and so on. Personal privileges and immunities included *inter alia* permission to come on Ottoman's territory and to reside there; freedom of travel; freedom of custom; inviolability of foreigner's domicile, religious liberty. In economic field foreigners were protected against levying discriminatory and confiscatory taxes, every tax levied by Ottoman government, minus ad valorem import and export duties whose maximum had been provided by the agreement with capitulatory powers. Last but not the list, capitulatory states were vested with power to have their own protégés who they might share with privileges and immunities provided for their own citizens.[16]

As a corollary of such vast exemptions, the concept of capitulations included immunity from jurisdiction of local courts. Based on the doctrine of extraterritoriality that was abandoned in Europe in 16th century, consuls of the Christian powers were vested to exercise exclusive civil and criminal jurisdiction over their fellow nationals: "Citizens, subjects or protected persons of the State enjoying extraterritorial rights were exempt from territorial jurisdiction of the State according such rights placed under the laws and judicial administration of their own state."[17] So broad was the domain of consul's competence to administer the justice that he was in charge even for the so-called mixed cases, the cases in which the plaintiff was a native or a subject of another Christian state. Apart from that, the competences of consuls included the

15 The very beginning of the so-called regime of capitulation is considered to be the immunities of jurisdiction granted to merchants of Venice and Genoa by Sultan Mahomet in 1454. For the history of capitulations in general and in Ottoman Empire in particular see e.g. Lucius Ellsworth Thayer, *o.c.*, pp. 207–215. See also Karl-Heinz Ziegler, The peace treaties of the Ottoman Empire with European Christian powers in Randall Lesaffer (ed), *Peace Treaties and International Law in European History*, Cambridge University Press, 2004, pp. 338–364.

16 Lucius Ellsworth Thayer, pp. 215–218.

17 Luke E. T. Lee, John Quigley, Consular Law and Practice, 3rd ed., *Oxford University Press*, 2008, p.7

power of protection of the privileges, the life, and the property of their countrymen and even the power to expel them from Empire on the bases of misbehaviour.[18]

The history of use and abuse of capitulations and extraterritorial jurisdiction on the Ottoman's soil is notorious: "The embassies in the capital and the consulates across the Sultan's dominions appeared as an *imperium in imperio*. They were extremely vigilant in protecting the rights of their country citizens as well as that of non-muslim subjects, worked as highly effective pressure groups to keep constant vigil upon the conduct of the government and constantly drew attention to the gap between newly introduced laws and their application."[19] In that enterprise, the role of the consuls was particularly prominent: "By and large, the consuls on the Ottoman periphery enjoyed more powers ever Ottoman political and social life then even their superiors did in the capitals", "consuls become petty tyrants".[20]

Nevertheless, one class of capitulation proved itself to be particularly troublesome: some states were granted or allegedly granted the right to protect their co-religionists in Turkey. The 1740 Treaty concluded between France and Ottoman Empire confirmed the existing rights and privileges of Catholic Church suggesting that France should be considered as protector of Latin Church in Turkey. In the same way the Russia demanded to be recognized as legitimate and legal protector of Orthodox Church and orthodox subject of Sublime Porte in Ottoman Empire. Russia based her claim on 1775 Kutschuk-Kainardji Treaty. The referent article VII stated as follows: "The Sublime Porte promises to protect firmly the Christian religion and its churches; and also it permits the Ministers of the Imperial Court of Russia to make on all occasions representations in favour both of the new church at Constantinople ... and of those who carry on its services, promising to take them into consideration as made by a person of confidence of a neighbouring and sincerely friendly power."[21] It didn't take long for Porte to start to oppose such interpretation of the respective provisions. But declining as it was, Porte was not able to prevent Russia to establish herself as general protector of Sultans orthodox subjects, and, on that account, to intervene in the most sensitive aspect of Turkish sovereignty: the relationship between sovereign and his subjects. Russia managed to present herself as almost exclusive protector of orthodox population of Ottoman Empire sometimes even for their own benefit. Amongst those who occasionally enjoyed Russian support – but not always, and not only Russian support – was Serbia.

At the outset of XIX century Serbia was a province of Ottoman Empire. Situated on the border with Austrian Empire, it felt the influence from the north but mostly shared the destiny of her sovereign. The repressions done by the Turkish

18 See e.g. Oppenheim, International Law A Treatise, Vol. I. Peace, *o. c.*, 478–481.

19 Nazal Cicek, The Young Ottomans: Turkish Critics of the Eastern Question in the Late Nineteenth Century, I. B.Tauris & Co Ltd, 2010, pp. 124–130, *o. c.* at 129.

