

# **International Relations and Policy Development of the Republic of Macedonia**

*Aneta Stojanovska-Stefanova*

*University Goce Delcev-Stip, Republic of Macedonia  
aneta.stojanovska@ugd.edu.mk*

**Abstract:** *In order to recapture the essence and justification of this paper, the source of this theoretical review we found it in the definition of statehood. After the end of the thirty years of civil war in Europe and the signing of the peace treaty of Westphalia in 1648, the creation and development of the country began to the form that we know today.*

*In terms of increasing interdependence between the countries, the question of their mutual cooperation is essential. For the states equally important segment with internally arranged relations is the manner on which they concern and regulate the international relations.*

*State boundaries are endpoints to where sovereignty lies within a country. The authorities within it regulate the relations inside and the nature of its international positions. The highest authority, which does not recognize any other form of higher power, is sovereignty. Considering that the law, especially the international, is an active matter open to interpretation, although the basic features of a country are clear, yet there are two types of states divided to a de jure- existing under law and de facto-existing in reality, based on the matter whether and which of the characteristics of statehood they own.*

*Republic of Macedonia, has raised the issue of the international relations high. Confirmation of the said is the chapter VI of the Constitution, which is dedicated to this issue. Except the Constitution, the area of the international relations is stipulated by the Law on Foreign Affairs and the Law of signing, ratification and execution of the international contracts. The Law on Foreign Affairs of the Republic of Macedonia, precisely defines the concepts of "foreign affairs" and "foreign policy".*

**Keywords:** *state, recognition, politics, government, rule, sovereignty, international relations, international development*

## **Introduction**

In any democratic country it is equally important to regulate and develop the internal and international relations. Macedonia is a parliamentary democracy which has a clear model of the triple division of power. The Foreign policy is a domain, constitutionally reserved for the head of the state, the Assembly and the Government. In practice, Mirchev D. (2006) stated that the head of the state performs a little more powers than it is usual in the parliamentary systems, while the government performs the essential functions in the foreign policy, while the Government performs the basic functions of the foreign policy, leaving the Assembly in a rather weaker position.

It is suggested that the political, legal, economic and cultural traffic between the subjects of the international law is going through their authorized representatives and through their bodies (Frchkoski Lj. et al., (1995).

The Republic of Macedonia has dedicated the Chapter VI of the Constitution to the regulation of this matter. The international relations are subject to the regulation of the constitutional regulation because the internal law depends on the international law.

The best proof of this are those constitutions that contain provisions for the transfer of part of the national sovereignty over the international institutions or stipulating consent for accordance of the internal legal order with the generally accepted rules of the international law. The dependence of the internal law of the international law is in function of the actions of the independent states in the field of protection and promotion of the world peace (Shkarikj S., Siljanovska-Davkova G., (2007). The main sources of the international relations are the mandatory norms of the international law (*ius cogens*) and the legal principles recognized by civilized nations.

With the mandatory norms of the international public law and legal principles recognized by the civilized nations, the international relations of the states become legal relations or values that are developed with the help of the law. In such a context, (Shkarikj S., Siljanovska-Davkova G., (2007) the right appears as a factor of civilized development of the international relations.

Tukidit, (1981), stated that the rules of the international public law are often violated, especially this phenomenon is noticeable in time of war when "the strong do what they have power to do, and the weak do what they must accept.

The constitution of the Republic of Macedonia from 1991 regulates the international relations with the two types of provisions. First, the international relations are evaluated from the perspective of the generally accepted norms of the international law as a fundamental value of the constitutional order of the Republic of Macedonia and second, with several provisions, contained in a separate section of the normative text of the Constitution.

By accepting the generally accepted norms of the international law as a fundamental value, the Republic of Macedonia is committed to respect the sources of the international law: the international customary law; practice of international courts; doctrine or opinion of respectable experts in the field of the international law and ratified international agreements. In the section dedicated to the international relations are regulated several groups of issues: the relation of the ratified agreements against the internal legal order of the Republic of Macedonia; entities responsible for the concluding of the international agreements; association and dissociation of the Republic of Macedonia from alliances or communities with other countries and deciding on association and dissociation of the Republic of Macedonia from membership in international organizations.

