

Summary

The Law of State Succession

1. What is to be understood by state succession and what basic legal inferences may be deduced from it depends on the term state and on what is meant by legal ties. A state may be seen as an association of people, an organisation of power or as a legal person (subject of allocation for the legal order and for rights and duties under international law). Legal ties can relate to the association of people, the territory, the organisation of power or the legal person.
2. If legal ties refer to the association of people or the territory, they are maintained for these persons or the territory irrespective of state succession. Related to the organisation of power they may, in the case of the former's replacement, be taken over in an inheritance-like process, whereas when related to the legal person the ties or parts of them can only be maintained by virtue of express regulation, due to lack of a set relationship between legal persons.
3. Secession and *dismembratio* as well as merger and incorporation cannot be distinguished from another externally. Whether or not a state continues to exist in the event of a succession process is a question of general evaluation, in which the United Nations play a decisive role. The states directly involved in the succession are not vested with a generally binding right to decide this question.
4. Secession and *dismembratio* may coincide with partial succession or the resurrection of states that had previously lost their identity. Also, a disintegrating federation might continue to exist in one of its constituent states, in which case state continuity and partial succession coincide.
5. There is no consent as to how to distinguish the various forms of succession from another, especially in cases involving the unification of states. Likewise, it is disputed whether or not state practice on the occasion of (nowadays illegal) annexations may serve as precedents. Similarly distinct differences can be observed concerning the grouping of subject matters for customary rules, for example according to the type of treaty, the assets or the debts. Uncertainty about the determinative groups of behaviour are a further reason why the law of state succession is so disputed.
6. General, not succession-specific developments of law partly question and partly confirm long-standing rules of the law of succession. This applies especially to human rights issues (property, social security, damages for sustained injustice, citizenship) and the duty to cooperate. Whether or not

new emerging successor states should be bound to a certain „status of legal culture“ as achieved by certain treaties deserves consideration, but seems doubtful at the current stage of the development of law.

7. The rules of the Vienna Convention on the Succession of States in Respect of Treaties were applied to the unification of Yemen. Accordingly, treaties of both predecessor states were continued on their respective territories. Unified Yemen took over membership of its predecessors in international organisations and in cases where both were members merged them into one. The same procedure was followed at the unification of Vietnam in 1976.
8. The Federal Republic of Germany has extended its treaties to the entire territory, while entering into consultations with treaty partners of the GDR on continuation, amendment or termination of these treaties. Agreement seems to have always been reached, in almost all cases with the result of termination. Germany has no unilateral right to determine the fate of these treaties. Unified Germany has only in one case entered into the position of the GDR as a contracting party of a multilateral treaty. Localised treaties were not subject to any special procedure.
10. The dispute between Germany and the United Nations over arrears of contributions of the GDR root in differing understandings of state and its membership. Likewise, it depends on the understanding of state whether or not a title to immunity devolves from the predecessor state to its successor.