

**“VENEXIT” – VENICE SECESSION MOVEMENT****Key words**

*Venexit, Veneto, Venice, Venice Secession Movement, Italy*

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**Summary**

*The research analyses the Veneto's secessionist movement. Focus of the research is on 2014 plebiscit. As a wider theoretical framework for research we will use the theory of the social contract as the mainstream approach in contemporary political philosophy, with huge relevance for our understanding of the political community. According to this theoretical model, secession is legally possible only-and-only-if there is a consent or consensus from all sides within political community. Usually (in political practice), this means that there is some kind of agreement between secessionists and the central government. Other sorts of arguments (economic, cultural, and historical) cannot provide a sufficient justification for secession. Mandatory reason for secession is the consent of others. Other reasons are not sufficient, but these reasons are non-mandatory also. Secession is possible by the consent of others, even without any other reason except request of secessionists to leave their present state. Discussion about Veneto case from 2014 was a typical example of this theoretical approach. Requests from the cultural, economical and historical facts were correct (often and in many cases), and has been possible to defend these arguments in correct scholarly debate and analysis. Nevertheless, absence of consent of the government in Rome, prevents any legal consequences for changing the status of Veneto.*

## INTRODUCTION

In the last two decades we saw a growing number of secessionist movement across the world. The number of countries in the world is constantly growing. Solely on the territory of Europe, several tens of regions, provinces, federal units and even cities, express more or less an open desire for independency. Thus, there is no doubt that secession is one of the mainstream topics of contemporary political practice and political theory as well. Even a superficial review of literature supports this claim: during the previous two decades there is a large number of scholarly discussions, papers, books etc. about secession, especially from the fields of law and political theory (Savanovic, 2017).

### 1. THEORETICAL FRAMEWORK

In this research we will analyse secession requests by using the theory of the social contract as a wider theoretical/philosophical framework. The social contract theory is a dominant doctrine in the contemporary theory of political obligation. This theoretical model has three analytical steps: 1. "the original position" (Rawls, 1999), 2. the social contract [the Constitution], and 3. the 'postconstitutional stage' (Buchanan, 1975:38,40-44). The original position is the situation [hypothetical or real] where persons are without a state or some other kind of 'arbiter'. The social contract is a set of rules [the constitutional order, legal system, basic consensus etc] that has been accepted (theoretically) by all. The function of the constitutional order is to regulate relations, misunderstandings and conflicts between persons. Usually by creation of the state [arbiter] that has the function to ensure these rules. The postconstitutional stage is

a phase of executive power where the everyday life of citizens is regulated by laws and by the government. The social contract theory solves the problem of legitimation of the political power by the concept of 'consent' [express or 'tacit'] or 'unanimity': a political community has legitimacy only-and-only if it is the result of consent of all members that create it.

There are still many open issues, both theoretical and practical, within this classical doctrine, that have to be a subject to scholarly discussion. One of these questions is: under which circumstances/preconditions is it possible to withdraw the consent of membership in an existing political community (Locke, 1980:102; Kant, 2005:47,52; Rawls, 1999:10-11; Gilbert, 2006:142-143; Klosko, 2005:124)? When we take this problem at the level of collectivities [groups, ethnic or others] then this issue becomes a question about secession. According to the social contract theory: the constitution is a 'contract', so, as any other contract, cannot be rejected by unilateral act.<sup>1</sup> This is a strictly formal criterion: a secession request is justified if there is a consensus or consent of others in the political community. Political obligation ceases to exist in the same manner in which it was formed. In our research we will use this theoretical model for the Veneto case from 2014; as well as for a comparative analysis of more or less similar cases: Montenegro, Scotland and Catalonia.

<sup>1</sup> Except situation when there is a *prima facie* violence of majority against minority.

## 2. METHODOLOGY

### 2.1. REVIEW OF LITERATURE

As stressed above, literature about secession is large and constantly growing. The following works have been used for argumentations of this research: Agnieli (2015), Bartkus (2004), Buchanan (1991), Dahlitz (ed)(2003), Heath (2005), Hendrix (2008), Kohen (2006), Lehning (1998), Moltchanova (2009), Moore, M. (ed) (2003).

### 2.2. METHODOLOGY

The basic methodological instrument in this research is a case study approach. Other methodological procedures and instruments that have been used in this research are: secondary data analysis; explanatory research (explanations of main theoretical problems, especially from the field of political philosophy and argumentations of secessionists), descriptive research (detailed documentation of Venice's secession movement); comparative analysis; case-study; and quantitative research: survey, interview, poll<sup>2</sup>.

### 2.3. CONTENT OF THE RESEARCH

Research assumption 1: three main strategies for secession are: (i) 'Utilitarian' argument – assertion that the existence in some political community is harmful (economical, political or other) for the region that

wants to leave that political community.<sup>3</sup> (ii) 'Cultural' argument – request for independency based on the historical, cultural, ethnic, etc. rights. (iii) 'Contract' argument – request for independency that depends on the consensus with other members of the existing political community. This is an appeal to the others to accept the request. If they do, negotiation about conditions (legal, political, economical etc) for exit can start. And it does not depend on whether there is a secession clause in the constitution or not.<sup>4</sup> These strategies are a form of 'Why', 'Who' and 'How' (Bear, 2000) questions regarding the problem of secession.

