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(Non-)Notification of Succession to the Austrian State Treaty and Slovenian (Foreign) Policy

Abstract

The article examines why the Republic of Slovenia, despite material succession, did not formally notify its succession to the FPRY/SFRY's accession to the Austrian State Treaty (AST). Drawing on a doctrinal analysis of international and constitutional law, as well as a qualitative analysis of parliamentary documents and debates (2011–2026), the author re-constructs the positions of the Government, civil-society initiatives, and the normative consolidation of succession in the 2025 Declaration of the National Assembly. The article finds that succession was consistently defined as legally indisputable, while notification was characterised as a declaratory and politically discretionary act. The article concludes that non-notification reflects a strategy of political self-restraint, prioritising bilateral pragmatism over the formal affirmation of legal continuity.

Keywords

Article 7, Austrian State Treaty (AST), protection of minorities, Slovenian (foreign) policy, state succession, the politics of (international) law

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1. Introduction

The Austrian State Treaty (AST), or more precisely, the State Treaty on the Re-establishment of an Independent and Democratic Austria of 1955, is the central instrument of international law relevant both to the status and rights of the Slovenian national community in Austria (Article 7) and to the confirmation of the border between the Republic of Slovenia and the Republic of Austria (Article 5). The Treaty emerged within the Cold War context as an instrument for the re-establishment of an independent Austria (Mikuž 1977) and was ratified on 27 July 1955 by the four Allied Powers (the Union of Soviet Socialist Republics – USSR, the United Kingdom of Great Britain and Northern Ireland, the United States of America, and France) on the one hand, and Austria on the other, with the USSR designated as the depositary of the AST. The Federal People's Republic of Yugoslavia (FPRY) acceded to the AST as an Associated Power on 14 November 1955 in accordance with Article 37 of the AST. As a member of the United Nations and the anti-fascist coalition, it was at war with Germany on 8 May 1945 and “had the status of a United Nation within the meaning of the Moscow Declaration of 1943” (Bohte & Škrk 1997, 603).

As reflected in a broader international assessment of the significance of certain aspects of the AST in post-war academic literature (e.g., Schwelb 1956; Ferring 1968; Knight 2001), it is crucial to understand that there is a “close political, but not legal, connection” between the AST and the declaration of Austria's permanent neutrality (Oswald 1994, 179; cf. Hausmaninger 2002, 14). Slovenian specialist literature from the period of the Socialist Federal Republic of Yugoslavia (SFRY) focused primarily on failures to comply with Article 7 of the AST (Bohte 1976; Nečak 1976; Pleterski 1976; Petrič 1977, 227–243), which stipulates Austria's obligations regarding the rights of the Slovenian (and Croatian) national communities in Carinthia, Burgenland, and Styria, as well as the protective role assumed by the SFRY in relation to the Slovenian (and Croatian) national communities in Austria (Benko 1976). As Knight (2017) clearly and perhaps even more impartially demonstrates, this was broadly a justified criticism of Austria's assimilation policy.

Slovenian academic literature remained similarly critical of Austria's failure to respect the AST following the independence of the Republic of Slovenia in 1991 (Moritsch & Bahovec 2000/2001; Komac & Zagorac 2002; Stergar 2003; Nečak et al. 2004; Klemenčič 2008a; 2008b; Vouk 2015; 2025; Grafenauer & Jesih 2020; Klemenčič & Zupančič 2023; Graf-

enauer 2025), while the break-up of the SFRY also raised the additional question of the succession to the FPRY/SFRY's accession to the AST (Bohte & Škrk 1997; Kristen 2000; Petrič 2010, 166–167; 2020; 2022, 206–212; Türk 2015, 145–146; Kristan 2016a; 2016b; 2020; Sancin 2018; Stergar 2020; Valentinčič 2020). On the one hand, this is a question of international and constitutional law; on the other hand, it is also a matter of domestic and international politics, to which various answers are possible. This article therefore addresses a question that periodically recurs in Slovenian parliamentary and public discourse: should Slovenia formally notify succession to the FPRY/SFRY's accession to the AST, and what are the implications of the fact that it has not (yet) done so? The central thesis is that Slovenian (foreign) policy did not consider (non-)notification solely as a legal issue but rather instrumentalised it in the context of good neighbourly relations with Austria. It is based on the premise that Slovenian parliamentary and public discourse on this issue also deserves expert attention. On the basis of this analysis, it is also easier to understand other factors that have influenced and continue to influence Slovenian (foreign) policy on this still topical issue.

To either strengthen or weaken this thesis, the article proceeds in two steps. First, it outlines the politics of (international) law as the conceptual and methodological framework guiding the attempt to provide the most objective possible assessment¹ of Slovenia's (foreign) policy conduct to date regarding the (non-)notification of succession to the FPRY/SFRY's accession to the AST. Second, on this basis, it turns to an empirical analysis of publicly available documents of the National Assembly (Državni zbor – DZ).

Within this framework, doctrinal Slovenian constitutional and international legal understandings of (non-)notification of succession serve as analytical benchmarks for examining the debates and decisions in the DZ. The DZ is a key institutional arena where domestic and foreign policy intersect. It is a site of dialogue between governing and opposition parties, as well as a forum where legislative positions confront those of the Executive (Sancin et al. 2018). Subject to the procedural requirements set out in the Rules of Procedure of the DZ (DZ 2022e), it also provides an avenue for responding to civil-society initiatives advocating notification of succession to the FPRY/SFRY's accession to the AST (Stergar 2020). The analysis of all these materials will, in the concluding discussion, enable a more nuanced understanding of the specific factors shaping Slovenian (foreign) policy in relation to the initial research question.

2. Conceptual and Methodological Basis

8

Questions of succession to the AST and its notification cannot be understood merely as technical matters of international treaty law but must be seen as part of a broader politics of (international) law. This concept is used to avoid reductionism, which frames international legal problems either solely in terms of legal dogmatism or solely in terms of foreign policy pragmatism. Traditional dualisms – between politics and expertise, political science and legal science, international relations and international law, constitutional law and international law – also prove analytically insufficient. Just as international law is not merely a system of norms but also a practice of argumentation and legitimisation, other legal disciplines cannot develop their arguments and judgements outside socio-political contexts and power relations. This is why the term politics of (international) law is used.²

The analysis follows Koskeniemi (1989; 1990; cf. Corten et al. 2019; Scicluna 2021), who understands international law as a field of argumentation, stretched between apology (subordinating law to national (power) interests) and utopia (abstract normativism detached from reality or practice). For this reason, legal arguments in international relations are not neutral. They are used as political instruments that structure the legitimacy of states' actions and enable the mobilisation of internal and external support (Petrič 2022, 265–270). Another point of reference is Pavčnik's theory of legal argumentation (Pavčnik 2013). With the transition from the syllogistic logic of legal reasoning – in which both the abstract legal situation and the concrete real-life example subordinated to it are given in advance – to argumentative logic – where both are semantically open in the search for the most convincing dialectical connection between the two on the basis of legal evaluation within relevant social and political contexts – this theory enables an analysis of how legal reasons are used to justify political decisions, where not only formal validity is crucial, but also the persuasive power of the argument within a particular institutional context.

Another concept that requires definition, not least because of its place in the title of this article, is Slovenian (foreign) policy. It refers to the intertwining of domestic and foreign policy, as already pointed out by Benko (1997, 227–238). There are three directions of interconnection (Brglez 2022, 17): domestic policy determines foreign policy; domestic and foreign policy are relatively and proportionally autonomous; foreign policy determines domestic policy. Within the political system of the Republic of Slovenia, the DZ is also the place where this mutual

interplay can most readily be examined empirically, and, in relation to the (non-)notification of succession to the FPRY/SFRY's accession to the AST, it should be understood as a complex interaction between Slovenian (foreign) policy and the previously defined politics of (international) law.