20 Nazal Cicek, *o. c.*, p. 137. For the abuse of the capitulations see p. 135–150.

21 Oakes, Augustus Henry, The great European treaties of the nineteenth century, Clarendon Press, Oxford, 1918, p. 159.

irregulars in Belgrade Pashaluk, gathered with the national awaking, led to the so-called Serbian Revolution[22] or, in our historiography more accepted terms, First (1804-1813) and Second (1814) Uprising.[23] Although the rebels against Sultan, as some of European powers perceived them, or rather the freedom fighters as they were perceived by others did not manage to earn its independence, they were greatly successful in building autonomous government. Apart from the diplomatic support, Imperial Russia declared the war to Ottoman Empire in 1806. Victorious Russia persuaded Turkey to sign Treaty of Bucharest providing for the guaranties of Serbian autonomous status. Article 6 of the Bucharest treaty provided that the Sublime Porte "will leave the Serbs alone to take care of their internal administration and will directly collect from them the moderate amount of tributes."[24]

Not without hesitation and resistance, Sultan issued special Ferman in 1830 transforming Serbia from a province of Empire to the vassal state. Even though it amounted to semi sovereign state, Serbia nevertheless shared the destiny of her sovereign in terms of PIL. But, the effects of the aforementioned institutes had a different effect on her territory.

The system so destructive for Turkey, the regime of capitulations, proved to be of considerable help for Serbia. For Serbia the system of capitulation brought two important assets. The first one was the fact that the institutes of law of European states and of European public law penetrate into the Serbian legal system and become applicable on her territory. The second benefit stems from the fact that Serbian population, being Christian was granted international protection against its own sovereign.

Another difference between the effects of capitulation on Serbia an Ottoman Empire is seen in the fact that until the 1870es European states gradually changed their policy toward application of capitulation in the territory of Serbia. First tentative step was undertaken by Russia. In 1868 the Serbian government was informed that Russia "abandons in advance the exercise of rights provided by the agreements with Turkey, and subjects their nationals residing in Serbia to the laws of Principality both in civil and in criminal matters."[25] It seems worth mentioning that in 1914 Turkey made

22 See e.g. Stevan K. Pavlović, Istorija Balkana 1804–1945, 2nd ed. CLIO 2004, p. 42 and *passim.*

23 For a brief but profound analyze of Serbian emancipation see e.g. Natasa Miskovic, Mission, power and violence: Serbian's national turn in Grandits, Hannes, Clayer, Nathaalie, Pichler, Roberts, Conflicting Loyalities in the Balkans: the Great Powers, the Ottoman Empre and Nation Buildings, I. B. Taurius, 2011.

24 Article 6 of the Buchurest agreement. Quoted according to the B LJ Popovic, Diplomatska istorija Srbije, Zavod za udžbenike, Beograd, 2010, p. 86.

25 Quoted from Popovic, *o. c.,* p. 361. See also L'Exchange de lettres entre le Consul général impérial russe Chichkine et le Ministre des Affaires Étrangés de la Serbie M. Petronijevic concernant la Suspension de la Juridiction consulaire en Serbie, Beograd, le 15 et 29 avril et le 2, 15 et 27 mai 1868, *Serbian Newspapers,* 1868, No. 154.

an abrogative attempt to discard capitulations unilaterally. However, for the decisive abolition of capitulations Turkey needed to wait 1922–1923 Lausanne Conference.

As for the consular relations, it is important to note that even though the consuls were accredited at the Sublime Porte, some of them resided in Belgrade. They started turning to the central Serbian authorities and even commence to ask for some sort of *agrément* from them.

Another important institute of PIL that Serbia began to use in the early days of its emancipation were the international treaties. Serbia used the flexibility of the then ruling international law doctrine and treaty making practice in regard to entities that were allowed to enter into contractual relations. It has been well established rule of customary law that international law entities other than states may have the international personality necessary to allow them to conclude treaties.[26] There was no doubt that principalities were among them. Some of the treaties that Serbia concluded were: 1863 Treaty on Extradition of Criminals and Deserters and Treaty on Telegraph Service with Romania,[27] Telegraph Convention with Austria in 1865,[28] the Consular convention with Bavaria in 1870,[29] and the Postal convention with Romania in 1871.

However, the crucial moment in the development of the contractual capacity of Serbia arose when Serbia was accepted as one of the parties to one of the first multilateral treaty of that time – 1964 Geneva Convention.

The Geneva Convention for the Amelioration of the Conditions of the Wounded in the Armies in the Field was adopted in 1864. Direct motive for its adoption was the belief that the States need to prepare for the calamities of war in advance and to pull their attempts to minimize the sufferance of wounded soldiers. In 1864, after the Solferino battle that belief reached its peak and it was decided that the treaty regulating this issue should be adopted. Thirty-six people, 18 of which were sent by 14 governments met in Geneva at the international conference from 26th to 29th October 1863.[30] Unlike the Ottoman Empire, Serbia was not invited to be part of the Conference, but the conclusion of this treaty did draw attention of certain circles in Serbia, primarily of the members of the military medical personnel. In 1867, being aware of the weakness of military medical care Doctor Karlo Beloni proposed accession of Serbia to the Geneva Convention. Nevertheless, this

26 See e.g. D J Harris, Cases and Materials on International Law, sixth ed. Sweet and Maxwell, 2004, 791.

27 See The Review of the development of international legal relations of Yugoslav countries from 1800 until now, Vol. I, The review of international treaties and other act of international law relevance for Serbia from 1800 to 1918, p. 66.