The international agreements ratified in accordance with the Constitution are part of the internal legal order in the Republic of Macedonia and they cannot be changed by law. With this solution, Shkarikj S., Siljanovska-Davkova G., (2007), argued that the ratified international agreements; association and dissociation of the Republic of Macedonia from alliances or communities with other states and decides on association and dissociation of the Republic of Macedonia from membership in the international organizations.

## **About the terms “policy” and “foreign policy”**

In the political theory, there is no unanimity about the definition of the term policy.

The policy can be generally defined as achievement of certain ideas essential to a community. Above all they are ideas essential to a community. Above all they are the ideas essential for the common good, justice and the general usefulness. As on an individual plan the man tends to improve more its moral qualities, in that way on the plan of the life in a community, it tends to justice and the common good, i.e. to improvement of its community, argued in Encyclopedia of the political culture (1993).

By definition, the foreign policy should be part of a significant portion of the policies that any country or sovereign political entity implements. We name that policy as a foreign policy, but other people call it - international politics, world politics, global politics, international relations, and comparative politics, argued Mirchev (2006). Among several approaches, even more-concepts in the study of the foreign policy, the geopolitics as already mentioned is certainly one of those inevitable. It has a long history and has produced a wealth of academic resources and conceptual criticism. Some authors associate the origin with the analysis of Aristotle for spatial factors that affect the political forms of the ancient Greek cities. Indeed, numerous social thinkers since ancient times until today, which think about politics, had and still have on their tables geographical maps despite their notebooks and pencils.

Berridge Geoff R., (2004), stated that until the 17th century the responsibility of the diplomacy in the European countries routinely had been granted on various bureaucracies ("on state authorities") on a geographical basis. Some of those functions have been responsible for some homework (Hamilton and Langhorne, 1995: 72-73). Machiavelli writes almost exclusively about the mechanics of the government, for funds to help of some countries that can become strong, for policies with which countries can become strong, for policies with which they can expand their power, and for mistakes that lead to their rotten and coup. The political and military measures are practically the only object of his interest, and almost completely separate them from religious, moral or social considerations, except as means to achieve political goals. Maleski D., (2000), stated that the aim of politics is to preserve and increase the political power, and the measure with which it appreciates it is the success in achieving this goal.

I have already said that any governor should have a good foundation, because if not, he will certainly fail, argued Machiavelli Niccolo, (2009). The international relations are organized around the legal fiction that the states have exclusive jurisdiction over its territory, its people and resources and events that occur on it. The practice, as might be expected, is well behind the idea, as is usually the case with the political principles. However, the basic norms, rules and practices of the contemporary international relations are based on the sovereignty of the state and the formal equality of (sovereign) states. It is suggested that he non-intervention is a duty that correlates with the right of sovereignty. Other states are obliged not to interfere in the international actions of a sovereign state Donnelly J., (2004).

Hans Morgenthau a representative of the Rationalists in the international policy writes that the international policy and politics in general is a power struggle. Of course if you start from the idea that physical survival is of primary importance for every individual, you will come to the conclusion that the power is of primary importance for the states as subjects of the international law, because the national security is of primary importance. Through the prism of the power of the state to promote its national interest which latter it trays to accomplish within the world politics.

In the book "God's country", St. Augustin asserts that "the human history is a sinusoidal wave of good and bad events, i.e. from devastating wars, trying to provide a short-term peace, whose utterly meaning is not understandable to the humans, but it is certain by God, (Miler D. 2002).

On the other hand, the representatives of the internationalist theory in the international policy advocate for relations between states governed by the norms and behaviours with which had previously willingly agreed, and which would be applicable in war and in peace.

The message of Emmanuel Kant that "the state of peace must be established", and that it can be realized through a "free federation" of states is close to the idea of collective security and international organization, characteristic for the institutionalists of our time, Maleski D., (2000). The principle of settlement of the international disputes by peaceful means obliges the states and those who are members of the United Nations and those who are not, all international disputes to be resolved through peaceful means and thus not to be jeopardize the international peace and security Simikj M. (1988).