Research assumption 2: Secession cannot be grounded only at (i) and/or (ii). The reason for this lies in the fact: the constitution is the social contract and, as any other contract, cannot be rejected unilaterally. Therefore, only (iii) can be accepted as a sufficient and mandatory reason for secession.

Expected conclusion and the ultimate aim of the study: Secession-request of Scotland [2015] and Montenegro [2006] has been accepted by the governments in London and Belgrade; hence the referendums have been accepted as legally correct acts. Secession-requests of Veneto [or Catalonia] did not have such consent, but these requests have mainly been based on historical or economical arguments. Thus, these requests have not been accepted as legally correct acts.

Subject of research: reason for our decision to use Veneto as the case study is that Veneto represents a clear example and the

<sup>2</sup> See appendix. The poll research was conducted from 4th to 9th April 2017.

<sup>3</sup> Klosko suggests that this argumentation is, in fact, a main basis of decisions of The Supreme Court of the United States about personal requests for withdrawal from political/legal obligation (Klosko, 2005:152-155).

<sup>4</sup> Many of theorists of secession take this issue as a critical one, and provide large argumentations about issue (for or against). See for example: Chen, Ordeshook (1994); Rosulek (2011).

paradigm case of the 'contract' approach to secession: if there is a place on Earth that has a 'historical depth' for independency it is Veneto. 'Economic' argumentation that has been presented by the Veneto-independence movement also looks plausible in many aspects. So, (i) and (ii) look like prima facie correct, but (iii) is missing.

### 3. RESEARCH: THE CASE STUDY OF VENETO

Online platform *www.plebiscito.eu* organised [from 16 to 21 March 2014] an unofficial referendum about the position of Veneto in Italy. The main question was: 'Do you want Veneto to become an independent and sovereign republic?'<sup>5</sup> According the official data by the referendum's organisers, the total turnout for voting was 63.2%. 89.1% of voters answered 'Yes' to the main question.<sup>6</sup> For independence were 2 102 969 of voters, and only 257 266 of voters were against. Organisers claimed that this was not 'just a poll' and announced that they had in mind 'more serious actions'. Luca Zaia, the President of the Veneto region, supports this movement (Squires, 2014). The final campaign ceremony was held on the Piazza dei Signori in Treviso. Organisers presented a commission for negotiation with Rome and announced measures that should lead to independence. The 'Declaration of Independence of the Republic of Veneto' [*Dichiarazione di Indipendenza della Repubblica Veneta*] was presented on

5 Main question followed by three other questions: NATO, European Union and Euro-zone. From the point of view of our research, these questions have only technical content, so they are not critically important for this research. These questions just describe which obligations Veneto should retain after independence.

6 Voting on foreign policy themes were milder: 51.4% 'for' eurozone; 55.7% 'for' European Union; 64.5% 'for' NATO.

March 21. Between other important events that followed should be noted the 'Delegation of the Ten' [*la Delegazione dei Dieci*] from 15 January 2015, as 'the self-proclaimed' first institutional body of the Republic of Veneto", approved the founding principles of the new "Republic" and called for the first online election of its provisional parliament' (Fasone, 2015).

When we consider the argumentation that follows these events, through the theoretical model described above, we can see:

#### 3.1. ECONOMIC ARGUMENTS

Economic argumentation has been dominant in secessionist's requests. It is a typical situation for secessionist movements after the crisis from 2009. Namely, the newest wave of secessionist movements comes with the economic crisis of 2008-2011. The reason as to why is simple: the anti-crisis policy that was adopted by most countries usually meant higher expenses for the rich parts of the country. Anti-crisis measures were typically some kind of transfer of wealth from richest to poorest. Hence, it is no surprise that current secessionist movements usually come from the richest regions such as Catalonia in Spain, or Dubrovnik in Croatia (Marušić, 2016) - which accuse the central governments for discriminatory taxation, and putting the burden of the crisis on the shoulders of the wealthy. It is possible to say that the Veneto-plebiscite was one of the typical examples of this wave.

The argument is simple and usual in the theory and practice of secession: the central government transfers resources from one region to another, through discriminatory taxation policy:

*'Of the 70 billion euros in taxes it gives Rome every year, it receives less than 50 billion euros ...Venetians enjoy a per capita GDP of £27,258 - 14% higher than the Italian average, and more than Scotland's North Sea Oil-boasted £25,732. Without the Italian rule, we would become the second richest country in Europe, behind Luxembourg. ... Italy does very little for Venice. More than nine billion euros of the taxes we pay to Italy go to service the national debt. Veneto has always been in the black with Italy, so we're paying interest to debts accumulated by the rest of the the country. We are seen as the cash cow'* (Giannangeli, 2012).

Thus, there is a discriminatory redistribution by definition. 'Discriminatory redistribution: implementing taxation schemes or regulatory policies or economic programmes that systematically work to the disadvantage of some groups, while benefiting others, in morally arbitrary ways' (Buchanan, 1991:40). Some of the typical 'discriminatory redistribution' arguments that have been used as support for the plebiscite in Veneto are: The region Veneto pays €70bn per year, in addition to €9bn for interest of the Italian public debt. Federico Caner, the leader of the *Northern League* in Venice, claims that Veneto gives to Rome through investments and services (Savanovic, 2014:1012). Paolo Bernardini claims that Venice is 'suffocated by Italian fiscal pressure', which amounts to '60%, sometimes even 70%' and is 'one of the greatest fiscal pressures in the world' (Savanovic, 2014:1012). Separatists were talking about the 'fiscal and bureaucracy oppression' of the Venetian people by Italy. The Veneto governor Luca Zaia said 'residents were currently paying 68.5% of their incomes in taxes to Rome, which he accused of using

the cash to prop up insolvent towns in Italy' (Kington, 2014). According to our research, this is the main attitude of the Venetian people. For example, question 9 (1) in the poll questionnaire shows pattern that follows the same logic: To the statement 'The central government in Rome takes too much money from Veneto?', 77% answered they 'agree on the whole'.