28 *Ibidem*, p. 68.

29 *Ibidem*, p. 73.

30 More about the context, the preparations and the discussions leading to the 1863 Conference see Pierre Boissier, History of the International Committee of the Red Cross from Solferino to Tsushima, Henry Dunant Institute, Geneva, 1985, pp. 45–121.

proposal was refused by the Serbian government as „unacceptable in our current political circumstances."[31] But when the conflict between France and Prussia arose in 1971 Serbian government sent the military medical personnel to the battlefield in order to assess the value of this convention.[32]

The turning point for Serbia's relation to Geneva Convention was the outbreak of the uprising in Herzegovina in 1875. The reaction of Ottoman government was cruel and provoked large wave of refugees in neighbouring states – Montenegro, Serbia and Austria.[33] The number of upcoming refugees was especially a problem in Montenegro, a small state with small population. It is estimated that around 40 000 to 50 000 refugees came in Montenegro,[34] and it was obvious that Montenegro could not cope with that alone. Montenegro asked for help the International Committee of the Red Cross, which said that in order for the Montenegrin relief society to be recognized as a Red Cross Society and to be able to receive help, Montenegro would first need to accede to the Geneva Convention. On November 29th 1875 King Nikola I signed the accession act and Montenegro became state signatory to the Geneva Convention. Soon, Serbia followed Montenegrin steps. On March 24th 1876 by the declaration of King Milan Obrenovic Serbia acceded to Geneva Convention.[35] These actions of Serbia and Montenegro caused discontent of Ottoman government. Turkey was of the opinion that her accession to the Convention in 1865 also encompasse her vassals – both Serbia and Montenegro.[36] However, even if that was correct, Turkey did not implement the obligations forseen by the Convention. Namely, Serbia had its own army that was independent from the Turkish one and the situation could occur in which Serbia is in war and Turkey is not and viceversa. In that case Ador and Moynier ask whether Turkey is obliged to „instantlly instruct Serbs and not let them ignore their obligations if they find themselves in the battle?"[37] However, Turkey did not do that. On the other hand both Serbia and Montenegro showed genuine wish to implement in practice principles of the Convention. Despite unfavorable circumstances Serbia managed to build not only a praticable framework

31 See: Vladimir Stanojevic, *Istorija Srpskog vojnog saniteta*, Beograd, 1925, p. 53; Mile Ignjatovic, „Osnivanje vojne sanitetske službe u Srbiji sredinom XIX veka", *Vojno-sanitetski pregled*, no. 4, p. 514.

32 Mile Ignjatović, „Srpsko ratno hirurško iskustvo (1876–1918) ", I deo: „Ratna hirurgija u Srbiji u vreme srpsko-turskih ratova", *Vojnosaniteski pregled*, broj 5, 60(5), 2003, str. 633.

33 For somehow diferrent perception of the circumstances ruling in that time see Hanes Grandits, Violent social disintegration, in Conflicting Loyalities in the Balcans: The Grat Powers, the Ottoman Empire and Nation Building, by Grandits, Hannes, Clayer, Nathalie, Pichler, Roberts, I.B. Taurius, 2011, p. 110 and *passim*.

34 William Stillman, *Hercegovacki ustanak i crnogorsko-turski rat 1876–1878,* Beograd, 1997.

35 See: Welti and Scheiss, Adhésion de la Serbie à la Convention de Gèneve, *Bulletin International des Societies de Secours aux Militaires Blesses*, Volume 7, Issue 27, July 1876, pp. 117–118.

36 G. Ador and G. Moynier, Les Destinées de la Convention de Genève pendant la guerre de Serbie, *Bulletin international des Societes de Secours aux Militaires Blesses* vol.7, no. 28, October 1876, p. 166.

37 *Ibid.*, p. 166.

but also relatively satisfying legal mechanisms for the implementation of obligation stemming from the Convention. It was in 1878 that Serbian government issued a manual for the use of officers.[38] Moynier and Adorno wrote: "Even if accession of Serbia and Montenegro to Geneva Convention is rendered unlawfull, as Turkey claims, it neverthless has a great moral value, which this power needs to take into consideration. That accession was a serious and reasoned act..."[39]

Turkey was not only opposed to accession of Montenegro and Serbia to the Geneva Convention but also to its application in the war that will begin in 1876 between these parties. It seems that the only argument of Turkey was that her opponents were rebels and that Geneva Convention is not applicable in the internal conflict which takes place.[40] However, in respect to the nature of Geneva Convention Ador and Moynier write: "In its [Geneva Convention] text there is noting that limits its effects only to state parties; on the contrary, all of its articles are formulated in general terms as if they were expression of the rules that should be respected not only in the relations between signatory states but in all circumstances; it is some sort of profession of humanitarian faith, a moral code which can not be obligatory in certain cases and facultative in others."[41] The conclusion of these authors is that "if in one interantional conflict all signatory states to the Geneva Convention have the moral obligation to act in accordance with it in confront of any enemy, isnt't there a stronger reason for that in internal conflict; wouldn't it be nonsense to think that it is right to treat one's countryman in a more cruel manner than strangers?"[42]

