

МИНИСТЕРСТВО НАУКИ И ВЫСШЕГО ОБРАЗОВАНИЯ РОССИЙСКОЙ ФЕДЕРАЦИИ

ФЕДЕРАЛЬНОЕ ГОСУДАРСТВЕННОЕ АВТОНОМНОЕ
ОБРАЗОВАТЕЛЬНОЕ УЧРЕЖДЕНИЕ ВЫСШЕГО ОБРАЗОВАНИЯ
«САМАРСКИЙ НАЦИОНАЛЬНЫЙ ИССЛЕДОВАТЕЛЬСКИЙ
УНИВЕРСИТЕТ ИМЕНИ АКАДЕМИКА С.П. КОРОЛЕВА»
(САМАРСКИЙ УНИВЕРСИТЕТ)

СОВРЕМЕННОЕ МЕЖДУНАРОДНОЕ ПРАВО: ПРОБЛЕМЫ И ВЫЗОВЫ

Сборник трудов по итогам
Международной научно-практической конференции
(г. Самара, 17 ноября 2023 г.)

Одобрено редакционно-издательским советом федерального
государственного автономного образовательного учреждения
высшего образования «Самарский национальный
исследовательский университет имени академика С.П. Королева»

САМАРА
Издательство Самарского университета
2024

УДК 316.6(075)
ББК Ю950я7
С568

Под общей редакцией первого проректора – проректора по научно-исследовательской работе Самарского университета, д-ра тех. наук А. Б. Прокофьева.

Ответственный редактор – директор юридического института Самарского университета, д-р юрид. наук, профессор, заслуженный юрист Российской Федерации А. Г. Безверхов.

Научные редакторы:

д-р юрид. наук, профессор, профессор кафедры теории и истории государства и права и международного права Самарского университета Б. Д. Кривокапич;
д-р юрид. наук, профессор, заведующий кафедрой гражданского процессуального и предпринимательского права Самарского университета А. В. Юдин.

Рецензент – д-р юрид. наук, профессор, заведующий кафедрой международного права Российского университета дружбы народов (РУДН) имени Патриса Лумумбы», заслуженный юрист Российской Федерации А. Х. Абашидзе.

С568 **Современное международное право: проблемы и вызовы:** сборник трудов по итогам Международной научно-практической конференции (г. Самара, 17 ноября 2023 г.) / под общей ред. А.Б. Прокофьева; отв. ред. А.Г. Безверхов; науч. ред. Б.,Д. Кривокапич, А.В. Юдин. – Самара: Издательство Самарского университета, 2024. – 512 с..

ISBN 978-5-7883-2061-8

Сборник научных трудов по итогам состоявшейся 17 ноября 2023 года в стенах Самарской Губернской Думы Международной научно-практической конференции «Современное международное право: проблемы и вызовы», организованной юридическим институтом Самарского университета, Самарской Губернской Думой и Самарским региональным отделением Общероссийской общественной организации Ассоциация юристов России включает научные статьи, посвященные актуальным проблемам международного права, подготовленные российскими и зарубежными учеными.

Издание призвано привлечь внимание к проблемам международного права, к созданию условий, способствующих выработке научно и практически обоснованных рекомендаций по совершенствованию законодательства и практики его применения в сфере международного права и содействию в развитии его системы. Предназначено для представителей юридической науки и практики, аспирантов, студентов, а также для всех, интересующихся проблемами международного права.

УДК 316.6(075)
ББК Ю950я7

ISBN 978-5-7883-2061-8

© Самарский университет, 2024

СОДЕРЖАНИЕ

Предисловие	5
Приветственное слово председателя комитета Самарской Губернской Думы Е.И. Кузьмичевой	9
Приветственное слово председателя квалификационной комиссии Палаты адвокатов Самарской области, адвоката, председателя исполнительного комитета Самарского регионального отделения Ассоциации юристов России А.В. Кокина	12
Артамонова Мария Александровна О генезисе и развитии международного экологического права	14
Безверхов Артур Геннадьевич, Беляев Иван Юрьевич, Радаев Андрей Геннадьевич О некоторых вопросах соотношения международного и внутригосударственного (национального) права.....	24
Живанка Милладинович Богавац, Драгана Лазич (Сербия) Закон и справедливость как условие и причина мира	38
Грицай Ольга Валентиновна Защита прав сторон исполнительного производства в аспекте новелл исполнительного законодательства.....	67
Джордже Марилевич, Ана Грубач (Босния и Герцеговина, Республика Сербская) Республика Сербская – потерянная гавань для инвесторов или дверь в ЕС	77
Губина Екатерина Николаевна, Очкасова Ирина Валериановна Экстрадиция и права человека: проблемы и пробелы правового регулирования	96
Душко Димитриевич (Сербия) Самооборона от негосударственных субъектов	106
Климанова Ольга Валериевна Особенности уголовно-правового противодействия реабилитации нацизма....	145
Котлярова Вера Викторовна Об исключительной компетенции арбитражных судов РФ в условиях экономических санкций.....	164
Кривокапич Борис Д. (Сербия) Международные уголовные преступления, связанные с морем.....	176
Елена Дж. Лопичич Янчич (Сербия) Некоторые аспекты международно-правовой и уголовно-правовой защиты раненых, больных и гражданского населения во время войн и вооруженных конфликтов	213
Милан Шкулич, Ивана Милюш (Сербия) Использование беспилотных летательных аппаратов с улучшенным искусственным интеллектом / дронов в вооруженных конфликтах: правовые пробелы и рекомендации по совершенствованию законодательства	242