*Residuo fiscale* [ratio between the amount by which any citizen supports the system of public services and benefits which he/she will get from the state through public spending]: this parameter shows clearly that the position of wealthy northern regions is discriminatory in the direction of others, especially from the south [that have a negative rate]. According to some estimations, the north of Italy 'pays' 100bn (!) Euros to the rest of the country. In particular to Veneto, [period 2009-2011] Veneto had a *residuo fiscale* of about €19,8 bn, or €4049 per capita, and was in the third position, next to Lombardy [€5661] and Emilia-Romagna [€4482] (Bortolussi, 2015). Obviously: Italy is 'a fiscal hell' for Veneto (Bernardini, 2014).

Numerous other specific economic arguments support the claim that Veneto is in a discriminatory position within the Italian fiscal and economic system. Mr Zaia provides an interesting example: 'Sicily employs 22000 forestry officers while we, who have the Dolomites within our territory, have just 400' (Kington, 2014). The superior economic efficiency of Veneto is especially clear in the area of tourism: According to the official data, the number of nights in Veneto grows by a rate of 5% and was almost 9.8 mil. The average daily spending per tourist in Venice is €130, while in the rest of Italy it is €100.

These and similar data support the claim that Veneto is in a discriminatory position

within Italy, and separatists stress that there is some kind of colonial status of the region in relation to the centre.

Hence it is of no surprise that one of the first measures suggested in Treviso, as a road map to independency, was the rejection of paying direct taxes to Rome [first phase], and, after that, indirect taxes and social givings [second phase]. Payments for the so-called 'European debt' are not being questioned for now (Savanovic, 2014:1012). Without Italian fiscal pressure, the independent Veneto would surely be one of the seven strongest European countries by the criterion GDP per-capita, with an AAA credit rating (Henderson, 2015). Secessionists argued that the independent Veneto should be developed faster than China: with savings of €35.4bn per year [instead of €14bn as is the situation is now]; the tax rate can be lower than 15% [instead of 22% as it is now], while the rest of Italy has to raise for 3%. The final aim of Venice's secession movement is to create a small and efficient state that will be much more rational than now. The current state of Italy is a highly centralised state, a 'monster of bureaucracy', highly corrupted with frequent clientelistic practices. In this context, the separatists are embracing the libertarian philosophy, especially the doctrine of state reduction. Professor Paolo Bernardini (2014), the prominent figure of the movement, talks about this sort of separatism as 'a cold-blooded, economically-oriented separatism that I might well endorse/apply elsewhere ... I do not believe in "ethnic" nationalism.' This is a so called 'enhancing efficiency' argument pro secession: a secession can be approved in a situation when an existing state is an irrational entity in the economic sense (Buchanan, 1991:115). Secession provides an opportunity for a more efficient organisation for

new region(s) (Buchanan, 1991:45). The argument is as follows: (i) Italy is an over centralised country, with a huge administration and corruption; (ii) The independent Veneto will be a more efficient, more rational political organisation. The leaving of the state union is an escape from a 'bad government'. So, Venice's secession movement uses both the main 'economic' arguments for secession: justice and rationality.

### 3.2. HISTORICAL/CULTURAL ARGUMENTS: 'LA SERENISSIMA'

No doubt that separatist aspirations have been strengthened by the magnificent history of *Serenissima Repubblica di Venezia*. 'The Queen of the Adriatic' as a 'Half millennium republic' –provides a basis for the strong identity of exclusivity. Names such as: Marco Polo, Antonio Vivaldi, Giacomo Casanova, Titian etc., symbolise the high status of Venice in the history of Western civilization. When the results of the referendum were published in Padua, several hundred activists waved the flags of the Republic of Venice.

Cultural and historical arguments are important for Venice's secession movement, especially if we keep in mind that most of the important international law documents use the 'nation' as a unit for secession, self-determination and independency. Secession is usually defined as: 'the right of a nation to self-determination'. Even more, numerous secession theorists argued that a request for affirmation of cultural independency is sufficient reason for international recognition of secession of a cultural, ethnic or political community (Lehning, 1998:4; Kofman, 1998). This is a classical

pro-secession argument, called the 'normative principle of nationalism': 'every "people" are entitled to their own state ... political and cultural (or ethnic) boundaries must, as a matter of right, coincide' (Buchanan, 1991:48). Or in a 'Kantian' version of the argument: as a matter of 'respect for the person' (Caney, 1997:359-361).

A nation is a cultural category and Veneto has aspiration for its own cultural and historical specificity in relation to Italy. 'Venetism' is a strong attitude about the special cultural and historical identity of Veneto. Strong feeling of autonomy come from the isolated position of Venezia, connected with the rest of the world only through sea routes. This is a so-called 'ecological' or 'environmental' source of Venetism (Crouzet-Pavan, 2000:39). But, Venetism is not only an ethnic movement, it is also regionalism – covering the region of Veneto and the area of cultural heritage of the Republic of Venice.

