

Snake Island – a Short History and Its Legal Status over the Years
გველის კუნძული – მოკლე ისტორია და მისი სამართლებრივი
სტატუსი წლების განმავლობაში

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Abstract: Snake Island is a small, uninhabited, and remote island located in the Black Sea, not far from Ukraine and Romania common border on Danube River. Over the years, this small island played a noteworthy role in controlling the Danube mouths and its important role can be noticed significantly increased these days. Taking into consideration the present invasion of Ukraine by Russia, an interdisciplinary study, both historical and juridical, is more than welcome to observe why this tiny island was so beloved by different actors over the time and nowadays also plays a significant role. From juridical perspective this sui generis island plays a large role to determine maritime delimitation. The last dispute in which this island was involved concerned the maritime delimitation between Ukraine and Romania, and the particularities of the island determined the countries right over maritime zone (EEZ).

Key words: Snake Island, Black Sea, history, international law, legal status, Danube, maritime boundaries.

გეორგიან-იონუტ შტანი

ბუქარესტის ეკონომიკის უნივერსიტეტის
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აბსტრაქტი: გველის კუნძული არის პატარა, დაუსახლებული კუნძული, რომელიც მდებარეობს შავ ზღვაში, უკრაინასა და რუმინეთის საერთო საზღვრის სიახლოვეს, დუნაის მდინარეზე. წლების განმავლობაში ეს პატარა კუნძული მნიშვნელოვან როლს თამაშობდა დუნაის ნაპირების კონტროლში, ხოლო მისი მნიშვნელობა რეისათვის კიდევ უფრო გაიზარდა. უკრაინაში რუსეთის შეჭრის გათვალისწინებით, ისტორიული და სამართლებრივი ინტერდისციპლინური შესწავლა ძალზე მისაღებია, რათა გავიგოთ, რატომ იყო ეს პატარა კუნძული სხვადასხვა აქტორებისთვის მნიშვნელოვანი და რატომ აგრძელებს ის კვლავ

ყურადღების ცენტრში ყოფნას. სამართლებრივი პერსპექტივიდან ეს „*sui generis*“ კუნძული დიდ როლს თამაშობს საზღვაო გამყოფი ხაზის განსაზღვრაში. ბოლო დავა, რომელშიც ეს კუნძული იყო ჩართული, შეეხებოდა უკრაინასა და რუმინეთს შორის საზღვაო გამყოფ ხაზთან დაკავშირებით და კუნძულს ჰქონდა დამახასიათებელი თავისებურებები, რომლებიც განსაზღვრავდა ქვეყნების უფლებას საზღვაო ზონაზე (EEZ).

საკვანძო სიტყვები: გველის კუნძული, შავი ზღვა, ისტორია, საერთაშორისო სამართალი, სამართლებრივი სტატუსი, დუნაი, საზღვაო საზღვრები.

1. Introduction

The universality and immensity of world history does not really leave room for increased attention to small geographical spaces or less notable historical facts.

However, history is rich in different conflicts that reconfigured borders, gave birth to new peoples, or led to the demise of peoples. Sometimes gaining of small new territories ensured the survival of peoples or at least secured a strategic position in relation to other nations. Not infrequently we have been given to see certain military conflicts or actions of force for some territories or islands, for which apparently there would be no interest in³⁸.

Nevertheless, if we go beyond appearances, we will find that these insignificant territories can play an overwhelming strategic role.

In addition to the aspects shown above, the 20th century showed us that apparently insignificant territories can hide important natural resources, so the economic importance of these places should be considered, as well as strategic position.

2. Short history of The Black Sea and Snake Island

The term of "sea" can represent, from historical point of view, a geographical area that throughout history has been the source of the development of peoples and

³⁸ An example is the history of Falkland (Malvinas) Islands. These islands were source of a powerful conflict between United Kingdom and Argentina, and ignoring the appearances we can say these islands can play a significant strategic role around South Atlantic.

civilizations³⁹. Except for the chronological limits, the division of history into stages can have as its starting point the geographical framework of a sea or an ocean, as for example in the case of Europe and the Near East, where the Mediterranean Sea was the cradle of many civilizations, such as the Egyptian, Phoenician, Greek, Roman and Byzantine⁴⁰. Although other issues are more notable, such as the Baltic issue and the "Battle of the Atlantic", the issue of the Black Sea is of interest due to the nature of transition and crossroads between Europe and Asia, which affected the peoples along the Black Sea⁴¹.

In the opinion of the great Romanian historian Gheorghe I. Brătianu, the history of the Black Sea can be divided into the Greco-Iranian era, the phase before the Middle Ages, the era of the Mongols and the Italians, the stake of the straits until the Ottoman conquest.