Methodologically, the article combines normative legal analysis with qualitative analysis of political argumentation, situated within the broader context of the relationship between legal science and the politics of (international) law. At the normative level, the analysis relies on a systematic interpretation of the text of the AST, the rules on state succession (in particular, the relevant provisions of the 1978 Vienna Convention on Succession of States in Respect of Treaties and the 1969 Vienna Convention on the Law of Treaties), and the constitutional and legal framework of the Republic of Slovenia. This is a classic doctrinal method in legal scholarship, which reconstructs the applicable normative framework and its internal coherence through textual, systematic, and teleological interpretation.

At the empirical level, the article employs qualitative analysis of parliamentary materials, debates, and official positions of the Government of the Republic of Slovenia after 2011. The analysis uses process tracing of individual episodes concerning the (non-)notification of succession to the AST within the DZ, focusing on publicly articulated reasons, legal references, and institutional formulations of arguments. The aim is not to uncover the subjective motives of the actors, but to reconstruct the normative-political rationale expressed in official documents and debates. This situates the article within the tradition of research on the politics of (international) law, where legal arguments are not seen as neutral technical instruments, but as part of a political discourse that both legitimises and constrains the actions of state bodies.

The analysis is complemented by an element of participant observation, which enables a contextual understanding of the institutional dynamics between the legislative and executive branches of government. This component is not used as an independent source of evidence, but as hermeneutic support for the interpretation of documented positions. In ontological and epistemological terms, the article does not assume a complete separation between the legal and political spheres but rather advances the opposite thesis: that legal arguments in specific institutional environments are always shaped in relation to political goals, while retaining their normative structure and internal logic.

On this basis, the central thesis of the article can be assessed: namely, that the question of (non-)notification of succession to the FPRY/

SFRY's accession to the AST in Slovenian (foreign) policy was framed not merely as a technical issue of succession or inheritance, but rather as an institutionally and politically sensitive aspect of managing good neighbourly relations with the Republic of Austria. The article therefore does not evaluate individual positions as right or wrong but analyses how they were legally justified and embedded within a broader political logic.

This methodological approach requires a clear distinction between the normative framework that determines the legal position of the Republic of Slovenia in relation to the AST and the political articulation of this position in specific institutional situations. Before analysing parliamentary debates and government positions, it is therefore necessary to reconstruct the basic normative framework: the nature of the AST as an international legal regime, the rules on state succession, and the constitutional premises for assuming international legal obligations upon the independence of the Republic of Slovenia. Only on this basis is it possible to assess whether, and to what extent, (non-)notification was understood as a legal necessity or as a political decision.

3. Normative Framework: The AST and Succession

The debate on the (non-)notification of succession to the FPRY/SFRY's accession to the AST is often presented in Slovenian public discourse as an unresolved legal issue. However, a systematic analysis of the international legal regime of the AST, the doctrine of treaty law and state succession, and Slovenia's constitutional framework suggests that the central question is not whether Slovenia is the successor to the rights and obligations of the FPRY/SFRY under the AST. Rather, the key issue is whether it wishes, and is able, to formally articulate this legal continuity through an act of notification to the depositary, which would also require careful diplomatic preparation and implementation. The key distinction is therefore between the existence of legal continuity and its political and formal articulation. This distinction is crucial for a proper understanding of the case.

As a multilayered international legal regime dating from 1955, the AST is a distinctive international legal instrument combining: (i) constitutive elements (restoration of Austria's sovereignty in Articles 1 and 2, as well as Articles 3 and 4); (ii) territorial elements (confirmation of borders in Article 5); (iii) a security regime (military clauses in Part II); and (iv) a minority protection regime (rights of the Slovenian and Croatian minorities in Article 7).

As early as 1976, Bohte pointed out that, with regard to the protection of the Slovenian minority, the AST is not merely an instrument prohibiting discrimination (as part of the relative protection of human rights under Article 6). Instead, it creates, through Article 7, a special regime of absolute minority protection for the Slovenian and Croatian minorities in Carinthia, Burgenland, and Styria (Bohte 1976, 20–21). This means that the rights under Article 7 are not merely individual rights of minority members but collective and institutional rights guaranteed by international law, requiring Austria to adopt positive measures. Bohte (1976, 22) also emphasises the fundamental principle of (international) law *pacta sunt servanda*, according to which treaties are binding and must be performed in good faith (*bona fide*). This principle of customary international law, subsequently reflected and codified in the Vienna Convention on the Law of Treaties (1969), prevents unilateral relativisation or selective interpretation of treaty obligations.

Bohte and Škrk (1997, 612–614, 619) further identify the elements of a territorially entrenched or territorial-regime treaty, which creates enduring legal effects. Although the AST is not a classic border treaty in the narrow sense, its provisions concerning the recognition of borders (Article 5) and the protection of minorities (Article 7) constitute the normative core of post-war stabilisation. In addition to the historical fact that the FPRY/SFRY assumed a protective role in relation to the Slovenian minority (Article 7) in exchange for abandoning its territorial claims,

by acceding to the AST, Yugoslavia recognised the former Saint-Germain border and undertook to respect the inviolability of Austria's territorial integrity and independence. In return, Austria, unlike under the 1919 Treaty of Saint-Germain, undertook under the AST – which in relation to the earlier treaty constitutes *lex posterior* and *lex specialis* insofar as it goes beyond it – to grant special rights to the Slovenian minority in Carinthia and Styria and to the Croatian minority in Burgenland, in addition to relative protection and the prohibition of discrimination (Article 6, Human Rights). This absolute protection [...] also possesses a constitutional character [...] (Bohte & Škrk 1997, 605).

In such cases, according to the general doctrine, succession to border treaties occurs automatically, since any other interpretation would jeopardise the continuity of the post-war European and global order established precisely to ensure lasting stability (Kristen 2000, 104; Polak Petrič & Pajnkihar 2024, 71). Since the Vienna Convention on the Law of Treaties (1969) codifies then-existing customary international law and

provides that the *rebus sic stantibus* clause (fundamental change of circumstances) cannot be invoked in relation to border treaties (Article 62, paragraph 2(a)), it follows that the Republic of Slovenia is, as a matter of international law, the legal successor to the AST regardless of whether formal notification of succession to the FPRY/SFRY's accession to the AST has been communicated to the depositary.

This position has two possible implications. If Slovenia, as the successor state, automatically assumes the rights and obligations relating to the border provision (Article 5 of the AST), it cannot be convincingly argued that succession to the entire AST regime (including, in particular, Article 7 of the AST) depends on the constitutive act of notification. The territorial element therefore reinforces the thesis of legal continuity and the declaratory nature of notification of succession to the FPRY/SFRY's accession to the AST. At the same time, regardless of whether formal notification of this succession takes place, and given the political rather than legal connection between the AST and the permanent neutrality of the Republic of Austria highlighted at the beginning of the article, it would be reasonable to follow Stergar's proposal that, upon notification of the "succession of Slovenia's associate membership in the AST, the National Assembly of the Republic of Slovenia should reaffirm the Declaration on the Recognition of the Status of Permanent Neutrality of Austria, which was adopted by the federal chamber of the Federal People's Assembly of the FPRY on 24 March 1956." (Stergar 2020, 173)³

The Yugoslav doctrine of the 1970s already emphasised that Article 7 of the AST should be regarded as *lex posterior* and *lex specialis* in relation to earlier minority regulations and that, consequently, Austrian domestic law cannot restrict the international legal obligations arising from it (Bohte 1976, 28). This thesis, subsequently consolidated by Bohte and Škrk (1997, 605), means that the AST is an autonomous and enduring legal framework whose validity is not contingent upon political cycles or unilateral constitutional interventions by a contracting state. Article 7 of the AST establishes permanent international legal obligations that cannot be relativised by domestic or municipal law, nor reduced to a merely political minimum without legal commitment. Therefore, in their view, the AST must be interpreted teleologically, in light of its object and purpose – namely, the stabilisation of the post-war order and the protection of a specific national community. It follows that the validity of the AST is not a question of political expediency, but rather a matter of compliance with a binding international treaty.