Venetism includes a strong linguistic component. Mr Zaia pointed out the linguistic moment in the pro-independence campaign.<sup>7</sup> Linguistic nationalism is a part of Venetian culture. In November 2009, Venetist cultural association *Raixe Venete* organised a demonstration in Venice for the teaching of the Venetian language in schools (*Raixe Venete*: 2009). According to UNESCO (2015), approximately four million peoples speak the Venetian language, but it has not been recognised as an official language – and has been treated by Italy as a dialect.

An important fact is that Veneto does not have a deep historical connection with Italy. After Napoleon's conquering of the city in

7 He said: 'Seven out of 10 people in Veneto speak the Venetian dialect at home and think in Venetian'. 'They still speak the language of the Venetian Republic, which existed for a thousand years' (Squires, 2014).

1797, for almost sixty years, Venice was a part of the Austro-Hungarian Empire. Only in the late phase of Risorgimento did Venice become a part of Italy. It was six years after the unification of Italy in 1861. Venice was annexed to Italy in 1866.

An important argument is the republican past of Venice. The point being: the *Serrata* or *Closing* - a constitutional act from 1297; established a republican regime (Rösch, 2000) in Venice, which was basically different to the rest of the world. Such a magnificent history of liberty is a strong basis for separatism. For a comprehensive understanding of current misunderstandings between Veneto and Italy, we have to keep in mind different legal traditions. This fact is especially important for our research, as we will see in the 'contract argument'. Namely, the claim that Veneto has a separate and specific cultural position, different to the rest of Italy, includes a different interpretation of the legal system. The Venetian legal system is closer to the Anglo-Saxon legal tradition, rather than to the 'continental' tradition of Roman law. The claim is that Roman law is not a real source of the legal order of the Republic of Venice, but a common law model of 'spontaneous' creation of legal rules and legal order. Acceptance of this difference can be critical for our understanding of contemporary separatism in Venice: The Anglo-Saxon law tradition is much more tolerant to secession requests than the 'continental' tradition, as we can see in the 2015 case of Scotland, for example.

Bearing in mind these facts of cultural/historical difference, it is no surprise that Venetism provides a permanent basis for separatism. Many, more or less reliable polls, show that support for independence is constantly strong, often above 50%, (Perina, 2012). When the reform of The Constitution

of the Italian Republic [that provides more autonomy for regions] was rejected in 2006, Veneto was one out of two regions that supported the reform (Ford, 2014).

As a political form, Venetism is a request for stronger autonomy, even the independency, of Veneto. As such, it exists, with more or less intensity, ever since the unification in 1866. From time to time, it even had military form.<sup>8</sup> In recent times, Venetism took on a more institutional form, especially after 1970. In the last decade of the 20th century and the first decade of the 21st century, numerous political subjects that promote separatism appeared, some of which are even parliamentary parties. Some of them are: *Liga Veneta*, *Liga Veneta Repubblica*, *Venetian Independence*, *North-East Project*, *Venetians Movement*, *Veneto Serenissimo Governo*, *Fronte Marco Polo*.<sup>9</sup> Some of the prominent politicians that promote Veneto's separatism are: Luca Zaia [*President of Veneto*]; Gianluca Busato [*Veneto Sì*]; Federico Caner [*Liga Veneta*]; Michele Favero [*Indipendenza Veneta*]; Massimo Vidori [*Indipendenza Veneta*]; Lodovico Pizzati [*Veneto Stato*]; Antonio Guadagnini [*Veneto Stato*]; Luca Azzano Cantarutti [*Noi Veneto Indipendente*], Paolo Bernardini, and many others.

These and many other political subjects, have launched many formal initiatives, mostly in the form of resolutions, that aimed for the independence of Veneto. Thus,

<sup>8</sup> Particularly interesting is the 'famous' or the notorious incident when *Serenissimi* [a group of armed Venetist separatists] 8 and 9 May 1997, occupied or 'assaulted' Piazza San Marco, by using the improvised 'tank'.

<sup>9</sup> The poll research (question 10) shows that more than 80% of survey respondents cannot recognise different political subjects that promote independency. 89% stated the wrong membership for at least one representative of the political party in question. (See: appendix)

in 1998, the Regional Council of Veneto adopted *Resolution 42/1998* [85th Public Session, 22 April 1998] by which it requested recognition of the right of self-determination for the people of Veneto. In 2006, the Regional Council of Veneto presented a bill to the National Parliament of Italy, to grant itself conditions of autonomy, but without any answer. An especially important document is *Resolution 44: The Venetian People's right to the complete implementation of self-determination* that has been adopted by the *Regional Council of Veneto* [139th Public Session, 28 November 2012]. By this resolution the officials of Veneto have been obliged to start an official negotiation with the European Union and the United Nations for the recognition of the referendum about the people of Veneto's independence. *Indipendenza Veneta* [25 December 2012; signature: Luca Azzano Cantarutti (president) and Lodovico Pizzati (Secretary)] adopted the '*Petition to the European Parliament to support the consultory referendum on Veneto's independence and to guarantee the effective execution of subsequent decisions*'. By this petition, *Resolution 44* was directed at the European Parliament.

### 3.3. 'Contract' argument

*'The Republic is one and indivisible. It recognises and promotes local autonomies, and implements the fullest measure of administrative decentralisation in those services, which depend on the State. The Republic adapts the principles and methods of its legislation to the requirements of autonomy and decentralisation'* (Constitution of the Italian Republic, art.5).