Михайлов Валентин Иванович

Социальные основания неприятия российским социумом римского статута международного уголовного суда 280

Норвартия Юрий Сергеевич

Предупреждение эпидемических заболеваний: международно-правовой аспект 294

Полянский Виктор Владимирович

Государственный суверенитет в международном праве: юридическая форма и политическое содержание 305

Радько Анастасия Владиславовна

Международно-правовое противодействие мошенничеству в сфере высоких технологий 318

Матей Савич (Босния и Герцеговина, Республика Сербская)

Юрисдикция государств в международном праве – от классического подхода к текущей ситуации 328

Самович Юлия Владимировна

Экономические меры принуждения (санкции) Совета безопасности ООН: право, доктрина, практика 351

Саусин Андрей Валерьевич

Особенности зарубежного уголовного законодательства об ответственности за преднамеренное банкротство 363

Свиридов Владимир Анатольевич, Свиридова Мария Владимировна

Рубль и доллар: историко-экономические и финансово-правовые аспекты 384

Сокол Павел Викторович

Правовая основа оказания международно-правовой помощи в современный период 391

Аллан Ф. Татхэм (Испания)

Сохраняющееся значение механизма урегулирования споров ВТО 401

Трещева Евгения Александровна

Правовое положение уполномоченного по правам предпринимателей в арбитражном процессе РФ 423

Владимир Чолович (Сербия)

Неразрешенные пограничные споры республики сербия с соседними странами: двойные стандарты для вступления в европейский союз 432

Юдина Татьяна Федоровна

Исторический опыт борьбы советского государства с фальсификацией истории Великой Отечественной войны 450

Якубяк Юлия Юрьевна

Проблема применения антиисковых обеспечительных мер 458

Фотогалерея конференции 469

Именной список 510

CONTENT

Artamonova Maria Aleksandrovna On the genesis and development of international environmental law	14
Bezverkhov Artur Gennadievich, Belyaev Ivan Yurievich, Radaev Andrey Gennadievich On some issues of the relationship between international and domestic (national) law	24
Živanka Miladinović Bogavac, Dragana Lazic (Serbia) Law and justice as a condition and cause of peace	38
Gricay Olga Valeryevna Protection of the rights of the parties to enforcement proceedings in the aspect of the novelties of enforcement legislation	67
Dorđe Marilović, Ana Grubač (Bosnia and Herzegovina, Republic of Srpska) The republic of Srpska – investor's lost haven or doorway to EU.....	77
Gubina Ekaterina Nikolaevna, Ochkasova Irina Valerianovna Extradition and human rights: problems and gaps in legal regulation	96
Duško Dimitrijević (Serbia) Self-defense against non-state actors.....	106
Klimanova Olga Valerievna Peculiarities of criminal law counteraction to rehabilitation of nazism.....	145
Kotlyarova Vera Viktorovna On the exclusive competence of arbitration courts of the Russian Federation in the context of economic sanctions.....	164
Krivokapić Boris D. (Serbia) International crimes relating to the sea.....	176
Jelena Dj. Lopicic Jancic (Serbia) Some aspects of international legal and criminal law protection of wounded, sick and civilian population in war and arm conflict	213
Milan Škulić, Ivana Miljuš (Serbia) Artificial intelligence – enhanced uncrewed aerial vehicles/drones in armed conflict: legal gaps and de lege ferenda recommendations	242
Mikhailov Valentin Ivanovich Social grounds for rejection by russian society rome statute of the international criminal court.....	280
Norvartyan Yuri Sergeevich Prevention of epidemic diseases: the international legal aspect	294
Polyansky Viktor Vladimirovich State sovereignty in international law: legal form and political content	305
Radko Anastasia Vladislavovna International legal counteraction fraud in the field of high technology.....	318

Matej Savić (Bosnia and Herzegovina, Republic of Srpska) Jurisdiction of states in international law—from the classical approach to the current situation.....	328
Samovich Yulia Vladimirovna Economic coercive measures (sanctions) and Security Council: law, doctrine, practice	351
Saucin Andrey Valerievich Features of foreign criminal legislation on liability for deliberate bankruptcy	363
Sviridov Vladimir Anatolyevich, Sviridova Maria Vladimirovna Ruble and dollar: historical and economic and financial and legal aspects.....	384
Sokol Pavel Viktorovich Legal basis for the provision of international legal assistance in the modern period ...	391
Allan F. Tatham The continuing importance of the WTO dispute settlement mechanism	401
Treshcheva Evgeniya Aleksandrovna The legal position of the commissioner for the rights of entrepreneurs in the arbitration process of the Russian Federation.....	423
Vladimir Čolović (Serbia) Unresolved border disputes of the Republic of Serbia with neighboring countries: double standards for entering into the European Union	432
Yudina Tatyana Fedorovna Historical experience of struggle of the Soviet state with falsification of the history of the Great Patriotic War	450
Yakubiak Yulia Yurievna The problem of applying anti-suit interim measures.....	458
Photo gallery of the conference	469
List of authors	510