Serbian determination to respect and provide for the respect of Geneva Convention did not cease with Berlin Conference. On the contrary: additional measures had been undertaken for the fullfilment of the treaty-based obligations. As a result, "(T)he first conflict in which it [the Convention] was applied by both parties in a fully satisfactory manner was the Serbo-Bulgarian war of 1885."[43]

38 See: Vesna Knežević-Predić, Dejan Pavlović, „Development of the law of war in legislation of Principality od Serbia in the period 1864–1878", Archibald Reiss Days, Thematic Conference Proceedings of International Significance, Volume II, Academy of Criminalistic and Police Studies, 2015, str. 275283. See also Thomas Erskine Holland, The Laws of War on Land Written And Unwritten, Claredon Press, 1908, p. 73.

39 G. Ador and G. Moynier, *o. c.*, 169. See also Anre Durand, The role of Gustav Moynier in the founding of the Institute of International Law (1873) The War in the Balkans (1875–1878), The Manual of the Law of War, International Review of the the Red Cross, November – December, 1994, Vol. 303, pp.543–563.

40 G. Ador and G. Moynier, Les Destinées de la Convention de Genève pendant la guerre de Serbie, *o. c.*, p. 168.

41 *Ibid.*.

42 *Ibid.,* p. 169.

43 Jean Pictet, *Development and Principles of International Humanitarian Law*, Martinus Nijhoff Publishers, Henry Dunant Institute, 1985, p. 31.

Participation of Serbia at Hague Peace Conferences 1899 and 1907

The First Hague Peace Conference was convened at the initiative of the Russian Emperor Nicolas II "with the object of seeking the most efficacious means for assuring to all peoples the blessings of real and lasting peace, and, above all, in order to put a stop to the progressive development of the present armaments".[44] Even though at the end this ambitious proposal did not produce legally binding obligations for States in this respect, the Conference nevertheless addressed some important topics of that time and gave birth to three Conventions, three declaration and 6 *væux*. The so called "International parliament"[45] gathered representatives of 26 States, and Serbia was one of them. Serbian delegation consisted of three eminent persons: Mr. Čedomilj Mijatović, Envoy Extraordinary and Minister Plenipotentiary at London; Colonel Mašin, Envoy Extraordinary and Minister Plenipotentiary at Cetinje and Dr. Vojislav Veljković, professor of the Faculty of Law at Belgrade.[46]

Since the Conference needed to address large number of topics[47], the work of the Conference was organized in three Commissions, each with a different agenda.[48] Serbia was represented in all three Commissions with General Mašin in the First, and both Mijatović and Veljković in the Second and Third Commission. In the Instructions of Serbian Government to the Delegates at the Hague Peace Conference[49] it is clearly stated which topic were of most interest for Serbia. Serbia had least interest in questions regarding military fleets and weapons of great destructive power. In the questions of disarmament and decrease of military budgets Serbia

44 See Russian Circular Note proposing the Program of the First Conference, January 11, 1899 (December 30, 1898) in James Brown Scott (ed.), The Hague Conventions and Declarations of 1899 and 1907, Oxford University Press, New York, 1915, p. xvi.

45 James Brown Scott, *The Proceedings of the Hague Peace Conferences, The Conference of 1899*, Oxford University Press, New York, 1920, p. 641 (Hereinafter: The Proceedings, 1899).

46 The Prime Minister, Dr. Vladan Đorđević should have been one of the delegates, however because if his illness he was not able to come. See: Slobodan Marković, Grof Čedomilj Mijatović, Viktorijanac među Srbima, Centar za publikacije Pravnog fakulteta Univerziteta u Beogradu, 2006, str. 218.

47 The topics were arranged in 8 points (items) in Russian Circular. See: Russian Circular January 11, 1899 (December 30, 1898, Old Style).

48 According to this division, the First Commission was to discuss the issues of impediment of increase of military and naval forces and military budgets, prohibition of new kind of firearms, restriction of formidable explosives and prohibition of throwing projectiles or explosives of any kind from balloons and the prohibition of the use of submarine torpedo boats or plungers and construction of vessels with rams. Question of application of stipulations of the 1864 GC on the basis of additional articles of 1868, the revision of the Declaration concerning the laws and customs of war elaborated in 1874 by the Conference of Brussels ant the neutralization of ships employed in saving those overboard were conferred to the Second Commission, while the Third Commission needed to develop principles of the employment of good offices, of mediation and facultative arbitration.