While discussing with secessionists on the area of economic issues, the government

of Italy presented numerous arguments against secession.<sup>10</sup> This is a standard anti-secession argument (Young, 1994): losing the benefits of cooperation within the state. Some security issues were also pointed out: the possession of weapons by some separatists that suggested a possibility of violent disobedience, connections with the Albanian mafia (*Russia Today*, 2014), even the possible planning of terrorist attacks (Squires, 2014). Ex-post control called into question the procedural correctness of the on-line plebiscite.<sup>11</sup> The acceptability of

**10** The key issue is: 'Who' can decide when some distribution is discriminatory? Buchanan suggests a simple criterion: 'A clear example of discriminatory redistribution would be the government imposing higher taxes on one group while spending less on it' (Buchanan, 1991:45-46). But the real calculation is much more complicated and contains a lot of unknowns. For example: who can, in a correct manner, estimate investments, benefits, or other incomes [material or nonmaterial] that one region had during its existence into the state [especially if that state is old and exists through centuries]? Is it possible to calculate something like that? In the context of Veneto, the following type of observation is particularly interesting: 'it can be argued that the great commercial city-states of the Renaissance, including Florence, Venice, and Ragusa (present-day Dubrovnik), eventually lost their independence and were assimilated into emerging nation-states because of precisely the opposite problem of scale: They were too small to protect their trade routes' (Buchanan, 1991:46). So, in opposition to the claims that (i) these cities have been included in the bigger countries by violence; (ii) annexation provides a discriminatory economic position of these cities into the state; we have a premise that: these cities became a part of a country by their will, and for the reason of their own economic interests. As it is well known, this is a complicated issue of 'rectification' that is still open within contemporary political philosophy. (Nozick, 1999:140,152-153)

**11** Websites designed for monitoring as *Alexa*, *Trafficestimate*, *Calcustat*, provided information for doubt. According to *Trafficestimate*, *plebiscito.eu* was visited 135.000 times in March 2014. But, if we suppose that almost all of these visits happened during the time of the plebiscite, then we have a daily number of about 22500 [March 2014]. *Calcustat* presented results that *plebiscito.eu* has been visited approximately 4500 times per day in March 2014. If we multiply this number with the number of days in March, we

on-line voting has also been challenged.<sup>12</sup> But, the crucial argumentation has been focused at the constitutional status of the referendum, and even wider – the theory of the state that stands behind it, as a philosophical foundation of modern republics, including Italy.

The Constitutional Court decided about the referendum, and the decision was that it is an unconstitutional act. (*Constitutional court judgement S118-2015*, 2015)<sup>13</sup> But separatists, including Mr Luca Zaia, 'rejected suggestions that the Italian constitution would prevent secession' – 'International law, he said, allowed "the right to self-determination"' (BBC News, 2014). The logic of their argumentation is:

(a) The Constitution of the Italian Republic is subordinated to the international law – that fact is explicitly recognised in the Constitution.

(b) International law, and other relevant documents, recognised the 'right to self-determination' for the people.

(c) The next important step is: the citizens of Veneto are [by the Constitution of the Italian Republic] recognised as the

get a result of 23250 – close to the previous estimate. (Antonini, 2014)

**12** The organisers have called on the authority of the recommendation 2007/36/EG of the European Commission about the acceptability of online voting. Instead of seeing the problems in the practice of the on-line voting, they glorified this model as a 'triumph of the digital revolution' and democracy: a 'genuine expression of a people... it is a quintessential expression of sheer democracy' (Bernardini, 2014).

**13** Constitutional court judgement S118-2015 [CORTECOSTITUZIONALE: SENTENZA N. 118 - ANNO 2015]:

1) rules that the intervention by the association "Indipendenza Veneta" is inadmissible; 2) declares that Veneto Regional Law no. 16 of 19 June 2014 (Calling of the consultative referendum on independence for Veneto) is unconstitutional; 3) declares that Article 2(1) no. 2), 3), 4) and 5) of Veneto Regional Law no. 15 of 19 June 2014 (Consultative referendum concerning autonomy for Veneto) is unconstitutional.

‘people’ in the previous sense. There we see why the argumentation from history, culture and tradition are so important for this case of secession.

Conclusion: (a), (b) and (c)<sup>14</sup> follows that Veneto has the legal right to

<sup>14</sup> In *Resolution 44* these arguments are specified and connected in a unity in the following way:

1) it is a universally recognised principle that the legitimacy of sovereign rule resides only on the ‘consensus of the people’

2) the ‘Venetian People (Popolo Veneto)’ is an ancient historical reality, alive and present, already legally organised in a sovereign way in a precise geographical region where even today the same language is spoken, the same culture grows, the same traditions, the same collective habits are valued, high values of family, nation, work and solidarity, rule of law and justice in freedom are defended;

3) the ‘Venetian People (Popolo Veneto)’ are legally recognised as such by Italian regulations that with the law n. 340 of May 22nd, 1971, Article 2 expressly recognises the right of ‘self-government of the Venetian People (Popolo Veneto) is implemented in forms corresponding to the characteristics and traditions of its history’;

4) .....

5) that Article 10 of the Italian Constitution provides that the Italian legal systems must conform to the generally recognised rules of international law;

...