УДК 341.1

**UNRESOLVED BORDER
DISPUTES OF THE
REPUBLIC OF SERBIA WITH
NEIGHBORING COUNTRIES:
DOUBLE STANDARDS
FOR ENTERING IN
TO THE EUROPEAN UNION**

**НЕРАЗРЕШЕННЫЕ
ПОГРАНИЧНЫЕ СПОРЫ
РЕСПУБЛИКИ СЕРБИЯ
С СОСЕДНИМИ СТРАНАМИ:
ДВОЙНЫЕ СТАНДАРТЫ
ДЛЯ ВСТУПЛЕНИЯ
В ЕВРОПЕЙСКИЙ СОЮЗ**

Vladimir Čolović

Ph.D, Prof. Principal Research Fellow,
Full professor, Institute of Comparative Law,
Belgrade, Serbia

Владимир Чолович

доктор юридических наук, профессор,
главный научный сотрудник, действительный
профессор Института сравнительного права,
Белград, Сербия

e-mail: v.colovic@iup.rs

Abstract. After the dissolution of SFR Yugoslavia, between the former Yugoslav republics arose the problems concerning the delimitation of territory. Serbia, also, has territorial disputes with certain former republics of the SFR Yugoslavia. However, EU sets the Serbia Serbia the solution of those disputes as a condition for joining the EU. On the other hand, many EU countries have territorial disputes with other member states, as well as with third countries. In international law there is no general rule, according to which the retreating boundary between the states. The author deals with issues of particular territorial disputes in the EU and between the EU countries and countries of the Western Balkan. Practically, these disputes between EU countries have existed before, and have not been resolved to their joining the organization. Whether the EU can guarantee resolution of these disputes is one of the issues raised in the paper, given that many disputes are not settled in countries that are longer or shorter time-EU countries. The conclusion is that it can not, because there are no adequate tools for this so that all the leaves to the states in disputes.

Аннотация. После распада СФРЮ между бывшими югославскими республиками возникли проблемы, касающиеся разграничения территории. Сербия также имеет территориальные споры с некоторыми бывшими республиками Югославской СФРЮ. Однако ЕС ставит перед Сербией решение этих споров в качестве условия для вступления в ЕС. Вместе с тем многие страны ЕС имеют территориальные споры с другими государствами-членами, а также с третьими странами. В международном праве нет общего правила, согласно которому отступает граница между государствами. Автор рассматривает вопросы конкретных территориальных споров в ЕС, а также между странами ЕС и Западных Балкан. На практике эти споры между странами ЕС существовали и раньше и не были разрешены до их вступления в организацию. Может ли ЕС гарантировать разрешение этих споров – это один из вопросов, поднятых в документе, учитывая, что многие споры не разрешаются в странах, которые находятся в ЕС более длительно или кратковременно. Напрашивается вывод, что это невозможно, потому что для этого нет адекватных инструментов, так что в спорах все остается за государствами.

Keywords: territorial disputes, EU members, third countries, Western Balkan, demarcation.

Ключевые слова: территориальные споры, члены ЕС, третьи страны, Западные Балканы, демаркация.

INTRODUCTION

A territorial dispute can be defined as a conflict over the border between two or more states, which boils down to a dispute over the border line or border regime. The conflict arises when one of the interested parties disputes the other party's sovereignty over a certain area and asserts its demands, in situations where demarcation has not been carried out. A territorial dispute can arise for various reasons, such as imprecise geographical maps, the appearance of an island on a river that represents a natural border between two states, disputed activities in the border zone, etc. The territorial dispute must be resolved urgently so as not to endanger the relationship between two or more countries (Krivokapić, 311). Many such disputes are litigated before international courts and arbitrations. These disputes can also arise as a result of unresolved situations from the era of colonialism, then as a result of the division of the state into two or more new ones. A territorial dispute should be distinguished from a border incident, which is a form of violation of the state border. Then it is not an armed attack (Krivokapić, 311).

It is a general rule that new states arise and take shape on the territory of the previous state formation, as well as within the borders, especially when they are internationally recognized and established or guaranteed by the treaties of the former sovereign. Neighboring countries could eventually raise the issue of borders in relation to new states, but that is a matter of negotiations between a certain country and the new sovereign (Čolović, 1999, 36). When determining the boundaries, it is possible to apply various principles. The most frequently applied principle is the delimitation, which can be corrected by a referendum of the population, i.e. plebiscite. There is no general rule in international law, according to which borders between states would be drawn. The criteria for this are very different, from natural boundaries in the geographical sense to those determined by the principle of fairness (Čolović, 1999, 36).

In order to be able to talk about territorial disputes in EU countries, we have to say that there are a large number of reasons that led to them.

On the other hand, in the countries of the Western Balkans, we must say that they did not arise only as a consequence of disintegration, that is, as a consequence of succession, but as a consequence of unresolved issues related to the administrative borders between the the republics within Yugoslavia (Čolović, 2014, 490). In order for a state to exist, in terms of international law, the following elements must exist: a certain area; population; and an organization independent of another state. And some authors add another condition, which is the state's ability to govern according to the rules of international law (Andrassy, 54).