This normative basis is essential to the discussion on the succession of the Republic of Slovenia following the dissolution of the SFRY. The

doctrine of continuity in multilateral treaties, as developed by Bohte and Škrk (1997, 616–619), is based on the premise that succession is not a matter of discretionary political will, but rather a legal consequence of the dissolution of the predecessor state, where the nature of the treaty permits such succession. In their view, the AST is among those treaties whose subject matter and purpose are not incompatible with the succession of new states, but indeed presuppose it, since Article 7 protects the Slovenian national community, which is directly linked to the Republic of Slovenia as its kin state. This argument is also consistent with the interpretation of the Vienna Convention on Succession of States in Respect of International Treaties (1978), in particular Article 34, which stipulates that treaties shall, as a rule, remain in force for successor states unless their application would be incompatible with the object and purpose of the treaty (Kristen 2000, 102).⁴ In the case of the AST, no such incompatibility exists; on the contrary, the succession of the Republic of Slovenia is functionally consistent with the protective purpose of the treaty (Kristen 2000, 110).

By contrast, the constitutional basis for the continuity of the AST is already evident from a textual interpretation of the Constitutional Act Implementing the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia (UZITUL 1991). Article 3 provides:

Treaties concluded by Yugoslavia which apply to the Republic of Slovenia remain in force on the territory of the Republic of Slovenia.

The Executive Council of the Assembly of the Republic of Slovenia shall within three months submit to the Assembly of the Republic of Slovenia a survey of the treaties which apply to the Republic of Slovenia, on the basis of which the Assembly of the Republic of Slovenia shall adopt an act on the notification of other parties to such treaties (UZITUL 1991, art. 3).

This provision operates on two levels: (a) it materially recognises continuity, and (b) procedurally, it anticipates notification. However, this does not mean that treaties are invalid in the absence of notification. Kristan (2016a; 2016b; 2020) rightly notes that Slovenia should have systematically formalised treaty succession at the time of independence, thereby avoiding later uncertainties, and that notification constitutes both a duty and an expression of statehood. However, he overstates the case when claiming that notification is necessary for the assertion of the sovereignty of the Republic of Slovenia in its relations with the Republic of Austria (Kristan 2020, 122).

Therefore, even from a constitutional perspective, continuity does not depend upon notification. Notification is a means of formalisation rather than a condition of validity. For this reason, Sancin (2018) warns against the legal risks of absolutising notification: placing excessive emphasis on notification twenty-seven years after independence could imply recognition that Slovenia had not previously been a successor state,⁵ even though this concerns a treaty that Austria cannot unilaterally challenge under customary international law.

Although this position under international law rests on the same argumentative foundation (Bohte & Škrk 1997), Sancin (2018) – writing twenty-one years later, when the Republic of Slovenia had still not formally notified its succession to the FPRY/SFRY's accession to the AST, as advocated by Bohte and Škrk (1997) – points out that understanding notification as a constitutive act would imply that Slovenia only became a successor state upon notification. Such an interpretation would create the dangerous fiction that (a) international legal continuity had been interrupted, and (b) succession arises only through an act of political will. From the perspective of international law, succession is an objective legal fact rather than a political privilege. Notification is therefore a declaratory act that formalises an already existing legal reality.

The question of notification must therefore be shifted from the level of the existence of a legal situation to the level of its formal confirmation. Valentinčič (2020, 145) also notes that, in such a case, notification does not constitute a new accession but rather a formalisation of the *de facto* succession that has existed since 25 June 1991. At the same time, he rejects both the argument concerning the obsolescence of the AST and the clean slate doctrine advocated in Austrian international law doctrine (e.g., Hafner 1996), since international law does not recognise the termination of a treaty on the grounds of obsolescence, nor can Austria unilaterally impose the termination of an established legal regime (Valentinčič 2020, 136–138). This interpretation of international law reinforces the thesis that the legal framework of succession is stable and that notification is declaratory rather than constitutive in nature. Therefore, both options – formal notification and non-notification – may be supported under international law.

It can therefore be concluded that the Republic of Slovenia is the successor to the rights and obligations of the FPRY/SFRY under the AST. This continuity exists as a matter of international law. Notification would constitute a formal confirmation of that continuity rather than the creation of a new legal situation. The central question is therefore not legal, but political – namely, whether the state wishes to formally articulate

its existing legal position. This decision goes beyond legal dogmatism and belongs to the sphere of the politics of (international) law, where normative continuity intersects with foreign policy considerations.

15

4. Empirical Analysis of Slovenian (Foreign) Policy in the National Assembly

As noted above, the scope of the empirical analysis of National Assembly (DZ) documents is limited by the public availability of documents from plenary sessions and meetings of the Foreign Policy Committee (*Odbor za zunanje zadeve* – OZP) and the Commission for Relations with Slovenes in Neighbouring and Other Countries (*Komisija za odnose s Slovenci v zamejstvu in po svetu* – KOS), as listed in Table 1.⁶ It is also useful to categorise these materials according to individual terms of the DZ; this approach is therefore adopted here.

An empirical analysis of the debates, conclusions, initiatives, legal opinions, and declarative acts of the DZ during the period 2011–2026 shows that the issue of the AST in the Slovenian parliamentary context has passed through four discursive phases: (1) a phase of international legal and technical affirmation of succession (2011–2014); (2) a phase of constitutional institutional tension (2014–2018); (3) a phase characterised by a substantive shift from notification to the implementation of Article 7 and by the strengthening of the Government's position in favour of non-notification (2018–2022); and (4) a phase of normative consolidation through the adoption of the Declaration on the Preservation and Strengthening of the Autochthonous Slovenian National Minority in the Republic of Austria (*Deklaracija o ohranitvi in krepitevi avtohtone slovenske narodne manjšine v Republiki Avstriji* – DeOKASNMA 2025) (2022–2026). Across all phases, three lines of argumentation can be identified: international law (succession to the AST, the Vienna conventions on the law and succession of treaties, obsolescence); constitutional law (UZITUL, separation of powers, powers of the Government); and identity-foreign policy (responsibility towards the Slovenian national community, good neighbourly relations, the European context).

As international and foreign-policy developments relating to this topic between Slovenia's independence and 2012 were accompanied by more pronounced civil-society pressure (Stergar 2020), extending beyond the professional public into the broader domestic political environment, the discussion begins with this historical context before turning to a more detailed account of the empirical analysis.