49 Nenad Milenović, Delegacija Srbije na Prvoj konferenciji mira 1899. godine – Uputstva i izveštaji, *MIscelanea, New Edition XXXI*, 2010, p. 294–298.

was at stance that the status quo is not in the interest of Serbia having in mind that it is less developed than some other States and it needs to be allowed to reach the same level as these states already have. One thing that proved to be of special interest for Serbia was the question of peaceful settlement of disputes. In this regard, Instructions to Serbian delegates were scant, expressing only the concern that the "mediation of great Powers in issues of small Powers can easily be turned into violent intervention and it can result in the trampling of sovereign rights of the latter".[50] That is the stance that Serbia continued to defend throughout the whole Conference and by which the position of Serbia towards international law can best be described. Delegates of Serbia persisted in underlining the difference between great Powers and small Powers, and expressed its deepest concerns about the misuse of the international law instruments by the great Powers. That is why delegates of Serbia were most active in the work of Third Commission.

Third Commission dealt with the means of peaceful settlements of disputes, namely good offices and mediation, international commission of inquiry and international arbitration. Delegates of Serbia were interested in all these aspects of the peaceful settlements of the disputes. In accordance with the expressed concerns regarding the role of great Powers in the mediation, Serbian delegation, and especially Dr. Veljković, attached great importance to draft articles 2 and 3 dealing with good offices and mediation, both offered and requested. Serbia wanted to stress out that the refusal of good offices and mediation should never be regarded as an unfriendly act. In its speech during the meeting of the Third commission Dr. Veljković pointed out that the inopportune offer of good offices and mediation "may cause friction and envenom the relations between the States"[51] and that "the refusal is nothing more than a legitimate act of self-defense against outside interference."[52] These concerns expressed by Serbia were duly responded to by other delegates who on their part were not eager to include in the convention the explicit mentioning of the refusal, seeing it as a way of the promotion of that refusal, while the convention should strive to promote the peaceful settlements of the disputes. After agreeing that the Commission should adopt the interpretation promoted by Dr. Veljković and that it should be inserted in the minutes as the official interpretation, Serbia delegation gave its consent for the adoption of these articles. However, the approach of Serbia was very cautious in this matter and it felt the need to proclaim following declaration:

„In the name of the Royal Government of Serbia, we have the honor to declare that the adoption by us of the principle of good offices and mediation does not imply recognition of the right of third States to use these means except with the

50 Nenad Milenović, Delegacija Srbije na Prvoj konferenciji mira 1899. godine – Uputstva i izveštaji, *o. c.*, p. 297.

51 Proceedings 1899, p. 648.

52 *Ibid.*, p. 649.

extreme caution required by the delicate nature of such measures. We shall admit good offices and mediation only on condition that they preserve fully and wholly their character of purely friendly counsel, and we can never accept them in such form and circumstances as might brand them with the stamp of intervention."[53]

The same declaration, slightly changed in wording was again repeated during the plenary meeting.

It is interesting to note the disagreement between the members of the Serbian delegation in respect to question of mediation. On one side Dr. Veljković had little faith in mediation having in mind the possibility of its misuse. One the other side Mr. Mijatović prudently approached this issue and pointed out that Serbia would be in minority if it did note opt for mediation. His viewpoint was backed up with the argument that if Serbia did not vote for mediation, it would align itself with countries of the second order, such as Turkey and maybe Greece, while it would turn its back to Russia, which can be dangerous especially having in mind the behavior of Bulgaria, that conforms to all Russian proposals.[54] Including this foreign policy consideration into the equation, Mr. Mijatović managed to show his fellow delegates the importance of mediation. However, since the King of Serbia and the Prime Minister were closer to the views of Dr. Veljković than Mr. Mijatović,[55] at the end the balance between different opinions is found by voting for mediation but including the aforementioned declaration.

Other two especially contentious matters for Serbia inluded Section III, about the commission of inquiry and article 27, about the duty of signatory states to remind the states at dispute that the PCA is opened to them. Interesting debate took place between Dr. Veljković and other delegates in the question of Article 27. Dr. Veljković defended his view that Article 27 can be weapon in the arms of the great Powers and reiterated the difference between the small and great powers once again. Dr. Veljković insisted that „the fault he finds with the provisions of this article is that they are a sort of invitation to the great Powers to adopt measures which will wound the legitimate self-respect and dignity of the smaller States."[56] After numerous responses by some of the most prominent participants at the Convention (such as Count Nigra, Dr. Zorn and Mr. Bourgeois) Dr. Veljković said that the discussion made the principle laid down acceptable, and that Serbia will be able to support it under these conditions.[57]

As for the question of commission of inquiry Serbia was not alone in its reluctance to support this institute. With Romania and Greece it formed the so called

53 *Ibid*., p. 650.

54 Nenad Milenović, Delegacija Srbije na Prvoj konferenciji mira 1899. godine – Uputstva i izveštaji, *o. c.*, p. 303, 304.

55 Slobodan Marković, Grof Čedomilj Mijatović, Viktorijanac među Srbima, *o. c.*, str. 221.

56 Proceedings 1989, p. 661.

57 *Ibid*., p. 664.