1. DOES THE EU DEFINE MECHANISMS FOR RESOLVING TERRITORIAL DISPUTES

The main question that we will ask in this paper refers to the fact of the existence of these disputes within the EU. It must be said that border, as well as territorial, disputes exist between the EU members themselves, which existed before, before their entry into this organization, as well as that there is this type of dispute between EU members and candidates for EU entry, then between of the candidates themselves for joining the EU, and, finally, between the aforementioned states and third countries. Are these disputes an obstacle to joining the EU? Obviously they are not, bearing in mind that the states are admitted to the EU, although it can be assumed that these disputes will not be resolved in a more «visible» period. Another question that must be asked is about the mechanisms that the EU has available to resolve these disputes. It must be said right away that these mechanisms do not exist, except for the instruments, which, by the way, exist within the framework of international law for solving border issues. These are issues that two or more countries must resolve on their own. Those questions are individual. Some of these disputes have a long history, some are less significant.

Although many of the official EU documents, which were adopted before the Copenhagen criteria, only implicitly foresee the norms for which the EU stands, subsequent documents, such as the Copenhagen criteria and the Madrid Agreement, define that the EU should be guided by the normative values on which the EU rests, when it comes to international

affairs. Given that the EU wants to influence the decisions and «behaviour» of other states, the logical question is whether non-member states will be interested in joining the EU, as well as what will be their motive for joining the EU. If a country fails to enter the EU, one of the reasons for that will be that that country will not be strongly motivated (Slobodchikoff, 34).

2. TERRITORIAL DISPUTES BETWEEN EU MEMBERS

We will mention some of the territorial disputes within the EU. Some of them have existed for hundreds of years, and some are related to issues of the use of economic resources. However, the fact that these countries are the members of the EU did not lead to a solution to the problem. Practically, the above could lead to the conclusion that the solution of territorial problems as a condition for entering this international organization is selective.

2.1. Great Britain and Spain – dispute over Gibraltar

The territory of Gibraltar has caused disputes for hundreds of years. The reason for this is the ideal position of this territory, that is, the Strait of Gibraltar. The narrow passage provides access to the Mediterranean, which is of great importance for the transport of goods. The UK and Morocco have military control over the Strait of Gibraltar, unlike Spain, although Spain has significant military bases near the Strait. The decision on military control was made by NATO, which is the result of a special relationship between the US and Great Britain. Gibraltar's status is defined as «British Overseas Territory». The territory of Gibraltar was ceded to Great Britain, forever, by the Treaty of Utrecht in 1713 (Krivokapić, 302). Since that year, Spain has tried three times to recapture Gibraltar through sieges, but without success. Due to a misunderstanding between Britain and Spain, the border between Gibraltar and the mainland was closed between 1969 and 1985. Even today, Spain does not give up its claim. The sovereignty of Gibraltar is the main point of contention. The inhabitants of Gibraltar rejected the acceptance of Spanish sovereignty in a referendum in 1967, as well as in 2002. Under the 2006 Constitution, Gibraltar manages its own affairs, but defense and foreign affairs remain

the responsibility of Great Britain. The dispute has not been resolved to date (Mitchell).

2.2. Dispute between the Republic of Ireland and Great Britain

The dispute between Ireland and Great Britain over Northern Ireland is the dispute that caused the most problems. Namely, Ireland was previously part of the United Kingdom, from 1801 to 1920. Before that, it existed separately as the Kingdom of Ireland. In the 1918 election, Irish MPs refused to go to Westminster and met in Dublin and declared the independence of Ireland, which, until then, was a British province without any autonomous status. After that, there was a civil war, which lasted for two years, and then a truce was declared and a treaty was concluded, which recognized the establishment of Ireland, as well as the property of the dominion. But, due to religious division, Ulster (Ulster) and Northern Ireland remained part of Great Britain (Čolović, 119). Later, Ireland was divided into Northern Ireland, which became part of Great Britain, and the Republic of Ireland, as an independent state. The division occurred when the British Parliament accepted the Act of the Government of Ireland in 1920, which divided the country into northern and southern parts. The act from 1920 aimed to create two self-governing units. The act also contains provisions on the cooperation of those two territories, as well as on their eventual reunification. But the division was strengthened in 1922, when Southern Ireland separated from Great Britain and became the Irish Free State. After that, tensions increase and Irish nationalists strive to create a unified state. They clash with unionists in Northern Ireland, whose goal is to remain in Great Britain. In 1949, on the basis of a special act (Republic of Ireland Act), which was accepted by the Irish Parliament, Ireland was declared an independent country and then it withdrew from the Commonwealth. In order to prevent tensions as much as possible, the British and Irish authorities agreed that the status of Northern Ireland would not change without the consent of the majority of the inhabitants of that territory, which resulted in the signing of the Belfast Agreement in 1998 (O'Connell).

2.3. Dispute between Switzerland, Austria and Germany

We will also mention a dispute between Switzerland, Austria and Germany over Lake Constance, which is the only area in Europe where there are no defined borders. Austria and Germany believe that the lake should have the status of a condominium, that is, that sovereign rights should be jointly exercised without division into national zones. Switzerland rejects such a position and maintains that the border runs through the middle of the lake. All issues related to boat transport and fishing are regulated by special agreements of these countries. However, disputes do arise. For example, one dispute relates to a raft anchored in two countries, another to the right to fish in Bergenz Bay, etc.