During the debate on the Declaration of non-use of force in 1987, only the United States of America and Australia explicitly intercede for anticipating self-defence; the other countries were in position to keep their positions by simply omitting any provision for self-defence, except the general formula that "The States have the natural right of individual or collective self-defence in case of an armed attack, as it is provided in the UN Charter", argued Grej 2009.

The Swiss lawyer Emmerich de Vattel one of the first intellectual forerunners of the modern internationalism in the book "The Law of the Nations" says "justice is the foundation of every society and it is very important to find a suitable application in the relations between the nations than in the relations between individuals, showed by Williams, Goldstein and Schfritz, (1994).

According to the theoretician Schmit Carl, (1979), the essence of the political action is in the distinguishing of friend-enemy. That kind of differentiation according to Schmidt gives political sense of the human activities and motives. The totality of the policy contained in that each area of the human activities (religion, economy, moral, etc.) is subject to such a distinction, i.e. the separation of friends and enemies. Each religious, moral, economic, ethnic or some other contradiction turns into political opposite, when it becomes strong enough to group people of friends and enemies.

Mircev (2006) stated that the world politics as a starting point to has the reality of the international community with the established relationships, institutions and the active role of many partners in the determination of the guidelines of this policy, through the instruments of the foreign policy, negotiations, joint ventures and influence.

The analysis of the activities of the holders of the foreign policy of the Republic of Macedonia suggests to the conclusion that in the process of the realization of its own foreign political priorities, our country in the past years from acquiring independence until today is governed by the fundamental tenets of the constitution and the laws and principles of the action of the states in the United Nations.

The objectives of the foreign policy of the Republic of Macedonia in recent years have been carried out by the holders of the functions that were elected in free, fair and democratic elections, but they have in a significant extent remained unchanged. However, regarding the characteristics of individuals who perform these functions through the years, the differences are perceptible.

This certainly is affected by the development of the parliamentary democracy in the independent states that had been created after the fall of communism in the Eastern Europe, the approach to the execution of the function from the stand of ideological and political profile and of course, the global changes that take place in the international community.

The Republic of Macedonia in the implementation of foreign policy is guided by the respect of the Charter of the United Nations, resolving of the conflicts, disputes and outstanding issues between the countries peacefully, adherence to the international and legal principle for permanence of the borders, respect of the policy for improvement of the corpus of Human rights and freedoms, support of the disarmament efforts and ban for all weapons for mass destruction, support to the promotion of the international economic relations in terms of economic globalization.

The institute of the international recognition is one of the instruments to develop cooperation with other countries on the basis of common interests. This institute "Recognition of States" is known in the League of Nations and the United Nations. The legal effects of the recognition of the states is limited if they are only reduced to declaratory act, but they can be both constitutive and more serious, if followed by the establishment of other legal and economic pressures, such as insulation or boycott.

It is important to emphasize that the recognition of the states has no direct connection with the establishment of the diplomatic relations, namely it can happen a state to be recognized, but with it cannot be established diplomatic relations, while the reverse is not possible, because the establishment of the diplomatic relations implies recognition of that state.

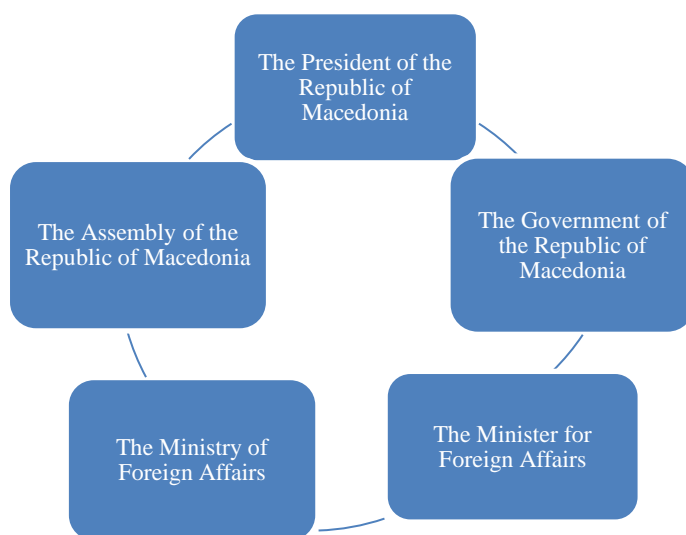
Frchkoski et al., (1995) showed that legally seen the act of "recognition" of the state is legal and formal act and has no direct impact on the essential independence and the existence of the state, namely, on the effectiveness of its existence, but often the omission of the recognition of one or more countries could create serious difficulties for the new state and its normal involvement in the international relations.