Table 1: National Assembly documents included in the empirical analysis

National Assembly (DZ) term	Session	References
2011–2014 (sixth term)	Joint session of KOS and OZP (31 May 2012): the position of the Slovenian national community in the Republic of Austria	DZ (2012a–j)
	Joint closed urgent session of OZP and KOS (17 October 2012): confidential government information regarding the notification of succession to the AST	DZ (2012k)
2014–2018 (seventh term)	Joint closed session of KOS and OZP (3 May 2016): confidential government material	DZ (2016)
	KOS session (18 January 2017): the situation of the autochthonous national community in Austrian Carinthia and Styria	DZ (2017a–c)
	Joint urgent session of KOS and OZP (23 February 2017): the abolition of the Slovenian language in Austrian Carinthia	DZ (2017d–g)
	Partially closed joint session of OZP and KOS (10 April 2017): proposal for a recommendation to the Government concerning notification of succession to the AST	DZ (2017h–o)
2018–2022 (eighth term)	KOS session (24 October 2018): the position of the autochthonous Slovenian national community in neighbouring countries	DZ (2018a–c)
2022–2026 (ninth term)	KOS session (3 October 2022): the situation of autochthonous Slovenian national communities in neighbouring countries	DZ (2022a–d)
	KOS session (10 December 2024): the situation of the autochthonous Slovenian national community in Austrian Carinthia and Austrian Styria	DZ (2024a–d)
	Joint urgent session of OZP and KOS (6 May 2025): proposal for a Declaration on the Preservation and Strengthening of the Autochthonous Slovenian National Minority in the Republic of Austria	DZ (2025a–j)
	103rd extraordinary plenary session of the DZ (7 May 2025): proposal for a Declaration on the Preservation and Strengthening of the Autochthonous Slovenian National Minority in the Republic of Austria	DZ (2025k–p)

Source: Compiled by the author.

4.1 Historical Context of Empirical Analysis

The historical dilemma of Slovenian (foreign) policy regarding the succession to the FPRY/SFRY's accession to the AST is perhaps best captured by Petrič:

17

[T]he decision of Slovenian foreign policy regarding notification of succession to the AST to the depositary requires careful consideration and assessment of all possible consequences. Failure would provide Austria with an opportunity to oppose Slovenian foreign policy in advocating the implementation of the rights guaranteed under Article 7 of the AST and in acting as a protector of those rights. Therefore, it appears more sensible to continue acting as the *de facto* protector of the rights of the Slovenian minority under Article 7 of the AST and to regard itself and act as the successor to the former SFRY under this treaty, rather than to engage in a risky international legal and, consequently, political dispute. Any possible, albeit unlikely, objection by Austria to Slovenia's position that, with regard to Article 7 of the AST, Slovenia is the *de facto* protector of the interests and rights of the Slovenian minority, should be followed by Slovenia's notification of succession to the AST (Petrič 2010, 166; 2022, 210–211; emphasis removed).

This assessment immediately raises the question of what the potential triggers for such notification might have been and how Slovenian foreign policy and diplomacy have been conducted,⁷ given that this had clearly not occurred at that point (2010) and has still not occurred (2026).

From a political perspective, it is realistic to acknowledge that there was no appropriate moment for raising such questions, whether during the initial establishment of Slovenia's network of diplomatic missions and consulates (Jančar 1996, 51–147), when Austrian diplomacy assisted in protecting the interests of the Republic of Slovenia and its citizens, or during the process of European Union integration and accession prior to 2004.⁸ There are also indications (e.g., Petrič 2020, 17)⁹ that, before the period covered by the present empirical analysis, Slovenian diplomacy had already conducted consultations with the original contracting parties to the AST regarding succession.¹⁰

Less clear is why both Slovenian diplomacy and the DZ either failed to respond or responded inadequately in 2005 when, during a visit by a Slovenian parliamentary delegation to Vienna, the then President of the Austrian Parliament, Dr Andreas Khol, rejected the possibility of discussing the situation of the Slovenian minority in Austria on the basis of Article 7 of the AST arguing that Slovenia was not the legal successor to Yugoslavia (Kristan 2020, 120; Stergar 2020, 169–170; Valentinčič 2020,

142). Given the general rejection of such arguments among Slovenian experts, including both supporters and opponents of notification of succession to the FPRY/SFRY's accession to the AST, it should be noted that, under international law, neither the President of the Austrian nor the President of the Slovenian Parliament represents the state (the former ranking third in the Austrian order of precedence and the latter second in the Slovenian order of precedence). Consequently, his or her statements cannot be considered the official position of the Republic of Austria for the purposes of international law under Article 7(2) of the Vienna Convention on the Law of Treaties (1969), unless subsequently confirmed by the Republic of Austria under Article 8. As far as the available literature indicates, this did not occur.

Most often, however, both supporters and opponents of notification of succession to the FPRY/SFRY's accession to the AST refer to the statement of the then President of the Republic of Slovenia, Dr Danilo Türk, who announced at a press conference during the visit of Austrian President Heinz Fischer on 19 April 2011 that Slovenia would notify its succession to the AST within a few weeks. The Austrian President "responded to a specific question from a journalist by explaining that their experts believed that Slovenian succession to associate membership in the AST was not possible, but that a possible Slovenian notification would not affect bilateral relations." However, "Austrian career diplomats [...] did not hesitate to contradict their President [...]" (Stergar 2020, 170).

At that time, alongside expert support for notification promoted by the Institute for Ethnic Studies since 1992 (Stergar 2020, 163), broader Slovenian civil society became actively engaged for the first time. From April 2012 onwards, this led to the formation of a "very diverse and ever-expanding Alliance for the Notification of the AST" (Stergar 2020, 170),¹¹ which

persistently submits written initiatives to the Government and the political groups in the DZ concerning the regulation of Slovenia's status as an AST Associated Power, including an initiative submitted in autumn 2020 on behalf of 90 organisations (including both Clubs of Carinthian Slovenes in Ljubljana and Maribor) with around 250,000 members (Stergar 2020, 170).

Finally, in this historical context, reference should be made to the compromise memorandum concerning bilingual place-name signs in Carinthia, signed on 26 April 2011 by representatives of the Austrian federal government, the Carinthian provincial government, and umbrella

organisations of Carinthian Slovenes, and subsequently confirmed by the Austrian Parliament on 6 July 2011 as constitutional law. This was considered a “rotten compromise” (Klemenčič 2020, 68), as it closed the last remaining legal avenue to the Austrian Constitutional Court for the Slovenian national community, which had previously been available through the framework of the AST (Valentinčič 2020, 128–130; Vouk 2025), with the co-operation of Slovenian foreign policy and diplomacy (Stergar 2020, 162). The first debate analysed in the DZ also concerns this compromise memorandum and its consequences.

4.2 The 2011–2014 Term of the DZ: Affirmation of Succession and the Comparative Argument of the Czech Republic

In the first term under consideration, discourse on the AST was distinctly normative and rooted in international law. Two joint sessions of the OZP and KOS were held. At the first public session held on 31 May 2012, under the agenda item “Current events and the situation of the Slovenian national community in the Republic of Austria”, the seventh conclusion adopted by the OZP and KOS proposed that the Government of the Republic of Slovenia “prepare information on the possibilities of notifying succession to the State Treaty on the Establishment of an Independent and Democratic Austria (AST)” (DZ 2012i). This conclusion already framed notification as a matter requiring governmental assessment rather than immediate parliamentary action. The Government complied with this request and, as a procedural matter, classified the material as confidential (DZ 2012k). Consequently, the Government’s position, including its arguments regarding succession to the FPRY/SFRY’s accession to the AST, could only later be reconstructed from publicly available documents of the National Assembly in 2017 (DZ 2017o). During this period, official Slovenian policy provided virtually no substantive or procedural response to pressure from civil society, particularly through the activities of the Alliance for the Notification of the AST (Predsednik DZ 2012a; 2012b).

DZ documents clearly state that Yugoslavia acceded to the AST by depositing its instrument of ratification in 1955 and that, on 25 June 1991, the Republic of Slovenia declared succession to the international treaties concluded by the SFRY. This formulation recurs throughout parliamentary discourse and acts as an implicit axiom according to which Slovenia is the material successor to the FPRY/SFRY.