2.4. Dispute between Netherlands and Germany

The dispute between the Netherlands and Germany concerns the river Ems and the Gulf of Dolart. The Ems River is located in northwestern Germany and runs through the German federal states of North Rhine-Westphalia and Lower Saxony, all the way to the Dolart Bay. The state border between the Lower Saxon area of Friesland and the province of Groningen in the Netherlands passes through the mouth of the river Ems and is disputed by the two states. On the other hand, the aforementioned Dolart Bay is located between the northern Netherlands and Germany, on the western side of the mouth of the river Ems (International Boundary Study, Germany – Netherlands Boundary). The Netherlands and Germany disagree on the exact border line across the bay. The whole dispute arose because of the Borkum Riffgat power plant, which would use wind as a source of energy (Offshore Project Stirs Up German-Dutch Border Dispute).

2.5. Cyprus dispute

The Cyprus dispute has been the cause of conflict between Greece and Turkey for centuries. The Turks occupied the island of Cyprus in 1571. In 1878, Great Britain annexed Cyprus, which remained under British

administration until 1960. However, we should also mention the Treaty that was signed in Lausanne in 1923, by which Turkey renounced all claims towards Cyprus. However, tensions on the island remained, bearing in mind that Greeks and Turks lived in close proximity. In 1955, EOKA, that is, a group of Greek Cypriots, was founded, which tried to unite Cyprus with Greece. This led to Turkish resistance, resulting in major fighting across the island. The Republic of Cyprus gained independence in 1960, but even then fights between Greeks and Turks were a daily occurrence, so Great Britain called on NATO to maintain peace on the island. However, in 1974, the Greek military junta supported the EOKA organization, with the aim of ousting Archbishop Makarios from power, in order to take control of the island. They were successful in that. However, Turkey invaded the island of Cyprus in July of the same year, in response to a Greek military coup. In August 1974, the coup failed, and Makarios regained power in Cyprus. The Turks controlled 37 percent of the island, so Cyprus was divided. As a result of the partition, NATO sent a peacekeeping force to the buffer zone to control the situation, but peace was not restored. Only Turkey recognizes the Turkish Republic of Northern Cyprus, and so far, there are no signs of unification of Cyprus (Kaloudis). In 2004, the Republic of Cyprus became a member of the EU. But the northern part of Cyprus is not accepted.

3. DISPUTES BETWEEN EU MEMBERS AND NON-MEMBERS COUNTRIES

We will also mention two disputes between EU member states and third countries. Both disputes concern, above all, the former republics of SFR Yugoslavia. However, one dispute is not of a territorial nature, but about the use of the name of the state.

3.1. Dispute between Croatia and Montenegro

One of the most controversial territorial disputes in the Western Balkans is the dispute over Prevlaka. Now this dispute exists between Montenegro and Croatia, and earlier this dispute existed between FR

Yugoslavia and Croatia. According to its geographical coordinates, this area is located between Croatia and Montenegro. Most of it is uninhabited. Just as it served military and defense purposes in the past, due to its exceptional strategic position, in the former SFRY this area was also subject to the special regime of the Yugoslav People's Army. However, according to the administrative inter-republic border that followed after the Second World War, the pre-war border line of the Dubrovnik section of the Banovina Hrvatska was made official. Due to the great importance of this area, FR Yugoslavia and Croatia reached an Agreement on the demilitarization of the area on September 30, 1992. Based on Chapter VII of the Charter, the UN Security Council passed resolution № 779 of October 6, 1992, which confirmed the obligation of the parties to the dispute to leave the territory militarily, simultaneously placing Prevlaka under the supervision of the UN.

By the way, Croatia insists that Prevlaka is part of its territory, and on that basis it is demanding, according to the principle of the middle line, half of the entrance to the bay. Montenegro considers this to be disputed and will insist on it. Therefore, the bay must remain in the same regime as it was at the time of the disintegration of the former SFRY. In this context, the decision of the Badinter Commission is to some extent in favor of Montenegro, because the principle should be followed that no one can exercise sovereignty and power over that part over which he did not exercise it at the time when the previous state disintegrated. In the bay of Boka Kotorska, which actually includes the disputed area of Prevlaka, there was always an army, and within the bay, civil jurisdiction was exercised by the authorities of Montenegro.

3.2. Dispute between Greece and Macedonia (North Macedonia)

Macedonia declared its independence from Yugoslavia in 1991, and became a member of the UN in 1993. In 1991, it received the recognition of the majority of EU members (then EC) and under that name was recognized as an independent state. However, as a consequence of the dispute with Greece over the name (which has been ongoing since the

declaration of its independence), Macedonia is called in international communication by the temporary name «Former Yugoslav Republic of Macedonia» (FYROM) (Kornfein, 80).

The name Macedonia was used in different periods for different territories, which is why it is the most controversial name in the entire political and social history of Southeast Europe. The Greek-Macedonian conflict over the name of the country stems from different discourses about space, that is, from the fact that political actors always inscribe specific meanings in space on which they base their identity and their foreign policy. While the Greek nationalist position «appropriates» ancient and medieval Macedonians as part of Greek heritage, the Macedonian side claims that modern Macedonians (Slavs) are, in fact, ancient Macedonians, including Alexander the Great (Kornfein, 82–83).