"Balkan group"[58] led by Mr. Beldiman, Romanian delegate. At the core of the Serbian disapproval of the Section 3 of the Draft Convention about the international commission of inquiry was once again the inequality between great Powers and small states. Serbian delegation found that the guarantees made by the exclusion of disputes involving national honor or the vital interests of States and the limitation that circumstances need to allow for the formation of commission (*if circumstances allow*) did not provide for the adequate protection of small states. According to Mr. Mijatović "it is not necessary to be very deeply initiated in international political life to know that circumstances very often permit the great and powerful to do many things merely because they are great and powerful."[59] After the committee of examination met to study provisions of Section 3 Serbia sent the wording of the newly proposed article and gained approval to accept it. However, during the plenary meeting Mr. Beldiman proposed a new wording of Article 9, which Serbia could not consent to, having in mind that it gained approval for the different wording. All the other states were unanimous in accepting the newly proposed Article 9, and Mr. Veljković said that it will once again ask for the approval of its government, but that he is sure that Serbia will align with other states and that "the only thought that has guided us [Serbia] during the discussion on the draft Convention was not to permit any clause to enter therein which might have been dangerous to our existence and our dignity as an independent State."[60]

Arbitration was another important issue for Serbia, and Serbia was very much supportive of the obligatory arbitration for certain categories of disputes. In giving the reasoning behind this stance Mr. Mijatović again resorted to argument that Serbia must not align itself to county like Turkey who is not for arbitration, while county like Bulgaria votes for arbitration. Also, Serbia has frequently been in disputes with some great Powers – Austro Hungary and Turkey – and it would be good if there existed some sort of legal mechanism that Serbia can resort to in order for dispute to be solved in „impartial and just manner".[61] In its letter to Serbia government Mr. Mijatović asked whether it would be good that Serbia propose to add to the list of disputes for obligatory arbitrational settlements some more cases, such as disputes arising from interpretation of a) commercial (trade) treaties and b) consular convention, having in mind that Serbia is most frequently involved in these kind of disputes with its neighbors.[62] In the end, King Aleksandar Obrenović decided that Serbia accepts obligatory arbitration for certain kind of disputes if

58 Čedomilj Mijatović, „Uspomene balkanskog diplomate", Radio Televizija Srbije, Beograd, 2008, str. 215.

59 Proceedings, 1899, p. 636.

60 *Ibid*., p. 680.

61 Nenad Milenović, Delegacija Srbije na Prvoj konferenciji mira 1899. godine – Uputstva i izveštaji, *o. c.*, p. 300.

62 *Ibid*., p. 301.

the majority accepts it, while reiterating that no new proposals should be made in this respect.[63]

As already mentioned, the First Hague Peace Conference did not fulfill its original goal, but was nevertheless fruitless, and benefits of this kind of cooperation among states were seen as necessary and beneficent. Having in mind that the main goal of the Conference was not reached, that some important questions remained open[64], and that the collaboration of states in this format was seen as an asset, it does not come as a surprise the insistence upon the convocation of another Convention of this kind. Even though it was held a bit latter than expected[65] the Peace Conference this time was almost double in size and duration – it gathered 44 states and lasted 4 months. Serbia was once again represented at a high level with: Sava Grujić, President of the Council of State; Milovan Milovanović, Envoy Extraordinary and Minister Plenipotentiary at Rome, member of the Permanent Court of Arbitration and Mihajlo Milićević, Envoy Extraordinary and Minister Plenipotentiary at London and The Hague.[66] Once again Serbia strategically decided what questions are of importance for its interest. In the Report of Serbian delegation it is stated that it seems that only the work of the First Commission will raise issues of importance for Serbian vital interests.[67] That Commission dealt with Convention relative to the pacific settlement of international disputes, international commissions of inquiry and questions relative to maritime prizes. Beside this, three more Commissions were formed. When we look at the agenda of all the Commission it becomes obvious why Serbian delegates considered the First Commission to be of greatest importance. It supposed to deal with issues that for Serbia deemed especially important at the First Hague Peace Conference. The Third and Fourth Commission addressed the issues of maritime warfare, and since Serbia was a landlocked state it had little interest in engaging in this matter. Therefore, Serbian delegates did not

63 Slobodan Marković, Grof Čedomilj Mijatović, Viktorijanac među Srbima, *o. c.*, p. 221.

64 In the Final Act of the Conference three vœux referred to subsequent Conference to which certain issue need to be referred: questions of the rights and duties of neutrals, declaration of the inviolability of private property in naval warfare and proposal to settle the question of the bombardment of ports, towns, and villages by a naval force.

65 See: Mileta St. Novaković, Druga Haška konferencija mira, Dositej Obradović – štamparija Ace M. Stanojevića, Beograd, 1908, pp. 5–7; Nenad Milenović, Srbija i druga Konferencija mira u Hagu 1907. godine, *Istorijski časopis*, broj 57, 2008, pp. 378–379.

66 Once again the composition of the convention ought to be different, and it should have included Milenko Vesnić, Minister of Justice and Envoy Extraordinary and Minister Plenipotentiary at Paris. However, after Vesnić informed the government that the decision that Serbian delegation be composed of 4 delegates is provoking surprise, since the delegation of greater states had only 3 of 2 delegates, and after explaining that he is busy with his work in Paris, Vesnić was excluded from the delegation. See: Nenad Milenović, Srbija i druga Konferencija mira u Hagu 1907. godine, p. 387.