## Competences in the field of the foreign policy in accordance with the Constitution of the Republic of Macedonia from 1991

According to the Constitution of the Republic of Macedonia and according to the character whether the conduct of the foreign policy is one of the major responsibilities, authorities for performing foreign affairs can be divided into two groups: primary and secondary.

Primary are those authorities that are focused on the major responsibilities in the execution of the foreign policy.

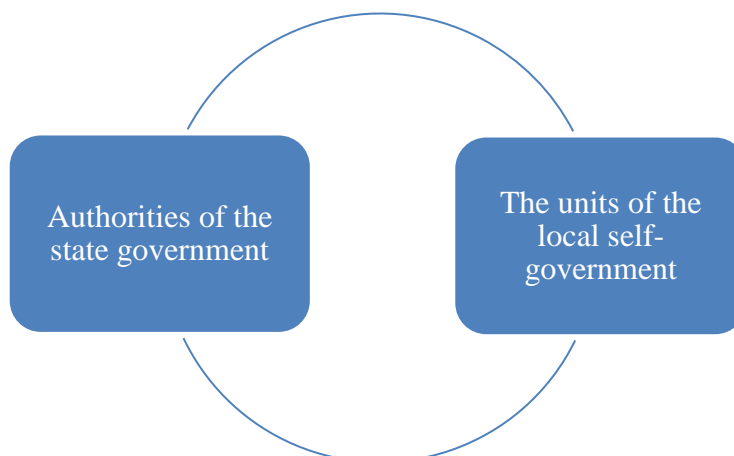
**Figure 1: Primary Authorities for performing foreign affairs**



Source: Authors' own work

Secondary however are, those authorities and institutions which in certain cases and circumstances may participate in the conduct of the foreign policy.

**Figure 2: Secondary authorities for performing foreign affairs**



Source: Authors' own work

Stojanovska A. (2013) stated that in the area of the foreign policy, the President of the Republic of Macedonia has the following responsibilities:

- Appoints and dismisses by decree the ambassadors and MP's of the Republic of Macedonia abroad
- Accepts the credentials and revocable letters of the foreign diplomatic representatives.

The Assembly of the Republic of Macedonia has the following responsibilities:

- Ratifies international agreements
- Makes decisions on association and dissociation from a union or community with other states.

While the Government of the Republic of Macedonia has the following responsibilities:

- Decides on recognition of states and governments
- Establishes diplomatic and consular relations with other countries
- Adopts decisions on opening of diplomatic and consular offices abroad
- Proposes appointment of ambassadors and MP's of the Republic of Macedonia abroad and appoints heads of consular offices.

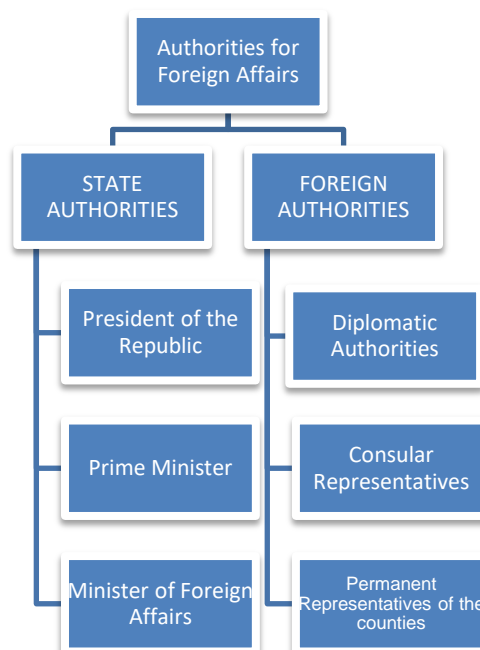
Conventionally, the authorities responsible for foreign affairs can be divided into two groups:

- 1) State authorities whose headquarters is in the state (or internal authorities), and
- 2) Authorities whose headquarters is in the territory of other countries (foreign authorities).