In November 2008, Macedonia filed a lawsuit against Greece at the International Court of Justice in The Hague. The Court's verdict (delivered by 15 votes to 1) considers that Greece, which opposed Macedonia's entry into NATO in April 2008, violated its obligation not to block the country's entry into international organizations, if the country is listed under the name «Former Yugoslav Republic of Macedonia». And the Greek accusation and claim that the Court is not competent to decide on that bilateral dispute was also rejected.

At the beginning of 2012, the international community's efforts to resolve the dispute intensified and finally the idea that the dispute would ever be resolved on a bilateral level was rejected. However, the dispute was resolved by signing the Prespa Agreement in 2018, according to which Macedonia took the new name North Macedonia (Kornfein, 89–90).

* * *

When we talk about border disputes between countries that are already members of the EU, then it must be said that it is expected that there will be fewer of these disputes than when it comes to disputes between EU members and other non-member states. However, when we talk about border disputes, we are also talking about other types of

disputes, which can be classified as border disputes, that is, which can be related to territorial claims, such as an mentioned dispute between Greece and Macedonia over the name of the country. But we should rather see that dispute as a conflict of identity. Both sides believe that «the other side» has a hostile motive. Greece believes that Macedonia, by the very use of that name of the country, has territorial claims towards Greece, more precisely towards the area of Macedonia in Greece. Through EU forums, Greece demanded that Macedonia use the name Former Yugoslav Republic of Macedonia.

It is an interesting opinion that territorial problems between member states should not be present, if it is a question of countries that started the EU accession process with the end of the «Cold War», that is, in the late eighties and early nineties. However, in practice it is not like that. Certain authors distinguish between different types of border disputes, on which the EU, as an organization, can have an impact, not only through the integration of those territories, but also through signed cooperation agreements.

4. TERRITORIAL DISPUTES OF SERBIA WITH THE FORMER REPUBLICS OF SFR YUGOSLAVIA

As one of the condition for joining the EU, Serbia is determined to resolve its territorial problems. We must say that Serbia has only one real problem. That problem is with Croatia, which is the most important from the point of view of joining the EU. However, we will also mention other disputes that are less problematic, but which exist and must be resolved.

4.1. Dispute between Serbia and Croatia

The dispute between Serbia and Croatia concerns the border on the Danube. About 10,000 hectares of land from the Serbian side and about 2,500 hectares from the Croatian side are disputed. The largest part of this land is located in the municipalities of Sombor and Apatin. The disputed territories are not inhabited. The Republic of Serbia advocates establishing

the state border in the middle of the natural course of the Danube River. This is the current factual situation at the border. All territories to the left of the proposed demarcation line are administered by Serbia, and all territories to the right are administered by Croatia. In connection with that dispute, some Croatian authors believe that the borders of the cadastral municipalities and the private property of the citizens of each of the states on the banks of the Danube, as well as on the opposite bank of that river, should be taken into account. That is why, in this opinion, the state border of Serbia and Croatia should, sooner or later, «go» along the channel of the Danube, as is the case with other border navigable international rivers (Degan, 49). Accordingly, the common land border beyond the Danube behind Ilok should be jointly determined, and according to the mentioned principle of *uti possidetis* from 1991. At the same time, both sides can take the borders of cadastral municipalities as an auxiliary demarcation criterion. This agreement should regulate the right of private owners to, without difficulty, go to their properties in another country to use and cultivate them. So, the Republic of Croatia bases its proposal for delimitation on the cadastral survey from 1878, from the time of the Austro-Hungarian Monarchy (Čolović, 2014, 497).

The border drawn in this way, along the line that separates cadastral municipalities, would deviate from the course of the Danube and would even cross it 18 times. However, in that case, the Šarengrad and Vukovar ada would be on the Croatian side, which are the most disputed, and in which Croatia is most interested. Such a solution would be detrimental to Serbia, because it would lose part of the territory of the municipalities of Apatin and Sombor. Croatia also demands that, in accordance with the decision of the Badinter Commission, the rule that the established borders between the former republics of the SFR Yugoslavia become interstate (Nogulović, 75). In the meantime, the Danube moved its bed a few kilometers towards the Croatian side, and for the needs of unhindered navigation, several canals were dug that further changed the course of the Danube.

4.2. Dispute between Serbia and Montenegro

Disagreements about the border and delimitation of Serbia and Montenegro have never been a problem in the EU Reports. An important fact in the process of border delimitation with Montenegro is that Serbia accepted the EU standards for border management, adopting the National Strategy and Action Plan for integrated border management in 2006. The strategy should facilitate the movement of people and goods and prevent the development and operation of organized crime in the border area (Brozović, 4–5).

By the way, the border between these two countries was defined for the first time by the London Agreement from 1913. Both countries were satisfied with this solution. In the period from 1945 to 2006, when Serbia and Montenegro were republics in the same state, the administrative line did not represent the state border. After the declaration of independence of Montenegro in 2006, the delimitation process again became a diplomatic issue (Čolović, 2014, 498).

The demarcation process between Serbia and Montenegro is still not over. The two states formed Commissions for Demarcation in 2008. Shortly after the formation of these bodies, Montenegro recognized the independence of Kosovo. In such a situation, it made no sense to start negotiations, because Serbia did not want to participate in border negotiations if Kosovo was not understood as part of Serbia (Brozović, 6).