Unfortunately, his great work on the history of the Black Sea does not continue beyond the phase of the Ottoman conquest.

By referring to the historical phases shown by the great Romanian historian, at least until the Ottoman conquest, we cannot fail to note the fact that the Black Sea region was an area of crossroads of civilizations.

If in the past, the Black Sea basin was dominated by Hellenistic and Roman influences, the closer we get to the present day, we will find that the history of this area was dominated by two great powers - the Ottoman Empire and the Russian Empire.

Thus, the struggle of these powers was to dominate other peoples and gain new territories. Therefore, at some points, these two great powers were in positions of conflict, conflicts that mainly affected the local populations and areas around the Black Sea. It must be stated that for none of these two great powers, the Black Sea was not the cradle of their civilization, but still they wanted to dominate this area.

Turning our attention to Snake Island, we will note that it is located at an approximate distance of 45 kilometres from the city of Sulina in Romania and its surface being about 17 hectares⁴².

The history of Snake Island begins with that of the Greek settlements in Dobruja, the historian Gheorghe I. Brătianu, showing that on this rock there was a sanctuary

³⁹ Gheorghe I. Brătianu, *Marea Neagră. Vol.I. de la origini pînă la cucerirea otomană*, Editura Meridiane, Bucharest, 1988, p. 85.

⁴⁰ *Ibid.*, p. 85.

⁴¹ *Ibid.*, p. 87.

⁴² Dominiuș I. Pădureanu, *Insula Șerpilor*, article published in *Revista Istorică*, Romanian Academy Publishing House, no. 9-10, Bucharest, 1995.

erected in honour of Achilles Pontarches, the protector of sea navigation and trade⁴³.

For the Greek civilization, this island, which they called Leuke, was not only relevant from a strategic and economic point of view, but this importance is also found in terms of mythology⁴⁴. The cult of Achilles covers the entire Black Sea basin, but Snake Island plays a particularly important role in his cult, being considered the very place of his burial⁴⁵.

The Ottoman period is not so significant for the history of the island as the island did not receive a special attention. In that time the island was called by the Ottomans *Yılan Adası*⁴⁶.

During the Russian period, the Snake Island received a more special attention, and some excavations and archaeological research were made at that time⁴⁷.

With the passage of time, we will notice that this small island no longer received due attention, referring to a wide spectrum, its importance being rather strategic, and starting with the 21st century, another importance was discovered - the economic one.

3. Treaty of Paris and Romanian-Soviet hand-over protocol

In the recent history of the island, it has been part of the Ottoman Empire, the Tsarist Empire, Romania, the USSR and currently part of Ukraine.

Romania continuously ruled this island during the interwar period both de jure and de facto, and de jure we consider that the island belonged to Romania until 1997.

During the Second World War, Romania initially allied with the Axis powers to recover Bessarabia and Northern Bukovina from the occupation of the USSR.

Starting on August 23, 1944, Romania left the alliance with the Axis powers and participated, alongside the allied powers, in the war against Germany.

⁴³ Gheorghe I. Brătianu, *Marea Neagră. Vol. I. de la origini pînă la cucerirea otomană*, Meridiane Publishing House, Bucharest, 1988, p. 148.

⁴⁴ Guy Hedren, *The Cult of Achilles in the Euxine*, published in *Hesperia: The Journal of The American School of Classical Studies of Athens*, Vol.60, No. 3 (Jul.-Sep.), pp 313-330, available at: <https://www.ascsa.edu.gr/uploads/media/hesperia/148068.pdf>.

⁴⁵ *Ibid.*

⁴⁶ Podossinov Alexander, *Leuke/Achilleios Nisos*, 2007, Enciclopedia of Hellenic World, Black Sea, available at:

<http://www.ehw.gr/1.aspx?id=10722>

⁴⁷ *Ibid.*

Of course, the quality of Romania after August 23, 1944, was not considered, this meant the conclusion of a peace treaty with the Allied Powers in 1947 in Paris.

Article 1 of the Treaty settled the borders of Romania as they were defined on 1st of January 1941, excepting the border between Romania and Hungary. On 1st of January 1941 the border between Romania and USSR was settled on Chilia branch of Danube, and Snake Island belonged to Romania.

Even the Treaty between Romania and Allied powers signed in 1947 in Paris did not mention anything about the ownership of Snake Island, in 1948 USSR imposed Romania to sign a hand-over protocol to transfer the ownership of the island from Romania to USSR⁴⁸.

Until the collapse of USSR, Romania never questioned the legal status of that handover protocol, and starting with 1948, Snake Island belonged *de facto* to USSR.