8) the desire to exercise the Venetian People’s (Popolo Veneto) right of direct and official consultation rests, among other things, on a number of norms of international law that provides for and confirms the right of self-determination of peoples, a natural law, and as such intangible, inalienable and imprescriptible of all free people;

9) people’s right of self-determination is solemnly proclaimed and recognised: - from the UN ‘Charter’ Article 1 comma 2, and Article 55; - from the ‘Resolution’ n. 1514 (XV) of 14 December 1980 of the UN’s General Assembly; - from the ‘International Covenant on Civil and Political Rights’ adopted in New York on 19 December 1966 and ratified by Italy with law n.881 of 5 October 1977; - from ‘Resolution’ n. 2625 (XXV) of 24 October 1970 of the UN’s General Assembly; - from the final document of the Conference on Security and Cooperation in Europe, signed in Helsinki on 1 August 1975 part (VIII) Articles 29,30; - the ‘Declaration’ adopted by the International Conference of Algiers of July 1st to 4th 1976 - Article 5;

From this logic comes the claim: ‘Venetian People (Popolo Veneto) - owner of the natural sovereignty, ...

self-determination, even the existing text of the Constitution of the Italian Republic allows this. Efforts of the government of Italy to announce the referendum as an unconstitutional and illegal act, directly oppose the international law and the Constitution itself. The support Veneto asks for from the international institutions, is more than support for one isolated case – this is support for the basic principles of the international order. Professor Lodovico Pizzati, the leader of *Indipendenza Veneta* said: ‘There is a greater principle at stake. The EU is duty-bound to recognise a democratic wish for self-determination’ (Giannangeli, 2012).

But, even if these arguments could be acceptable, it is not enough for the legality of the referendum, at least according to the contract theory of the political community (Kohen, 2001:172-173). The referendum was declared unconstitutional by the standard argument that it was a unilateral act of secession. As such, it is illegal, because Veneto [in the process of the unification of Italy] ‘voluntarily’ entered into a ‘contractual’ relationship with other parts of the state. Such kind of multilateral contractual relationship cannot be terminated by the will of one of the parties. Without the consent of others [represented by the government] there is no possibility to declare the referendum as a legal act (Savanovic, 2014:1012).

There is a possibility to create some identifications with Montenegro’s independence movement from 2006.<sup>15</sup> The argument is as follows: the peaceful divorce of Montenegro from the common state with Serbia<sup>16</sup>

exercising its natural and legitimate right of self-government, historical and current.’

<sup>15</sup> For example: *Programma del Partito Nazionale Veneto*, art.17.8.

<sup>16</sup> The case of Montenegro’s secession is closer to the case of Scotland’s referendum from 2015, because

can be a model for Veneto. Still, this argumentation is incorrect from the point of view of the social contract model: the essence is that the secession of Montenegro has been adopted under the consent of Serbia [despite some disagreements about technical issues]. The government in Belgrade accepted Montenegro's referendum about the common state. Regardless of the fact that Montenegro had (eventually) strong historical, cultural and economical reasons for independence, the key fact was the consent of Belgrade. Without consent, any kind of economical or cultural arguments cannot provide the basis for independency. Besides, it was 'a state union' between Serbia and Montenegro. That means an explicitly recognised statehood of Montenegro within the common state (The Constitutional Charter of Serbia and Montenegro, article 2, 60). It is obvious that there was a different kind of 'contract'- relation [the state – the state] than in the case of Veneto [the state – the region] (Constitution of the Italian Republic, art. 114).

It is clear that the Constitution of the Italian Republic is superior to the statutes and decisions of the regions, and the government of Italy has a constitutional supremacy over regions. The constitution of the Italian Republic even provides a possibility that the government takes some powers away from regions, in some 'special' cases (Constitution of the Italian Republic, art. 120). The government can raise the question of the constitutionality of the statute of the region at the Constitutional Court (Constitution of the Italian Republic, art. 123). Also, the government can raise the question of the

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Montenegro had the consent of the central government in Belgrade about the referendum [21 May 2006]. The special condition was 55% or more voters 'for' [turnout above 50%]. At the end, the turnout was 86.9 % and 55.49 % 'for' independency.

constitutionality of some region's law, and to block its implementation, even before the 'sixty days' clause [when the government finds that such law exceeds the powers of the region] (Constitution of the Italian Republic, art. 127). The President of the Republic has the constitutional right to dissolve the regional council (Constitution of the Italian Republic, art. 126).

Regardless of those facts, the organisers of the referendum relied on the regional law no. 16/2014, *Indizione del referendum consultivo sull'indipendenza del Veneto*. By this law [art.1.1.], the President of the region was obliged to organise the referendum, even without any consultation with the government. This law explicitly calls 'the right to self-determination of the People of Veneto' [art.3.2.].

The constitutional court decided that these activities are unconstitutional. The main argument is strongly contractarian – unilateral withdrawal. Since the social contract theory of the constitution and political community based on the fundamental request of consent, there is a new sort of argument for secessionists. Namely, they try to dispute the validity of the 'consent' to Veneto at the moment of creation of the common state. The claim is: Veneto has de facto been annexed during a confusion of the Austro-Prussian War and later mediation by France. But, the historical fact is that the plebiscite about unity with Italy has been realised. It has to be accepted as the 'express consent' in the Lockean sense (Locke, 1980: 118-122). But, separatists hold that the plebiscite from 1866 is some kind of historical fraud. Ettore Beggiato, one of the promoters of independence, wrote a book with the title: *1866: la grande truffa: il plebiscito di annessione del Veneto all'Italia*, by which he denied the legitimacy of these

events. Many other historians are refusing to accept the validity of the plebiscite from 1866.<sup>17</sup> This argument can be crucial, and some theorists of secession hold it as a first condition of secession. A. Buchanan calls it 'the argument from rectificatory justice' as 'the simplest and most intuitively appealing argument for secession': 'a region has a right to secede if it was unjustly incorporated into the larger unit from which its members wish to separate ... in these cases, secession is simply the re-appropriation, by the legitimate owner, of the stolen property' (Buchanan, 1991:67).