There is only one minor territorial dispute in this territory, which refers to the territory between the municipality of Pljevlja in Montenegro and the municipality of Prijepolje in Serbia. Since it is a forest under the jurisdiction of the public company «Srbijašume», this dispute does not affect the daily life of people in this region. It is likely that this dispute will be resolved by compromise, so it should not represent a significant obstacle when conducting border negotiations (Brozović, 8).

4.3. Dispute between Serbia and Bosnia and Herzegovina (Republic of Srpska)

There is also a border dispute between Serbia and Bosnia and Herzegovina, more precisely Republika Srpska, concerning the village of

Sastavci. That village is located on the territory of Bosnia and Herzegovina, more precisely in the Republic of Srpska, in the municipality of Rudo, that is, in the region of Foča. However, it is territorially located on the territory of the municipality of Priboj in the Zlatibor district and is an enclave in Serbia. However, according to the territorial organization, Sastavci belong to the village of Međurečje in the municipality of Rudo. It has an area of about 400 ha (Ćirković, Golić, 325). It is not known since when this exterior territory was defined in this way, but it is certain that since the Berlin Congress in 1878, Austria-Hungary, in this way, separated this village from Turkey (Ćirković, Golić, 327).

5. CONSEQUENCES THAT CAN BE CAUSED BY TERRITORIAL DISPUTES

Territorial disputes can cause a number of consequences. We will refer only to the consequences in relation to the population in the disputed territories, as well as in relation to international agreements, especially when it comes to disputes between countries that were an integral part of federations.

When it comes to the population, the most important issue is the issue of citizenship. Citizenship is a very complex problem in terms of territorial disputes, especially if they arise in the changed circumstances related to the dissolution of a federal state. When a new state is established, all persons on its territory fall under its authority, and have the status of either citizens of the previous state or foreigners. However, citizenship cannot be forced on anyone, but it is left to the natural person to decide within a certain period. It is the so-called the right of option, and the issue of optants can only be resolved by contract. The status of natural and legal persons, in the event of a change of sovereignty, cannot be in conflict with the mandatory rules of international law.

It is a well-known rule that, in case of succession, international agreements are transferred automatically from the predecessor state to the successor state, in the field of officialdom and border regime, if there is no dispute. Regarding territorial sovereignty, in terms of succession, it should

be said that it depends on territorial changes. The key question is what is included in the succession by the successor state, as far as obligations and rights in territorial matters are concerned (Lauterpacht, 115).

All general rules related to the settlement of territorial disputes are not applicable in every individual case. What's more, in many situations, these rules are deviated from. Europe tends towards unification with the observance of certain defined rules by all countries. However, Europe, like the EU, bears the burden of various disputes regarding borders and territories, which arose for various reasons, both related to changes on the soil of one or more countries, and to the relations of two or more different countries. We cannot, of course, classify all disputes into one of these groups of reasons, but we would have to say that, within the EU, framework rules for resolving these disputes would have to be defined, which would be modified in accordance with the nature of the dispute and the reason for which arose.

The fact is that the EU does not have instruments for solving border disputes and other territorial problems. The EU cannot provide direct assistance to parties that have a territorial or border dispute. The delimitation process is considered a bilateral issue over which the EU is not competent. When it comes to border problems, the *acquis communautaire* does not exist, nor does there exist a methodology to monitor the development of events on the ground. However, regional cooperation and good neighborly relations are not only «an essential part of the process of integration into the European Union», but are also an integral part of the Progress Report, which the European Commission regularly issues (in the Political criteria section), for countries that are candidates for joining this organization (Brozović, 4).

CONCLUSION

Border disputes in EU countries will be resolved by the states themselves that are in dispute. These disputes are present in most member countries, regardless of when they became part of this community. The fact that the EU insists that the new members do not have disputes with their neighbors can hardly be realized, if you take into account the situation

between Slovenia and Croatia, as well as the dispute in Cyprus, bearing in mind that these countries were admitted to the EU in 2004. that is, in 2013. Therefore, we cannot expect that EU membership will resolve border disputes in the countries of the Western Balkans. The entry of those countries into this community can alleviate the consequences of these disputes, but it cannot finally solve them. Even the adoption of certain acts, at the EU level, cannot automatically solve this problem. This requires a bilateral agreement, that is, the agreement of several countries. Division of border disputes according to the manner or time of occurrence, according to their nature or cause, is unnecessary, given that all disputes are specific, especially those that have been discussed. Border disputes in the countries of the Western Balkans appeared as a consequence of the breakup of the former Yugoslavia, that is, as a consequence of the succession, although many of these disputes can be said to have existed even before the creation of the common state. Precisely because of all the above, it can be concluded that the EU will demand that border disputes between countries that are future candidates for joining the EU must be resolved, as a condition of entry into this organization, but that not all disputes will be able to be resolved and that they will also exist within E U. After all, we have greater tensions over border disputes in Northern Ireland, Gibraltar and Cyprus than in the countries of the Western Balkans. All general rules related to the settlement of territorial disputes they are not applicable in every single case. What's more, in many in many situations, these rules are deviated from. Europe tends towards unification with the observance of certain defined rules by all countries. But Europe, like the EU, bears the burden of various disputes regarding borders and territories, which have arisen for various reasons, both related to changes on the ground of one or more countries, and for relations between two or more different countries. We cannot, of course, resolve all disputes classified in one of these groups of reasons, but we would have to say that, within the framework EU, framework rules had to be defined for the resolution of these disputes, which would be modified in accordance with the nature of the dispute and the reason for which it arose.