The first group includes the: Head of State (monarch or president of Republic), the President of the Government (Prime Minister), and the Minister for Foreign Affairs.

The second group includes the diplomatic and consular representatives and the permanent representatives of the countries in the international organizations.

**Figure 3: Authorities responsible for foreign affairs**



Source: Authors' own work

## **Law on Foreign Affairs from 2006**

The Official Gazette of the Republic of Macedonia (2006), in the Law on Foreign Affairs reported precisely and defined the responsibilities of authorities for performing of the foreign work. With the same prescriptive in details normatively is determined the whole process of creation, establishment and implementation of the foreign policy, as well as the relations between the authorities conducting foreign affairs and the state government authorities, in the exercising of the foreign affairs, which reduces the possibility of overlapping or dysfunction. Characteristic of the Law on Foreign Affairs of the Republic of Macedonia is that besides the traditional approach towards creating such a norm, it emphasizes the role of the Assembly of the Republic of Macedonia.

Also, by the law it is determined the jurisdiction, structure and operation of the Ministry of Foreign Affairs, which before the adoption of the law was governed by one member of its competence and the Law on the organization and operation of the state administration authorities, i.e. some members in the same law for competences of the management authorities. The great part of the matter for the essential elements of the organization and work of the Ministry before the adoption of the law were moved by-laws.

Furthermore, the law defines the diplomatic and consular representations that Republic of Macedonia can open abroad, and the procedure and conditions of appointment of the head of the diplomatic - consular office. More precisely is determined the procedure for revocation of the heads of the missions, and their duties, responsibilities and relations with the authorities for performing of the foreign works. Determined are specific duties and diplomatic - consular officers working in diplomatic - consular offices.

The Law on Foreign Affairs in Article 2, precisely determines and delimits the terms *foreign affairs* and *foreign policy*.

The term "*foreign affairs*" refers to actions performed by the competent authorities of the state government and the state government management in the exercise and protection of the rights and interests of the Republic of Macedonia in the international relations with the countries, international authorities, organizations and communities.

While the term "*foreign policy*" refers to political objectives and activities of the Republic of Macedonian relations with countries and with international authorities, organizations and communities that protects the interests of the Republic of Macedonia in the international relations and protect the interests of its citizens and the legal entities registered in it.

### **The President of the Republic of Macedonia and foreign policy**

In determining the term head of state or President meet in more terms.

Frchkovski et al. (1995), stated that the head of the state is the authority that represents the state in the country and abroad, namely, it represents the state unity and independence, whereupon it is not



important whether it is a monarch or head of state in the country in the republican establishment, as regardless of whether it is for independent or collective body.

It is suggested the term head of state means the authority that has significant powers, but is not a holder of the supreme, legally unlimited power, which belongs to the principle of the Constituent and/or legislative body (Bajaldziev 1999).

Another group of theorists define the head of state, as an individual or corporate body who embodies the political community and the long duration of the state and performs ceremonial functions related with the representing of the country at home and abroad, argued Maklin (2002).

Gligorov K. (2001), stated that procedure for the election of the President of the Republic of Macedonia is regulated in the Article 80 and 81 of the Constitution of the Republic of Macedonia, and the Electoral Code.

The President of the Republic of Macedonia is elected by direct and immediate elections, by secret ballot, for a period of five years. For President of the Republic a same person can be elected mostly twice. The secondary election is not necessarily to proceed to the previous term, as is the case (e.g., NB) with the Constitution of Slovenia from 1991, argued Shkaric (2004).