At the same time, a comparative argument emerged in the debates according to which Slovenia, like the Czech Republic after the dissolution of Czechoslovakia, should notify the depositary (the Russian Federation) of its succession to the AST. This reference served not merely an informative function but also a normative one. Czech practice was presented as a model of normal succession consolidation. In the public debates at the OZP and KOS, notification was therefore portrayed as a technical, expected, and unproblematic act.

During the same period, Slovenian debates also referred to the Austrian position that Slovenia was not the legal successor to Yugoslavia, an argument that had already been articulated in 2005. Within the discourse of the DZ, this argument served primarily as a warning: inaction could reinforce interpretations suggesting ambiguity in Slovenia's legal status. Notification was therefore presented as an instrument for ensuring legal clarity.

However, even at this stage, no complete consensus existed. The AST edited volume (Grafenauer & Jesih 2020) summarises the frequently expressed position of Dr Marjan Sturm, who advises against notification because of its potential political consequences; the opposing position of Dr Roland Grilc, who advocates notification as soon as possible for legal reasons (Stergar 2020, 176); and the strategic approach of Rudi Vouk, who, as early as 2012, viewed even the preparation of notification primarily as a strategic instrument for exerting pressure on the Republic of Austria (Valentinčič 2020, 142).¹²

This division, particularly between the first two positions, is also reflected in parliamentary debates. The legal register, referring to continuity and the Vienna Convention on Succession of States in Respect of Treaties (1978), remained consistently present, but was accompanied by a political register emphasising either good neighbourly relations or pragmatic considerations. The discourse of this sixth term of the DZ can therefore be described as a phase of normative articulation of succession. The central question was not whether Slovenia was the successor, but whether it should formalise its position as such.

4.3 The 2014–2018 Term of the DZ: Institutional Tension and the Constitutional Framework

One may agree with the observation of an external observer: "Although the members of the working bodies of both houses of parliament discussed the notification of succession to the AST in each term, they were very late in addressing the official call to the Government to initiate the

procedure” (Stergar 2020, 170). At least in the practice of the seventh term of the DZ, the reasons appear to have been procedural in nature. Faced with increasingly organised pressure from civil society (Bučar & Kristan 2015; Plohl 2017),¹³ the Government adopted preventive measures, first by convening a closed joint session of the OZP and KOS on 3 May 2016 (DZ 2016). This session sought to consolidate coalition MPs around a single position under international law, ensuring that alternative positions did not receive comparable attention, either argumentatively or diplomatically.¹⁴

Three further sessions followed. The regular KOS session of 18 January 2017 was relatively uncontroversial, whereas the subsequent two joint sessions of the OZP and KOS convened at the urgent request of New Slovenia (23 February 2017; DZ 2017e)¹⁵ – and in particular the Proposal for a Recommendation to the Government of the Republic of Slovenia on the Notification of Succession to the AST (DZ 2017i) submitted under regular procedure by a group of MPs led by Dr Matej T. Vatovec (all members of the United Left and DZ Vice President Primož Hainz) – addressed the proposed abolition of the Slovenian language in the draft provincial constitution of Austrian Carinthia and the notification of succession to the AST. The proposal was ultimately considered during a partially closed session on 10 April 2017.

Despite these procedural manoeuvres, the Government’s position regarding notification of succession to the FPRY/SFRY’s accession to the AST can be reconstructed with relative accuracy from the parliamentary debates and materials of 2017, including retrospectively for at least the period since 2012. This position was not an explicit rejection of succession, but rather a rejection of the necessity of formal notification. The reconstruction shows that the Government’s position rested on six interrelated propositions: (1) material succession already exists; (2) notification is not a constitutive act; (3) notification could create legal ambiguity; (4) it has not been demonstrated that notification would improve the situation of the Slovenian minority; (5) the decision is political in nature and falls within the competence of the Executive; and (6) the issue must be considered within the broader context of good neighbourly relations and European policy.

In the 2017 discussions, the Government explicitly emphasised that the Republic of Slovenia was already the legal successor to the AST and that formal notification to the depositary would be merely declaratory rather than constitutive. This position was also articulated during the partially closed joint OZP/KOS session of 10 April 2017, where the debate focused on executive competence and the non-constitutive nature of notification (DZ 2017k; 2017l; 2017o).

One of the Government's key arguments was that formal notification could create the false impression that Slovenia had not previously been a successor state. This concern was linked to the principle of consistency in state conduct. If a state had acted as a successor for decades, subsequent notification might raise questions as to whether succession had actually existed all along. This suggests that the Government did not regard notification as a purely technical act without consequences, but rather as a potentially politically sensitive step.

The Legislative and Legal Service of the DZ pointed out that the DZ could not require the Government to issue notification, as such matters fall within the competence of the Executive (under the Slovenian Constitution (*Ustava Republike Slovenije* 2017) and Article 82 of the Foreign Affairs Act (*ZZZ-1*)). In practice, this interpretation reinforced the Government's position, as notification was not viewed as a legal obligation that parliament (neither the National Assembly (DZ) nor the National Council) could impose, but rather as a political decision to be adopted by the Government taking into account its foreign policy implications.

The question of whether notification would actually improve the position of the Slovenian national community in Austria was raised several times in the debates. Legal assessments suggested that notification could have negative political effects on bilateral relations, while advocates of notification emphasised its legal necessity. The Government's position aligned more closely with the former view. If notification could not secure a concrete improvement in the implementation of Article 7 of the AST, its political costs might outweigh its legal benefits. In this context, the Government implicitly distinguished between the normative symbolism of notification and its practical effects.

The Austrian argument that Slovenia was not the legal successor to Yugoslavia also remained present in parliamentary discourse. Supporters of notification used this argument as a reason for formally confirming succession. The Government, however, did not consider this as sufficient grounds for notification. According to its reasoning, succession had already been established under international law and therefore did not require confirmation through political statements by a third country. In this way, the Government adopted a position of normative self-sufficiency, according to which legal status does not depend on recognition by another state.

The seventh term of the DZ also represents an institutional deepening of the debate. In 2016, the National Council organised a consultation on notification of succession to the AST and adopted a decision calling upon the DZ and the Government to examine the reasons for

notification as soon as possible. Interestingly, this cannot be found in DZ materials from the period but can be reconstructed on the basis of Kristan (2016a) and National Council documents (Državni svet 2025). This formally institutionalised the issue, transforming it from a matter raised through parliamentary questions or civil initiatives into the subject of a conclusion adopted by the imperfect second chamber. At the same time, the Legislative and Legal Service of the DZ highlighted the constitutional limits of such a call (DZ 2017j). The term call itself implies a request by the DZ directed at the Government and may interfere with the principle of separation of powers, as the Government itself must assess both legal and political considerations. Accordingly, the Legislative and Legal Service – more autonomous in relation to the DZ than the Government’s Legislative Service is in relation to the Government – proposed the use of less binding formulations, such as proposal or initiative. Notification therefore became not merely a matter of international law, but also a matter of constitutional and legislative drafting techniques.

Coalition MPs followed the Government in rejecting notification of succession to the FPRY/SFRY’s accession to the AST, as there were no sufficiently developed alternatives available. The discourse of this term can therefore be characterised as a phase of constitutional restraint, in which legal arguments in favour of notification remained present, but executive political discretion ultimately prevailed.