References

1. Andrassy Juraj (1990), *Međunarodno pravo (International Law)*, Zagreb.
2. Brozović Zorana (2012), *Teritorijalni i granični sporovi na Zapadnom Balkanu, Studija slučaja: proces razgraničenja Srbije i Crne Gore (Territorial and border disputes in the Western Balkans, Case study: the delimitation process of Serbia and Montenegro)*, Beogradski centar za bezbednosnu politiku, Beograd.
3. Čolović Vladimir (1999), *Sukob zakona i promena suvereniteta (Conflict of laws and change of sovereignty)*, Beograd.
4. Čolović Vladimir (2014), «Nerešeni granični (teritorijalni) sporovi u zemljama Zapadnog Balkana – da li oni mogu biti rešeni u Evropskoj uniji?» (Unsolved border (territorial) disputes in the countries of Western Balkan – whether they can be resolved in the EU?), *Evropska unija i Zapadni Balkan – izazovi i perspektive*, Institut za međunarodnu politiku i privredu; Hans Seidel Stiftung, Beograd.
5. Ćirković Marija, Golić Rajko (2007), «Problem granice između Srbije i Bosne i Hercegovine kod naselja Sastavci» (The problem of the border between Serbia and Bosnia and Herzegovina near the Sastavci settlement), *Geografski institut «Jovan Cvijić», Zbornik radova, br. 57*, Beograd.
6. Degan Vladimir Đuro (2005), «Međunarodno pravo kao osnova rješavanja preostalih sporova na području bivše SFRJ» (International Law: The basis for settlement of remaining disputes in the region of the former SFRY), *Adrias* svezak 12, Zagreb-Split.
7. *International Boundary Study, Germany – Netherlands Boundary*, The Geographer Office of the Geographer Bureau of Intelligence and Research, № 31, April 6, 1964, <http://library.law.fsu.edu/Digital-Collections/LimitsinSeas/pdf/ibs031.pdf>.
8. Kaloudis George Stergiou (2000), «Cyprus: The Unresolved Conflict», www.peace-cyprus.org.
9. Kornfein Iva (2013), «Nomen est omen: Vječni spor Grčke i Makedonije» (Nomen est omen: The eternal dispute between Greece and Macedonia), *Polemos* 16 (13.) 1, Zagreb.
10. Krivokapić Boris (2010), *Enciklopedijski rečnik međunarodnog prava i međunarodnih odnosa (Encyclopedic dictionary of international law and international relations)*, Beograd.
11. Lauterpacht Hersch (1975), *International Law*, Cambridge.

12. Mitchell Paul (2013), Britain and Spain escalate dispute over Gibraltar, <http://www.wsws.org/en/articles/2013/08/22/gibr-a22.html>, 4.3.2024.
13. Nogulović Jelena (2012), «Savremeni odnosi Republike Srbije i Republike Hrvatske kroz analizu graničnog spora u Podunavlju» (Contemporary relations between the Republic of Serbia and the Republic of Croatia through the analysis of the border dispute in the Danube region), Zbornik beogradske otvorene škole, Beograd.
14. O'Connell Keith (2004), History of Conflict, An introduction to the situation in Northern Ireland, Penn High School, www.euroindiana.edu, 3.3.2024.
15. Offshore Project Stirs Up German-Dutch Border Dispute, 2012 (von Benjamin Dürr), <http://www.spiegel.de/international/europe/ewewind-park-riffgat-caught-up-in-german-dutch-border-dispute-a-843419.html>
16. Slobodchikoff Michael O. (2012), How effective are International Organizations at Resolving Territorial Disputes among Member States: A look at the European Union, Studies of Changing Societies: Comparative and Interdisciplinary Focus Vol.1» (2).

Научное издание

**СОВРЕМЕННОЕ МЕЖДУНАРОДНОЕ ПРАВО:
ПРОБЛЕМЫ И ВЫЗОВЫ**

Сборник трудов по итогам
Международной научно-практической конференции
(г. Самара, 17 ноября 2023 г.)

Ответственный редактор А.Г. Безверхов
Научный редактор А.В. Юдин

Статьи публикуются в авторской редакции

Подписано в печать 30.10.2024. Формат 60×84 1/16.

Бумага мелованая. Печ. л. 32,0.

Тираж 150 экз. Заказ .

ФЕДЕРАЛЬНОЕ ГОСУДАРСТВЕННОЕ АВТОНОМНОЕ
ОБРАЗОВАТЕЛЬНОЕ УЧРЕЖДЕНИЕ ВЫСШЕГО ОБРАЗОВАНИЯ
«САМАРСКИЙ НАЦИОНАЛЬНЫЙ ИССЛЕДОВАТЕЛЬСКИЙ
УНИВЕРСИТЕТ ИМЕНИ АКАДЕМИКА С.П. КОРОЛЕВА»
(САМАРСКИЙ УНИВЕРСИТЕТ)
443086, САМАРА, МОСКОВСКОЕ ШОССЕ, 34.

Издательство Самарского университета.
443086, Самара, Московское шоссе, 34.