67 Nenad Milenović, Izveštaji delegacije Srbije sa druge Konferencije mira u Hagu 1907. godine, Miscellanea, Vol. XXXIII, 2011, p. 513.

take part in the deliberation of these two Commissions. However, it is interesting to note that Serbian delegate Mr. Milovanović was elected Vice President of the Fourth Commission. This is probably the effect of his acquaintance with some of the prominent men who were participants at this Conference, namely Milovanović done his PhD dissertation in Paris under the auspices of Louis Renault, delegate of France at both First and Second Hague Conference.[68]

The participation of Serbia at the Second Hague Peace Conference can be described as consistent continuation of the work commenced at the First Conference. Once again Serbia sent competent representatives to protect its interests. They marked as the most important for Serbia the same issues as those at the First Hague Peace Conference – peaceful settlements of disputes. The difference this time was that Serbia took a more moderate view towards the institution of international commission of inquiry as well as bolder initiative to make the institution of arbitration obligatory. As for the international commission of inquiry, delegates to the Second Hague Peace Conference noticed that it might be thought that Serbia was too strict in its opposition towards this instrument, but having in mind actual circumstances and the vagueness of the relevant provision, which could lead to the situation where "the more powerful could force the weaker, while the weaker could not inveigle the stronger to the legal path"[69] Serbian concerns were justified. Serbian delegation at the Second Conference took that stance that it will support the international commission of inquiry if the provision is precise and comprehensive enough.

However, the central activity of the Serbian delegation was related to the obligatory status of arbitration. Serbia took a firm stance that a) principle of obligatory arbitration should be established and b) this principle should be limited to strictly defined matters.[70] Mr. Milovanović reiterated the importance of the order of deliberation regarding the obligatory status of arbitration. He believes that the „capital interest is to agree upon a certain number of cases specifically definite, for which, properly speaking, obligatory arbitration will be provided. If an agreement can be reached upon this matter, he will regard a general formula as a very happy and useful complement."[71] His line of reasoning is that if doing the other way around it would become possible to see the „weak States suffer from the inconveniences of a vague and unprecise formula." [72] The only way to surpass this peril is to adopt a positive and enumerative obligation. To attain that goal, Serbian delegation pro-

68 Vojislav Grol, Pravna misao Milovana Milovanovića, Srpska akademija nauka i umetnosti, Beograd, 1989, p. 13.

69 Nenad Milenović, Izveštaji delegacije Srbije sa druge Konferencije mira u Hagu 1907. godine, *o. c.*, p. 516.

70 James Brown Scott, The Proceedings of the Hague Peace Conferences, The Conference of 1907, Vol. II, Oxford University Press, 1921, p. 241–242. (Hereinafter: Proceedings 1907, II)

71 Proceedings 1907, II, p. 425, James Brown Scott, The Proceedings of the Hague Peace Conferences, The Conference of 1907, Vol. I, Oxford University Press, 1921, pp. 465–466.

72 Proceedings 1907, II, p. 425.

posed two amendments to the Convention for the pacific settlement of international disputes. One was the insertion of the article that would make the resolution of the two types of disputes by way of arbitration obligatory – commerce activities and pecuniary agreements. The other one was more comprehensive and provided for the formulation of four articles, the first of which contained 16 categories of disputes for whose settlement the arbitration would be obligatory.[73] Even though Serbian delegates were aware that the participants of the Conference were not inclined to accept the principle of obligatory arbitration, Serbia saw its initiatives as important means to express its devotion to international justice and objectives of the Conference. [74] The other motive was the awareness of Serbian delegates that the proposal „will attain sympathy of many at the Conference as well as of public opinion."[75]

Even though Serbia was very active at the Hague Peace Conferences and contributed to the process of adoption of the Hague Conventions, when it came to their application Serbian actions were disappointing. Serbia ratified instruments adopted at the First Hague Peace Conference on May 11th 1901, but faced the stall in the process that had to be done according to the domestic procedures. Because the Conventions provided for expenditures, they needed to be adopted by the Serbian National Assembly. It was done only in 1907, shortly before the start of the Second Peace Conference.[76] As for the Conventions adopted in the Second Hague Conference Serbia signed all of them except two: Convention relative to creation of International Prize Court and Declaration prohibiting the discharge of projectiles and explosives from balloons. The first one provide for some expenditures, so the delegates left to the government to decide whether to sign it or not.[77] The Declaration on the other hand was not signed because the delegates did not saw its practical importance, having in mind that France and Russia did not sign it.[78] Serbia never ratified the signed conventions. We presume that the reason was preoccupation with the domestic problems. In 1908 Austria-Hungary annexed Bosnia and Herzegovina, and in 1912 and 1913 Serbia participated in Balkan wars. Along came the First World War and the need to regulate behaviour of many states in the situation of armed conflict. Even thought the relevant corpus of provision existed in the Geneva and Hague Convention, the latter could not be applied because Serbia and Montenegro did not ratify them. Having remained unratified by two states that participated from the outset in the hostilities, the Conventions form 1907 could

73 *Ibid*., pp. 883–884.