Despite the historical importance of such argumentations, it is not possible to find grounds for secession at the logic of 'rectification'. Namely, within the theory of the social contract this is a well-known issue of the 'coercive agreement' that can be solved by some theoretical concepts of the contractarian/contractual theory.<sup>18</sup> Especially by the concept of 'tacit' consent, that has been developed even at the time of John Locke; or the more recent model of 'reformist consent' (Klosko, 2005:124). So, the first conclusion is as follows: Venice's secession movement cannot avoid the authority of The Constitution of the Italian Republic. The second conclusion is: many of the argumentations presented by separatists were directly unconstitutional. For example, the claim that Veneto has been discriminated against in an economic sense ignores the fact that the Constitution [Article 119, paragraph 3] gives a jurisdiction for an equalisation fund – 'with no allocation

constrains - for the territories having lower per-capita taxable capacity'. Even more, the government has an obligation 'to promote economic development along with social cohesion and solidarity, to reduce economic and social imbalances'. [Article 119, paragraph 5] The Law *Indizione del referendum consultivo sull'indipendenza del Veneto* Bur n. 62 del 24/06/2014 (Cod: 276454) is directly in contradiction with The Constitution of the Italian Republic (Article 123). Having in mind these facts, it is no surprise that experts for constitutional law have a clear position that the plebiscite, and argumentation that follows it, are unconstitutional (Bertolissi, 2014).

#### 4. DISCUSSION AND CONCLUSION

Since the plebiscite was declared unconstitutional, it has no legal power. The legal status of the plebiscite is clear: according to the Constitution of the Italian Republic [Article 75, Article 117(e)] it is not possible for regions to organise a referendum about questions from the domain of taxation and budget. So, the whole economy argumentation, that has been dominant in the strategy of secession, is unacceptable. Even if that argumentation is correct as a strictly economic issue, as a legal issue it is not the case. The supremacy of the central government is provided by the Constitution of the Italian Republic [Article 117; also: Article 118 paragraph 3] that describes a comprehensive demarcation of the jurisdiction between regions and the government.

A special problem for Venice's secession movement is that in The Constitution of the Italian Republic there is no article which describes the possibilities and conditions for secession. Some articles describe the referendum in the context of an internal,

<sup>17</sup> One of the main reasons is that the plebiscite has been held under 'extraordinary' circumstances: the Italian army was in the city. Besides, the results speak for themselves: only 0.01% of voters (69 out of more than 642,000 ballots) voted against the annexation!

<sup>18</sup> For example: the 'joint commitment' and 'sufficient reason' theory, developed by Margaret Gilbert (2006).

territorial organisation. These topics are: the making of two or more regions into a whole; the separation of some municipality from a region and its transition to the next region (the Constitution of the Italian Republic, art.132,133). But there is no article, which describes secession from the state. From the point of view of the theory of the social contract this is not a crucial fact, because *any* constitution has the possibility for withdrawal, *implicitly*. But, the mandatory condition is the consent of all sides.

The organisers of the plebiscite are aware of these facts, of course. Lodovico Pizzati, the spokesman for the independence movement, said: 'It won't be like in Scotland, where London has said it will recognise a vote in favour of independence. Rome has tried to ignore us, but we are not going to wait for their recognition' (Squires, 2014b). Their strategy is to start a process of gradual 'persuasion' of the government in Rome, the rest of the state, as well as the international community, for validity of their requests.<sup>19</sup>

<sup>19</sup> Paolo Bernardini explains the strategies ['prospects] of secession in four points as follows: 'I think that our prospects for victory are strong. A number of factors will play a positive role in the near future, I would say, from now to the end of the year. 1. The Italian economic crisis will get worse. We are already witnessing the closure of thousands of businesses in Veneto (yesterday, Ideal Standard, a major company in toilet ceramics, laid off 450 employees); entrepreneurs kill themselves in the hundreds; young people migrate; unemployment reached terrible peaks; Italy is turning into a nightmare. 2. Our votes, those of the referendum, will be properly certified, by an *ad hoc* committee. The certified results will be presented to the International authorities, organisations, etc. 3. Scotland and Catalonia will have their separatist referendum. In the case of Scotland, now polls say that the "no" and "yes" are almost even. In the case of a victory of the "yes", this will give an incredibly strong impulse to our movement. In Catalonia, the "yes" party is traditionally in the majority. 4. The EU is in a great crisis, as it will be made clear by the forthcoming EU Parliament elections. The EU might have all the possible interest in keeping rich new states in the Euro-zone (as a libertarian, I am not pro-EU, but

By using the really strong economic and historical arguments, they plan to get consent from Rome, if not for independency then for a higher level of autonomy. Probably, that will be a long-term process. But some positive answers from Rome already came.<sup>20</sup> In fact, the separatists use some kind of blackmail position for the government, trying to get more independency, at least. It is a frequent strategy for secession movements, which already have a theoretical reflection (Beran, 1998:55). So, the strategy for independency includes different sorts of pressures on the government. These may include a boycott of the elections and/or a withdrawal of the representatives of the Veneto from the bodies of the central government. The plebiscite from 2014 is just one of them.