4.4 The 2018–2022 Term of the DZ: Substantive Stabilisation and Normative Consolidation of the Government’s Position

During the eighth term of the DZ (2018–2022), the debate on notification of succession to the FPRY/SFRY’s accession to the AST was re-activated, although it no longer occupied a central place on the DZ’s institutional agenda. Instead, within the framework of the KOS, the DZ held only a routine debate – without conclusions – on the position of autochthonous Slovenian national communities in neighbouring countries (24 October 2018). The issue was addressed more as a combination of civil initiatives and parliamentary questions. The Alliance’s call for notification of the AST (Plohl 2020) and the subsequent renewed call for notification of the AST (Kristan & Toš 2020) differed considerably in scope and ambition. The Alliance’s call was structured as a demand for “the exercise of the right to notify the AST”. It argued that Slovenia had not yet “fully and definitively realised” its right to succession to the

AST. The discourse remained predominantly constitutional and technical in nature: notification was presented as a missing formal step within the succession architecture, understood as a legal complement to an already existing status.

The renewed call by Kristan and Toš (2020), however, was significantly broader and conceptually more ambitious. First, notification was presented as a necessary condition for the full implementation of the Basic Constitutional Charter on the Sovereignty and Independence of the Republic of Slovenia (TUL 1991). This represented a substantially stronger claim than that advanced by the Alliance, as notification was no longer presented as a supplementary step but as a constitutional obligation. Secondly, the initiative emphasised the importance of Article 5 of the AST concerning borders from 1938, which also defines the border with Yugoslavia and, consequently, with Slovenia. Notification therefore ceased to be presented merely as a minority issue under Article 7 and instead became linked to questions of territorial legitimacy. Thirdly, the document directly rejected the alleged Austrian position from 2005 that Slovenia was not the legal successor to Yugoslavia and referred to the principle of automatic continuity in territorial treaties. Fourthly, the initiative introduced a distinct register of identity and values. Non-notification was presented as a renunciation of constitutional history and even as implicit consent to a reinterpretation of the history of the Second World War. This element extended beyond a strictly legal discourse and linked notification to questions of national identity, self-respect, continuity of statehood, and the foundations of the European Union. It therefore represented a normative expansion of the argument in favour of notification, as the issue was framed not merely as a legal question but as one of state sovereignty and historical responsibility.

The response of the Government of the Republic of Slovenia (Vlada Republike Slovenije 2020) to parliamentary questions submitted by Dr Franc Trček presents a systematic counterargument to both initiatives. While Kristan and Toš (2020), together with other signatories, argued that notification was necessary for the full implementation of the TUL, the Government maintained that the Republic of Slovenia was already the “undisputed successor to the AST” on the basis of customary and treaty international law, as well as Article 34 of the Vienna Convention on Succession of States in Respect of Treaties (1978). Whereas the initiative emphasised the territorial dimension of Article 5 of the AST, the Government highlighted the direct applicability of Article 7 and its independence from formal notification. Similarly, whereas the initiators viewed notification as a matter of self-respect and identity, the Govern-

ment regarded it as a formal communication without constitutive effect, explicitly stating that notification merely constituted a formal communication to the depositary and other contracting parties indicating that the Republic of Slovenia considered itself a contracting party to the AST as of the date of succession to the SFRY.

An important element of the response was the emphasis that the AST, and Article 7 in particular, constituted an indisputable obligation under international law for the Republic of Austria, regardless of formal notification. The Government further stressed that Article 7 was directly applicable and could not be derogated from through domestic law. This position normatively reinforced the argument that the legal regime operates independently of a formal procedural act.

A third important element concerned the actual functioning of bilateral relations. The Government stated that the Republic of Austria already recognised the Republic of Slovenia as a partner in matters relating to the enforcement of the rights of the Slovenian national community under the AST. This argument was essentially functional in nature. If Austria *de facto* recognised Slovenia as successor and protector, formal notification would not bring any additional legal benefit. The Government therefore concluded that formal notification of succession to the AST would not, at that stage, contribute to more effective enforcement of Austria's obligations. This formulation thus represents the final normative consolidation of the Government's pragmatic approach.

4.5 The 2022–2026 Term of the DZ: The 2025 Declaration as Normative Consolidation

During the ninth term of the DZ, the debate on the AST underwent a significant transformation. While the previous term had been characterised by the normative consolidation of the Government's thesis concerning the declaratory nature of notification, in this term the debate was divided between increasingly intensified civil-society demands for notification and the parliamentary choice of a different course of action – namely, a political declaration without a procedural act. The key question was no longer whether Slovenia was the successor to the AST, but rather how this succession should be articulated politically and linked to the implementation of Article 7.

An important moment was the initiative by Niko Toš and Bojko Bučar (2023), which represented a renewed normative strengthening of the notification requirement. Unlike the Alliance's call of 2020, which justified notification primarily as the completion of the formal succession

architecture, Toš and Bučar (2023), similarly to Kristan and Toš (2020), placed notification within a broader constitutional and historical context. In their interpretation, supported by a significant share of Slovenian experts in international law, as evidenced by the list of signatories, notification was implicitly presented not merely as an option but as a constitutional obligation. Furthermore, the document directly rejected the Austrian position on Slovenia's alleged inability to succeed to the FPRY/SFRY's accession to the AST and placed the act of notification itself within a broader discourse of national self-respect and continuity of the post-war European order.

The civil-society sphere during the ninth term of the DZ therefore did not moderate its demands for notification but instead deepened them conceptually. Nevertheless, this civil-society position appears analytically uneven. While the Government's caution may be more defensible with regard to Article 5 and the border dimension, the civil-society position remains stronger than the Government's position in the part concerning Article 7 and the protection of the Slovenian national community in Carinthia and Styria. For that reason, Slovenian diplomacy should maintain the legal, procedural, and diplomatic groundwork necessary for possible notification, should (geo-)political circumstances require or permit such action.

The formal institutional response to this normative escalation was not notification, but rather the Declaration on the Preservation and Strengthening of the Autochthonous Slovenian National Minority in the Republic of Austria (DeOKASNMA, EPA 2056-IX), adopted on 7 May 2025 (DZ 2025o). In this context, the Declaration is the key document of the ninth term of the DZ, as it constitutes the first explicit parliamentary reaffirmation of succession to the AST since 1991 expressed in such unequivocal terms. The text states – although unfortunately only in the preamble, not in the operative part – that “the Republic of Slovenia [...] is – under customary and treaty international law and in accordance with the Vienna Convention on Succession of States in Respect of Treaties – the undisputed successor to the AST.”¹⁶ The use of the term “undisputed” has an important discursive effect: succession is no longer presented as an open legal question, but as a normatively established fact.

At the same time, the Declaration, submitted and adopted with the signatures and votes of almost all Members of the DZ from both governing and opposition parties, including unaffiliated Members, and with the President of the DZ, Mag. Urška Klakočar Zupančič, as its first signatory, contains no provisions relating to notification. It neither calls upon

the Government to deposit the act with the depositary nor addresses the need for a formal procedural step or questions the competence of the branches of government. Instead, it focuses on the implementation of Article 7 and notes that the provisions of the AST regarding the protection of the Slovenian national community have not yet been fully implemented.

The focus thus shifted towards issues of bilingual education, the judiciary, public use of the Slovenian language, and support for a petition to the European Parliament (DZ 2025i) jointly submitted as an act of internationalisation by the *Enotna lista*, *Narodni svet koroških Slovencev*, *Skupnost koroških Slovencev in Slovenk*, and *Zveza slovenskih organizacij*.¹⁷ The Declaration thereby places the AST within the broader European framework of minority protection and links it with the Council of Europe's Framework Convention for the Protection of National Minorities (1995) and the European Charter for Regional or Minority Languages (1992).