The powers of the President of the Republic of Macedonia in the execution of the foreign affairs are defined in Article 5 of the Law on Foreign Affairs, according to which the President of the Republic of Macedonia: represents the country in the international relations, in accordance with the international law and its responsibilities; participates in the creation of the foreign policy in cooperation with the Government, through the establishment of general guidelines on the foreign policy, including issues of the international relations with implications on security and defence of the country; monitors the implementation of the foreign policy and the results and any disagreements with other bodies for foreign affairs performing, can inform the Assembly; gives suggestions and participates in the pose of views on some foreign-policy matters within its competence, including the security and defence aspects arising from the international relations; appoints and dismisses by decree ambassadors and representatives of the Republic of Macedonia abroad, in procedure determined by this Law; gives consent to the issuance of agreement of the head of foreign diplomatic office and accepts the credentials and revoked letters of the foreign diplomatic representatives, in the procedure established by this law.

### **International Recognition of States**

The Institute “recognizing the states” is common and very important legal institution within the International Law initially because of the political circumstances which are determining it. Thomas D. Grant (1999) stated that up until now there is not precise rule according to which one state becomes internationally recognized and has the right of statehood and right to participate as single with the other states from different international organizations. There are some attempts made in order to establish certain universal criteria for acquiring the aforementioned statuses and possibilities but none of them has succeeded to be affirmed as a relevant and respected by all the

states in the world. There are two theories that study this matter. The first one is the *Declarative Theory* of statehood, originating from the conference held in Montevideo, which is best put in the sentence “the political existence in one state is independent from its recognition by other states”.

According to this theory for acquiring statehood, and thus the involvement of the state in international law as its subject, the following four elements must be included: territory, population, sovereign power and ability to manage the previous three. Going back to the beginning of this text it can be seen that the largest part of the definition is taken from the Treaty of Westphalia, which means that it is not a novelty in international law, but an existing criteria which although recognized it is not fully accepted and implemented free from discrimination.

International law includes *Constitutive Theory* of statehood. It examines the state recognition by other states as instrumental in acquiring statehood and status of a subject of international law to a new country. The aspects that are covering this theory, which although not formally accepted worldwide but can be considered as realistic are beautifully depicted in the thought of Oppenheim (L.Oppenheim) that says "International law says that a state does not exist until it is recognized by other, but at the same time it does not exist until it acquires recognition."

It can be concluded that the acquisition of independence and international legal subjectivity of a state is formally dependent on its international recognition, which is based on the will of other countries.

Sublimating the declarative positions of states as for this subject and reality of the foregoing, it can be concluded that the recognition of a state as a sovereign entity and relevant international law is open to interpretation, there are no rules in this field and any existing state recognized a new state on its own discretion and in accordance with its national interests, while not obligatory adhering to certain customary norms in international behavior.

### ***The precedent during the international recognition of states: The Case of Republic of Macedonia***

The case of the procedure for admission of the Republic of Macedonia in the United Nations is a unique precedent in the history of that organization. This precedent is important not only because of the particular circumstances associated with the Republic of Macedonia, but also as a possible negative example in the procedure, namely depending on the legal assessments of political bodies and organs of the United Nations. The legal and political arguments did not dominate during the procedure for admission through the bodies of the UN Security Council, UN General Assembly, in the case of Macedonia, but emerged as a theme and an obstacle to the political contestation of one Member State (Greece), which is calling upon the provisions of the Charter for maintaining peace and avoid creating crisis zones around the world. Greece has represented its political attitudes towards Macedonia as a potential threat to peace (the very existence of Macedonia on its northern borders) which actually represented the elevation of a bilateral dispute level "procedural obstacle" to the United Nations.

Returning the problem of recognition of Republic of Macedonia in collective manner with admission and with the membership in the United Nations, it was supplemented by another

precedent, namely with a solution that Macedonia is admitted for membership in the United Nations under temporary "label" as "ex Yugoslav Republic of Macedonia ", and temporarily not demonstrating its official flag in front of the building and in the bodies of the United Nations. This decision should be in force until a final solution to the "dispute" through the procedure for its solution set by the Secretary General of the United Nations.

Stojanovska A. (2013) stated that the precedent is certainly unpleasant for the organization of the United Nations as it refers to the inadmissible and unfounded raise of a bilateral problem to legal and procedural circumstance – that is an obstacle to the realization of fundamental rights of a country to become an international entity with full capacity.