An especially interesting and important strategy is the support from the libertarian philosophy: Trying to set up their

this is only my personal view), including Scotland, Catalonia, Veneto. Scotland might be a part of the EU when the rest of Britain — look at the great success of Nigel Farage — might leave the EU (Bernardini,2014). During the interview that Mr. Gianluca Busato gave to the author of this paper on [7h April 2017, in Mestre]; he explained some strategies and ideas of Venice's secession movement: An independent City-State in the manner of Singapore - If Veneto cannot reach political independency yet, it can become an 'independent economic system'. Also the plan for 'Veneto as a good place for business', including the concept of a 'fiscal paradise' and 'taxation heaven'. Another strategy is 'geopolitical': Veneto as one of 'the key point on the new "Silk road" from China, through Athens and Veneto to Rotterdam.' An especially interesting strategy is the creation of a 'Crypto-State' – a virtually created community that will have on-line subscription for nationality. There will be three levels of nationality: digital citizenship for residents of Veneto; digital citizenship for Venetians around the world; digital citizenship for foreigners that support Veneto-independency.

<sup>20</sup> Minister of Interior Angelino Alfano (2014) acknowledged that 'here is a Venetian question ... We cannot close our eyes in front of independentist risings.'

strategy on wider philosophical grounds, secessionists are using the strong and popular “libertarian” argument for secession. According to this argument, secession is justified at any time when such a request comes (Mises,1985:109). The constitution cannot be an obstacle for this right (Caney, 1997:354)<sup>21</sup>, - the argument that has been promoted by Marco Bassani. Many of the prominent libertarian theorists supported Venice’s secession movement. For example, Hans-Hermann Hoppe signed the declaration for *The Resolution 44/2012*. Leading libertarian web-portals, such as *mises.org* or *cato.org* published numerous texts for supporting ‘venexit’. Therefore, Venice’s secession movement can be understood as a part of a wider political philosophy which promote globalisation as the vision of the world that will be composed by a large number of independent, free, small countries and regions, connected by the free market. This is the vision opposite to the concept of a stronger integration in supranational formations, as the European Union is now.<sup>22</sup>

So, Venice’s secession movement includes wider strategies: from economic and historical or cultural arguments, a strictly legal discussion about (un)constitutional status of the plebiscite, to the philosophy of law and some important issues of

contemporary political philosophy, as well. As such, it is not only a case study important for Italian internal politics, but also a par excellence example of the main problems in contemporary political and legal philosophy. From that point of view, we can suppose that the destiny of the movement will be connected with a future development of the international law. Especially under the light of the question: which political/legal philosophy will be dominant in the process of the modeling of the future world, at least in Europe. Its success will probably not be determined by merely a negotiation with the government about ‘technical’ legal issues, in particular not by the economic issues. ‘Philosophical’ arguments are especially important for this case, because they are the key for avoiding the main present argument against secession – ‘the contract’ model.

21 ‘Italy the respective constitutions forbid the separation of territories. This does not mean that peoples are deprived of freedom. Ideally, international law is a source of law superior to any constitution. *A fortiori*, natural law is such. Jefferson was so right in stating that constitutions have to be binding for one generation only! And for ‘generation’ he meant 19 years! Peoples, and *a fortiori*, individuals, are live entities, they cannot and may not be bound to dead letters’ (Bernardini, 2014).

22 ‘The EU is dangerously approaching the status of a dictatorship, it should go back to be a loose confederation of states providing the guarantee of a free market, a free economic space really open to the East. And nothing else’ (Bernardini, 2014).

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**“VENEGZIT” – VENECIJANSKI SECESIONISTIČKI POKRET****Ključne riječi**

*Venexit, Venegzit, Veneto, Venecija, Venijanski secesionistički pokret, Italija*

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**Sažetak**

*Istraživanje analizira secesionistički pokret iz Veneta. Fokus istraživanja je na plebiscitu iz 2014. godine. Kao širi teorijski okvir istraživanja korist ćemo teoriju socijalnog ugovora kao glavni pristup u savremenoj političkoj filozofiji, sa velikim značajem za naše razumijevanje političke zajednice. Prema ovom teorijskom modelu, secesija je pravno moguća jedino i jedino - ako postoji saglasnost ili konsenzus svih strana unutar političke zajednice. Obično (u političkoj praksi) to znači da postoji neka vrsta sporazuma između secesionista i centralne vlade. Druge vrste argumenata (ekonomski, kulturni i istorijski) ne mogu da pruže dovoljno opravdanje za secesiju. Obavezni razlog za secesiju je saglasnost drugih. Drugi razlozi nisu dovoljni, ali nisu ni obavezni. Secesija je moguća uz saglasnost drugih, čak i bez bilo kog drugog razloga, osim zahtjeva secesionista da napuste svoje sadašnje stanje. Diskusija o slučaju Veneta iz 2014. godine bila je tipičan primjer ovog teorijskog pristupa. Zahtjevi na osnovu kulturnih, ekonomskih i istorijskih činjenica bili su ispravni i bilo je moguće braniti ove argumente u korektnoj naučnoj debati i analizi. Ipak, odsustvo pristanka Vlade u Rimu sprečava bilo kakve pravne posljedice za promjenu statusa Veneta.*