74 See: Report of Serbian delegation to the Minister of Foreign Affairs about the amendment to the Convention on peaceful settlements of international disputes in Nenad Milenović, Izveštaji delegacije Srbije sa druge Konferencije mira u Hagu 1907. godine, *o. c.*, p. 518.

75 *Ibid.*

76 Nenad Milanović, Srbija i druga konferencija mira u Hagu 1907. godine, *o. c.*, pp. 385–387.

77 Final Report from the Conference, Milenović, Izveštaji delegacije Srbije sa druge Konferencije mira u Hagu 1907. godine, *o. c*., p. 526.

78 *Ibid*., p. 527.

not be applied since they contained the *erga omnes* clause. However, even though smaller in scope, the Conventions of 1899 could be applied until August 1917, when Liberia entered the war. Since it was not party to the 1899 Hague Convention their application ceased.[79]

Conclusion

In most of the 19th century Serbia was considered to be non-sovereign entity: a province of Ottoman Empire until 1830 and vassal state until 1878. On the contrary to the conventional belief that it was out of the reign of European, as well as of PIL, Serbia was exposed to the effect of both of them. Throughout the capitulation regime and consular relations the vast bodies of law pervaded the Ottoman shield and, with more or less consistency, were applied to the Serbians. Together with the treaties concluded between Great European powers and Sublime Porte, they were used by Serbia to protect and develope her internal autonomy. Even more, Serbia successfully invoked them and relied upon these institutes of PIL to enhance and strengthen her external position. Using them as the seeds, Serbia gradually established and developed her own treaty-making capacity. Most of these treaties were of bilateral character, dealing with more technical than politically sensitive issues. The decisive move both from political and legal point of view was Serbia's decision to accede to Geneva Convention of 1864, the very first multilateral treaty of legislative nature. Being followed by proper implementing efforts, it presented Serbia as reliable partner in the field of international regulation. After getting the possibility to be presented at the international conferences, Serbia developed another important connection with PIL.

At Hague Peace Conference Serbia wanted to present itself before the world as advanced and peaceful state. Even though she based its approach to international law in realistic terms, on the distinction between great powers and small states, Serbia in fact advocated for more just and somewhat idealistic approach to international relations and international law. After the initial taciturnity towards obligatory status of means for settlement of international disputes at the First Hague Conference, at the Second Conference Serbia took a decisive action to promote the obligatory status of arbitration in international law. In its endeavours Serbia was guided by its national interest, but wanted to promote it using the institutes of international law. Its stance towards international law can best be described by quoting Mr. Milovanović. "By its very nature, international law which regulates the relations between sovereignties which recognize no authority above their own, no superior will, is and must remain formalistic. In consequence, the stipulations

79 See: „De l'applicabilité des Conventions de La Haye de 1899 et de 1907 concernant les lois et coutumes de la guerre sur terre", *Bulletin International des Societes de la Croix-Rouge*, Vol. 49, Issue 193, January 1918, pp 18– 27.

that determine the rights and the duties between sovereign States must be clear and precise, and this clearness and precision can be realized only through positive formulas."[80]

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SERBIA AND INTERNATIONAL LAW AT THE CROSSROADS OF CENTURIES – SERBIAN APPROACH TO INTERNATIONAL LAW UNTIL THE BEGINNING OF THE FIRST WORLD WAR

In this article the authors focus on the historical analysis of the position of Serbia towards international law of the XIX century. The research encompasses a broad period of time, spanning from 1830 to the beginning of the First World War, in order to cover the distinct legal status of Serbia – both as a vassal of the Ottoman Empire and as an independent State. The research has proven that Serbia has taken a stance on international law in an indirect manner even before it gained independence – through the Ottoman Empire. In order to provide a closer insight into Serbia's indirect approach towards international law, the authors will point to the institutes that came into being before the change of Serbia's international legal status. This part of the research will address the following issues: regime of capitulations, establishment of consular relations with third countries and treaties applicable to Serbia as a vassal of the Ottoman Empire. In the second –central part of the research, the authors will comment upon Serbia's direct approach to international law, which Serbia developed by becoming a party to international treaties on its own behalf, especially in the field of international law of armed conflict. In that respect, 1864 Geneva Convention and 1899 and 1907 Hague Conventions are of paramount importance. Having in mind that Serbia was accepted as a party to the Geneva Convention even before gaining independence, it is important to note that Serbia' s direct approach temporally precedes the change of its legal status. Another pivotal issue for Serbia's direct link with international law were the Hague Conventions. Serbia did not only become their signatory state but was also included in the making of the mentioned conventions. Therefore, the authors will provide an in depth analysis of Serbian participation, activities and contributions to the Hague peace conferences. It will be concluded that in spite of its newly changed international status, Serbia was fast in adapting to the international legal environment. Serbia was aware of the need to become an active part of the international community and wisely used its resources to engage in international legal processes.