The case of Republic of Macedonia for the acceptance in UN there were two additional terms out of the legal sphere and referring to the direct violation of the Charter such as: to accept a descriptive name FYROM and to negotiate with Greece for its constitutional name.

The International Court of Justice as one of the principal organs of the United Nations in its history of existence has once discussed the issue of setting additional conditions for membership in the United Nations. In its advisory opinion of 28<sup>th</sup> May 1948 on the conditions for admission of a State in the membership of the United Nations, the court has taken a legal standpoint (contained in the ICJ Reports, 1948) that the requirements specified in Article 4, paragraph 1 of the Charter for membership " represent an exhausting enumeration , and are not given as simply management principles as an or example. " This refers to the fact that if an applicant fulfils four conditions of article 4, paragraph 1 of the Charter, such State should be admitted to membership in the United Nations. According to the aforementioned judicial opinion from 1948 one state cannot be conditioned prior to admission with previous recognition of legal elements, which is that such conditionality is setting additional conditions which are contrary to Article 4 paragraph 1 of the UN Charter and the setting up of such conditions the court explicitly declares that the UN Charter is violated.

## **Conclusions**

The characteristics of a modern state, the way it is recognized nowadays are shaped by Peace Treaty of Westphalia, according to which the state is constituted by three main features, territory, population and sovereignty, i.e. absolute power for governing over them. In order to have a better understanding of the process of recognition and various specifics that have occurred throughout history the attention must be paid to the terms *sovereignty* and *statehood* first, and thereto sovereignty refers to how a state acquires it as well, and later on the manners through which countries recognize the existence of another state.

There are two types of states divided into: de jure- existing according the law and de facto- existing in reality, based on the fact which of the statehood features they own<sup>1</sup>.

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<sup>1</sup> Ibid,page.268.

**De jure states** are those that are fulfilling some of the conditions of statehood but not all three. As an example can be considered a country that has a territory and a population but not full sovereignty over them. Also a good example could be a government in exile as well, or government under which the international community has the right to exercise sovereignty over a territory and a population but because of the occupation can not exercise that right, as is the case with the governments of the Baltic states in the period during World War II while their territories were under Nazi occupation, they are recognized by the countries of the alliance as their legitimate rulers, role which *de facto* was taken over after the release. Another specific example of recognized sovereignty in the absence of territory in some way but not completely *de jure* state but rather as *de jure* government is the sovereignty dealing with "the organization" known as the Sovereign Military Order of Malta.

This "organization" had an authority in Malta in the past, but after the expulsion of its members from the island they continue to exist in Rome. Interestingly, the Order is recognized as sovereign by many countries, a situation that reflects the fact that it has established diplomatic relations with 103 states and 6 entities that are subject to international law, including the European Union whereby they have responded with reciprocity that have established diplomatic relations with the Order. Apart from diplomatic relations the Sovereign Military Order of Malta has few buildings in the city of Rome that the Italian Government has granted their extraterritorial status which means that within the territory / facilities the law is implemented by the Order, and not by Italy, and this is a status reserved exclusively for the embassies of countries. In addition the United Nations does not register the Order of Malta as "a non-member" but as an entity that has received a valid invitation to participate as an observer in the organization. Apart from these typical state features "the organization" has its own army, which is part of the Italian Army, however flying the flag and under the command of the Order; it also has coins that have rather collectors than a symbolic role and uses postal stamps, although not everywhere yet accepted by a number of European and world countries.

**De facto state** is considered the one that is an entity owning a territory and a population and sovereignty, but which lacks a legitimate recognition by a number of other states. This usually happens if a *de facto* state has been part of another country previously that opposes and denies its sovereignty. Here lies the tangent point between the characteristics of statehood and the need for their recognition as legitimate by other, already existing countries. There are many examples of *de facto* countries in the world including Taiwan, which the People's Republic of China considers it as part of its territory even though there is no real sovereignty over it, as is the case of Somaliland and Somalia, to some extent Kosovo and Serbia etc.

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