The normative architecture of the Declaration is therefore twofold: it consolidates succession in the strongest parliamentary wording to date, while deliberately leaving notification without procedural follow-up. This political choice was also evident in the joint OZP/KOS session of 6 May 2025 and the plenary debate of 7 May 2025, both of which shifted attention away from notification and towards the implementation of Article 7 (DZ 2025j; 2025p).

In this sense, the ninth term of the DZ does not represent a return to the debate on notification, but rather its political neutralisation. Whereas civil-society actors (Toš & Bučar 2023) demanded constitutional confirmation, the DZ responded with declarative consolidation without any accompanying procedural act. The discourse therefore shifted from questions of formal confirmation towards questions concerning the actual implementation of Article 7. The AST ceased to be the subject of debate on whether Slovenia is or is not a successor and instead became the subject of debate on whether Austria is fulfilling its obligations.

This term of the DZ thus represents the highest level of normative affirmation of succession within the DZ and, at the same time, the lowest level of institutional support for notification of succession to the FPRY/SFRY's accession to the AST. Notification remains available as a possibility, but only as a last resort, and loses its political centrality. The DeOKASNMA Declaration confirms succession as indisputable, thereby implicitly closing the argument that formal notification is necessary for the legal existence or effectiveness of the AST. This is the essence of the transformation, whereby succession becomes a normatively settled

status, while implementation emerges as the new central issue of parliamentary discourse.

28

5. Concluding Discussion

The normative analysis and empirical reconstruction of parliamentary practice during the period 2011–2026 demonstrate that parliamentary debate did not treat succession to the AST as a legally unresolved issue. Rather, the recurring controversy concerned whether an already existing legal continuity should be formally articulated through notification, even after the 2025 Declaration described succession as “indisputable”.

It is precisely within this normative clarity, however, that the central tension is revealed. If succession is indisputable, why has the state not systematically formalised it through notification to the depositary? The Government’s position, developed between 2017 and 2020, treated notification as a declaratory act without constitutive effects. In the narrow legal sense, this argument is correct. However, it was used as an instrument of political restraint and as a means of shifting the debate from the level of formal state-building affirmation to the level of pragmatic management of bilateral relations.

Here, the concept of self-restraint as self-limitation can be applied. In international relations, a state’s restraint can be a sign of responsibility and political wisdom. In this case, however, restraint is gradually turning into self-limitation. The state consciously renounces a formal act that would normatively consolidate its position because it believes this could cause political tensions.¹⁸ Although this strategy may be pragmatic, it also has long-term consequences: the state itself relativises the symbolic significance of its own legal continuity.

Notification in this context was not legally necessary, but it was politically significant. International law is not merely a system of legal rules, but also a system of signals and symbolic acts. Formal notification would have constituted a public institutional affirmation that the Republic of Slovenia was assuming not only materially but also formally a protective role with regard to the rights guaranteed under Article 7. By deciding not to do so, the Executive implicitly adopted a strategy of quiet enforcement without formal confrontation.

It is precisely at this point that the question of instrumentalisation becomes relevant. In parliamentary discourse, the protection of the Slovenian national community in Carinthia was often used as an argument against notification. If notification would not produce an immediate improvement in the situation of the minority, then it was considered un-

necessary. However, such a utilitarian assessment instrumentalises minority rights as a criterion for political decision-making. Succession is thereby assessed through the prism of immediate effect rather than through the prism of the normative consistency of the state.

Civil-society initiatives (Bučar & Kristan 2015; Kristan & Toš 2020; Toš & Bučar 2023), by contrast, understood notification as a state-constitutional and symbolic act that goes beyond a pragmatic calculation of benefits. Their argument was not limited to improving bilingual signage or education, but linked notification to the continuity of the TUL and to the affirmation of the post-war European order. The Government's interpretation largely bypassed these arguments by claiming that the implementation of Article 7 remained independent of any formal act.

This created a paradox. The Government repeatedly emphasised that the Republic of Austria already recognised Slovenia as a dialogue partner in practice and that bilateral dialogue was functioning effectively. However, this very fact reduced the political risk associated with notification. If Austria already recognised Slovenia's functional role, formal notification would not create new legal obligations but would merely provide institutional confirmation of an existing situation. The decision not to notify can thus be understood as a form of preventive avoidance of a potential confrontation that might not even occur.

The instrumentalisation of the issue is also evident in another dimension. The Slovenian national community in Carinthia was presented in political discourse as a reason for caution: the state should not jeopardise its position through unnecessary inter-state disputes. Such reasoning, however, places the minority in the position of a hostage to bilateral relations rather than treating it as an autonomous collective entity. Instead of being understood as reinforcing the state's protective function, notification was interpreted as a potential threat to stability. In this sense, the minority issue was used as an argument for political restraint.

The DeOKASNMA Declaration resolves this tension in a specific manner. Succession is designated as "indisputable", thereby normatively reaffirming the position advocated by the Government. However, the DZ avoids the procedural issue of notification and politically confirms the strategy of self-restraint. The state publicly confirms its status while simultaneously refraining from the formal step that would institutionalise this status within the international legal system.

Thus, the debate ends with an unusual asymmetry. At the normative level, succession is confirmed; at the procedural level, it remains unimplemented. Slovenia acts as a successor, speaks as a successor, and

politically confirms its status as a successor, yet refrains from performing the corresponding formal act. This is not legal inconsistency but rather a political choice.

The remaining question is therefore no longer legal in nature. Instead, it concerns the political willingness of the state to formally affirm its legal continuity, even if this involves a certain degree of risk. As long as a strategy of minimal confrontation prevails, notification will remain a possibility rather than a course of action. In this respect, the AST case is an illustrative example of the politics of (international) law, where law sets the framework while politics determines the limits of its application. To illustrate with the example of the DeOKASNMA Declaration: this situation is likely to persist if Slovenian foreign policy and diplomacy fail to utilise the potential of this unilateral international legal act at relevant international levels, leaving it merely a domestically appealing legal and political instrument intended primarily for the electorate of almost all political parties, both within the governing coalition and the opposition.

If the state wished to move beyond self-restraint, it would need to view notification not as a legal necessity but as a political affirmation of continuity. However, as long as pragmatic minimalism prevails, succession will remain confirmed in words rather than through a formal act. It is precisely this distinction between normative affirmation and procedural restraint that constitutes the central finding of this research.

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Notes

¹ Complete objectivity is unattainable in social sciences – and thus also in political and legal sciences, or more specifically in the study of international relations, international law and constitutional law – because of the nature of their subject matter. Nevertheless, more or less justified ontological, epistemological and axiological approximations are possible (Brglez 2008).

² This conceptual field also includes the (politics of) minority protection, which in the previous system, especially in Slovenia, was critically linked to the self-determination of peoples (Petrič 1977; 1984; cf. Vukas 1978). Even today, it continues to represent one of the most dynamic areas of critical inquiry in Slovenian scholarship (e.g., Komac & Zagorac 2002; Roter 2008; 2014; Grafenauer & Munda Hirnök 2016; Žagar 2017; Medvešek & Novak Lukanović 2020; Komac 2021; Sancin et al. 2021; Udovič et al. 2022; Hrobat Virloget 2023; Klemenčič & Zupančič 2023; Novak Lukanović & Riman 2023; Žagar 2023; Sorgo & Udovič 2024; Nagy 2025; Pirc & Sorgo 2025; Zevnik & Russell 2025).

³ Unfortunately, the current geopolitical situation is such that having one of the state's borders secured by permanent neutrality, recognised and guaranteed by

all parties, is advantageous. It would therefore be worth considering whether the Republic of Slovenia should reaffirm this unilateral international legal act of the FPRY/SFRY (Zupančič 2013, 233–249 – in Slovenian expert literature on the legal force of such acts of states) even outside the context of succession to the AST.