4. Romanian-Ukrainian friendship treaty⁴⁹

After the collapse of USSR, in 1991, Ukraine inherited all borders with Romania of former USSR, including the Snake Island issue and moreover a maritime dispute over a surface about 12.225 sq. km near the island.

After a negotiation process between Romania and Ukraine, in 1997, the parties signed The Friendship Treaty. According with the article 2 of this treaty, Romanian-Ukrainian border (as it was) is inviolable, and both parties will refrain to question this border as it is defined.

It is very important to mention that Romania and Ukraine agreed to not use military force between themselves and to use diplomatic negotiations to solve potential issues. Also, the parties of the treaty agreed to not let third parties to use their territory against to the other party.

Recognizing the border from Romania and Ukraine as it was *de facto* and the ownership of Snake Island to Ukraine, this treaty between Romania and Ukraine also validated the fact from 1948 when Romania ceded with a hand-over protocol the Snake Island to USSR.

⁴⁸ Romanian Ministry of External Affairs, *Delimitarea spațiilor maritime în Marea Neagră*, available at: <https://www.mae.ro/node/3109> .

⁴⁹ Available in Romanian version at: <https://legislatie.just.ro/Public/DetaliiDocumentAfis/50921>

The treaty did not establish the maritime delimitation near Snake Island, but both parties agreed by the Treaty of Friendship to solve this issue in a diplomatic manner.

5. Romanian-Ukrainian dispute over the maritime zone near the Snake Island

Even it was established by the Friendship treaty between Romania and Ukraine to negotiate and to delimit the maritime area near the Snake Island, this wasn't an easy-going process and between 1998-2004 were conducted 34 rounds of negotiations, but none of them led to desirable outcome and to settle the border without intervention of a third party⁵⁰.

This territorial dispute was noticed to the International Court of Justice from Hague in 2004.

Both parties involved in this dispute contested the claim of the other party, and the claiming was related to the status of Snake Island. Romania claimed the Snake Island is not a proper island, being just a simple rock. On the other hand, Ukraine claimed the Snake Island is a true island and all the maritime area that surround the island should belong to Ukraine according to the international laws principles.

The argument used by Romania was taken into consideration by the court, and the status of Snake Island crucial when the court analysed the claims of both parties.

In 2009, the International Court of Justice from Hague decided that 79,34% from the disputed territory belongs to Romania and the rest of it belongs to Ukraine⁵¹.

6. Conclusions

From a historical perspective we can notice a small geographical area sometimes can get a special attention for a multiple reason. The mythology and religion can represent a special symbolist to such a kind place. So, for Greek people Snake Island was attached to religious facts, and they considered the Snake Island the burial place of Achilles. When we go further throughout the history, we will notice this place lost its religious importance and its strategic position near the Danube mouths gained more importance. As we get near to the present time, it is clearer the economic reason can also determine a great status for some areas.

⁵⁰ Romanian Ministry of External Affairs, *Delimitarea spațiilor maritime în Marea Neagră*, available at: <https://www.mae.ro/node/3109> .

⁵¹ *Ibid.*

Coming to nowadays Russia aggression also included this tiny island due to its strategic position, but Ukraine succeeded to regain this place right after Russian attempt to seize it. The Russian aggression strengthen again the importance of the island, meaning the strategic position.

From a juridical perspective⁵² the recent history of the island and the shifting of its ownership showed us an important lesson that the best solution to solve a territorial dispute is by diplomatic manners and when it is not possible a third-party should be involved to solve the issue. If both parties involved in conflict recognize the legitimacy of the third-party, the most convenient quality of this third-party should be the impartiality, and this condition is meet by court status.

Even the island was not the object of the trial between Romania and Ukraine, its status determined which party from the conflict was right to receive a bigger part of territory which was claimed.

The decision of International Court of Justice from Hague from 2009 become a reference point for international law, more specific for the others maritime delimitation dispute between countries, being constantly cited in the jurisprudence of the Court and of the other courts⁵³.

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⁵² For more details about peaceful settlement of international disputes, according to international law - Roxana Alina Petraru, *Soluționarea pașnică a diferendelor Internaționale – Principiu Fundamental al Dreptului Internațional Public (Peaceful Settlement of International Disputes – A Fundamental Principle of Public International Law)* (October 31, 2013). *Annals of The Constantin Brancusi University – Juridical Sciences Series, No. 3, 2013, Available at SSRN:*

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⁵³ Ministry of Foreign Affairs, *11 ani de la procesul de la Haga, care a adus României 9.700 de km² de platou continental și zonă economică exclusivă*, available at:

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