- ⁴ For the sake of objectivity, it should be noted that the Republic of Austria is not among the contracting parties to the 1978 Vienna Convention (nor are the other four contracting parties to the AST) and that doubts remain as to the extent to which these provisions codify customary international law on state succession in respect of treaties (Degan 2011, 188; Türk 2015, 81; Corten et al. 2019, 97; Crawford 2019, 424–425). The burden of demonstrating the existence of a principle or rule of customary international law and its applicability to specific legal relationships (i.e., not only to the Republic of Slovenia, for which such evidence of long-standing and consistent practice of states, accompanied by *opinio juris*, certainly exists) lies with the party asserting it (in this case, the Republic of Slovenia).
- ⁵ “Perhaps the right time for notification of succession was when Slovenia was regulating the succession of international treaties, including those with Austria” (Petrič 2022, 210).
- ⁶ At the time of writing, it was possible to identify and access the relevant publicly available (i.e., non-confidential) documents from the 2011–2014 term of the DZ onwards (<https://www.dz-rs.si/>).
- ⁷ By its nature, the concept of conduct includes commissions, omissions, and permissions.
- ⁸ Among other things, this period saw the conclusion of the Agreement between the Government of the Republic of Slovenia and the Government of the Republic of Austria on Cooperation in Culture, Education and Science (Zakon o ratifikaciji Sporazuma med Vlado Republike Slovenije in Vlado Republike Avstrije o sodelovanju v kulturi, izobraževanju in znanosti 2002) and the recognition of individual members of the German-speaking ethnic group in Slovenia.
- ⁹ In the second, updated edition of his book on foreign policy, Petrič (2022, 209–210) discusses several such consultations with the original “signatories” of the AST and notes that, after the Czech notification of succession, the Czech Republic did not obtain the status of a State Party to the AST owing to Austria’s objection, so the Czech Republic and Austria froze the dispute on this issue.
- ¹⁰ “Borut Bohte, a doyen of Slovenian international law and a former diplomat who was no longer invited to consultations, was known for commenting sarcastically that wrong questions get wrong answers: Slovenia cannot, of course, accede to the AST, but it can succeed to the status of Associated Power” (Stergar 2020, 169). It should be added that, owing to the lack of up-to-date information (at least since 2014) on consultations and continuous expert dialogue with all the original AST contracting parties, especially the depositary, Slovenian professional diplomacy also needed the assistance of Slovenian parliamentary diplomacy.

- ¹¹ The leader of the Alliance for the Notification of the AST is trade unionist Rastko Plohl. The first institution to respond to the Alliance, which also collaborated on this issue with the Association of Fighters for the Values of the National Liberation Struggle of Slovenia (ZZB NOB Slovenije & Zavezništvo za notifikacijo ADP 2012), was the Office of the President of the Republic (Urad Predsednika Republike 2012).
- ¹² This is a strategy of strategic legalism in international law (Long 2022; Brglez 2026a; 2026b) similar to the approach adopted by Vouk, who implemented it in a socially innovative and effective manner within the Austrian constitutional and legal order until the adoption of the compromise memorandum.
- ¹³ The President of the DZ received the civil-society initiators (Bučar & Kristan 2015; 2016) and advised them on the procedure for securing a Government decision, explaining that the Government is the only body that can propose notification of succession to the FPRY/SFRY's accession to the AST, and on the procedural conditions under which decisions of the DZ can be adopted in working bodies and at plenary sessions (Kristan 2016a, 107).
- ¹⁴ By that point, too much time had already passed since the diplomatic consultations, which ideally should have developed into expert dialogue, while the world and the international legal order were already facing the consequences of the Russian occupation of the Crimean Peninsula, and Europe and Slovenia were facing the consequences of the migration and refugee crisis. Last but not least, Slovenia's arbitration saga with the Republic of Croatia was still ongoing.
- ¹⁵ Based on experience in the DZ and the European Parliament, it can be noted that the procedural and substantive demands made by parties belonging to the European People's Party, the Progressive Alliance of Socialists and Democrats, and other European party families tend to be less exacting towards the governments of both countries and are primarily aimed at appeasing their electorates.
- ¹⁶ The wording of the entire passage is worth quoting in full: "*Reaffirming* that the Republic of Slovenia, as one of the five sovereign and equal successor states of the former Socialist Federal Republic of Yugoslavia, is – under customary and treaty international law and in accordance with the Vienna Convention on Succession of States in Respect of Treaties – the undisputed successor to the State Treaty on the Re-establishment of an Independent and Democratic Austria, whose Article 7 guarantees minority rights to Slovenians in Carinthia and Styria" (emphasis in the original).
- ¹⁷ The petition passed through the European Parliament with the help of some Slovenian MEPs who, together with their teams of parliamentary assistants, were both capable and willing to do so.
- ¹⁸ Just as legal and/or political disputes could arise in the event of notification of succession to the FPRY/SFRY's accession to the AST, they could also arise in connection with the 2025 DeOKASNMA Declaration if Slovenian foreign

policy and diplomacy do not adequately defend and implement it in Slovenia's international relations. If the Executive and the diplomacy of the Republic of Slovenia continue indefinitely to avoid making decisions, or continue to reserve discretion regarding when and under what conditions the Slovenian national community in Austrian Carinthia can or cannot become the subject of Slovenian diplomatic protection (except when an event of the magnitude of, for example, the Peršman Farm occurs (Zvezno ministrstvo za notranje zadeve (BMI) 2025)), then criticism concerning instrumentalisation levelled at Yugoslav foreign policy and diplomacy towards the Slovenian national community in Austria (Petrič 2020, 16) would be entirely justified if also directed at Slovenian foreign policy, politics and diplomacy. It should be noted that, for the resolution of such disputes concerning diplomatic protection (as regulated by Article 3 of the Vienna Convention on Diplomatic Relations 1961; Brglez 2011; Udovič & Brglez 2016) of the Slovenian national community in Austria, diplomacy has a wide range of means for peaceful dispute resolution at its disposal, including those set out in Article 33 of the Charter of the United Nations (1945).

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(Ne)notifikacija nasledstva Avstrijske državne pogodbe in slovenska (zunanja) politika

Izvleček

Prispevek obravnava vprašanje, zakaj Republika Slovenija kljub materialnemu nasledstvu ni formalno notificirala nasledstva pristopa FLRJ/SFRJ k Avstrijski državni pogodbi (ADP). Na podlagi doktrinarne analize mednarodnega in ustavnega prava ter kvalitativne analize parlamentarnih dokumentov in razprav v obdobju 2011–2026 avtor rekonstruira stališča Vlade Republike Slovenije, pobude civilne družbe in normativno utrditev nasledstva v Deklaraciji Državnega zbora iz leta 2025. Ugotavlja, da je

bilo nasledstvo dosledno opredeljeno kot pravno »nesporno«, medtem ko je bila notifikacija razumljena kot deklaratoren, ne pa konstitutiven akt, katerega izvršitev je ostajala predmet politične presoje. Prispevek v sklepu pokaže, da nenotifikacija ni pomenila prekinitve pravne kontinuitete, temveč je odražala strategijo političnega samoomejevanja, v okviru katere je slovenska zunanja politika dajala prednost dobrososedskemu pragmatizmu pred formalno mednarodnopravno potrditvijo že obstoječega pravnega položaja Republike Slovenije. S tem prispevek osvetli tudi širšo problematiko politike (mednarodnega) prava.

Ključne besede

Avstrijska državna pogodba (ADP), nasledstvo držav, politika (mednarodnega) prava, 7. člen, slovenska (zunanja) politika, varstvo manjšin