

The Serpent Island – Its History and Current Affairs

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Abstract: After the conclusion of the Treaty of Paris in March 30, 1856, which ended the Crimean War, an important episode of the “Eastern Crisis”, the British Empire's envoy to Pontus Euxinus, Thomas Spratt, noted in his report to the British Crown and Admiralty that “The Serpent Island is remarkable from several points of view: first by its position, we can say the Eye of the Danube; and secondly because it is almost the only island in the Black Sea.” According to the British, the island was important for directing and accommodating ships in bad weather, in an area with shallow depths and shallow shores where the risk of failure posed a real threat. The author of the report also finally points out the importance of the island for Odessa's trade. The historical facts and events, however, revealed another side of the island's importance, namely the geostrategic one, which is why the discussions on this aspect are under the sign of “diplomatic tact.” In this paper we will try to objectively reveal some historical and current aspects regarding The Serpent Island.

Keywords: The Danube; The Serpent Island; Achilles' Island

1. Introduction

Serpent Island, with coordinates 40⁰ 15' 15" North latitude and 30⁰ 12' 12" East longitude, with an area of 17 ha, is located about 45 km east of the Danube Delta and 44,814 m from the town of Sulina. Around it, the depth of the sea is 5-6 m to the N, 9-19 m to the E, 13-32 m to the S and 10-16 m to the V. Its name comes from the house snake (*Natrix natrix*) that thrives once in this place, reaching dimensions of up to 2 m, harmless and useful in fighting rodents, being unpleasant to the eye, it was completely eradicated in the second half of the twentieth century, during the military works carried out by the Soviet army.

Once Romanian territory, it was occupied by the USSR at the end of World War II and annexed in 1948 on the basis of a report concluded between the first secretary of the Soviet embassy in Bucharest and a Romanian plenipotentiary minister (Eduard

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Mezincescu), a document never ratified neither by the Supreme Soviet of the USSR nor by the MAN of the RPR or RSR. The island is currently in Ukrainian possession as part of the Chilia district of the Odessa region.

Rocky, with a soil made of hard siliceous sandstones, it is covered by a steppe vegetation resistant to drought and salty environment. It has no sources of drinking water (it is brought from the mainland), which makes it difficult to live. Under these conditions, the island was important for directing and accommodating ships in an area with shallow depths and shallow shores where the risk of failure posed a real threat, especially in the cold seasons when the Black Sea becomes inhospitable. To these were added the political circumstances that generated the interest of the neighboring powers, the island acquiring a strategic-military importance.

After 1980, oil and natural gas deposits were discovered in its vicinity, which made the area benefit from other types of attractions. After the disintegration of the USSR and the entry of Snake Island into the possession of Ukraine, with all the effects generated by this fact, the concern for the island and the adjacent area (rich in resources - as we have shown) increased exponentially, attracting in the game of interests states which had no direct connection, from a territorial point of view, with the island and its proximity.

2. Historical Data

a) Ancient Greek sources mention the island as Leucos (Leuce or Leuke), meaning “The White Island” due to the multitude of white birds (herons) that populate it. According to mythology, the goddess Thetis claimed the island of Poseidon for her son, Achilles, the hero of the Homeric Iliad. Artinos of Miletus, a legendary disciple of Homer, in his own version of the Iliad tells that the remains of Achilles and Patroclus were brought to the island and deposited in a mausoleum, this building later becoming a place of pilgrimage and sacrifice in the honor of the hero. This account is considered to be the first documentary mention of the island. Pindar, an ancient Greek poet (522 BC - 483 BC) in his work “Olympic” recalls the “bright island” where crowds of white birds nest unhindered. Euripides (480 BC - 406 BC), in the tragedy “Ifigenia in Taurida” recalls that Achilles spent his time “on an island on the silver shore, inside the Pontus Euxinus”, commentators on the work of the great poet appreciating that this was the island of Leuce.

The island and its legend are also mentioned in the writings of other ancient authors such as Scylas of Carianda (Greek explorer and writer of the late sixth and early fifth centuries BC), Antigonos of Pergamum (third century BC) or the poet Nicandru (III-II centuries BC). Also, news about the “white island” is provided by the poet Ovid, the Greek geographer Ptolemy and the historian Strabo, the latter mentioning the existence of a temple dedicated to Achilles, a building present even in later Romanian folklore under the name of “Church with 9 altars”.

Thomas Spratt, the British Empire's envoy to the Black Sea after the Crimean War, believes that the most complete description of the island was made by Arrian of Nicomedia (c. 86-160 AD), a Greek philosopher, historian and military commander during Roman era, in a work entitled “Journey to Pontus Euxinus” and in a letter to Emperor Hadrian, who ruled from 117-138 (Stanciu, 2002, p. 89). Arrian summarizes the legends and knowledge existing at the time of writing the letter to the emperor, stating that the temple of Achilles exists and is the terminus of many pilgrims who came to the island to worship the hero. At the time of visiting the island, it was no longer inhabited, but the author admits that in an earlier period there were human settlements.

The analysis of the mentioned sources shows that Leucos was in the possession of the Greeks, during the colonization of the Pontus Euxinus, being taken from the Dacians¹, then the Romans and used at least as a stopover or refuge for commercial or military ships. It was also a center of worship, in addition to the sanctuary dedicated to Achilles there were buildings inhabited by priests who officiated religious rituals, their ruins being discovered in the 19th century.

b) At the dawn of the Middle Ages, the island passed, one by one, under the Byzantine authority (Byzantine theme² Paradunavon), Genoese, Venetian, of the despot Dobrotici and of Mircea the Old (1386-1418). The Romanian lord extended his power along both banks of the Danube, to the mouths and on the shores of the Black Sea (“Great Sea”), including the Serpent Island. During the reign of Stephen the Great (1457-1504) the island was for a period in the dominion of the Principality of Moldavia together with the Chilia and White Fortress. It should be mentioned that it was not affected in any way by the phenomenon of migration of peoples. After the Romanian Principalities lost their sovereignty over the island, it was occupied by the

¹ During the reign of King Burebista, the coast of Pontus Euxinus, the mouth of the Danube and the Serpents Island were part of the Dacian Kingdom.

² Byzantine theme - an administrative division of the Byzantine Empire.

Ottoman Empire until the 18th century, when Russia imposed itself in the Balkans and began a series of wars with the Ottoman Empire.

c) Thus, following the Russo-Turkish war of 1768-1774, through the Peace of Kuciuk-Kainargi of July 12, 1774, the defeated Ottoman Empire was put in a position to make concessions and cede the territories of Russia. Among the territorial concessions were some in the Black Sea area (Crimea, Bug, etc.), Serpent Island being annexed although the treaty did not contain such a clause. This was followed by the war of 1806-1812 concluded by the Peace of Bucharest. Russia, victorious, occupied the south of Bessarabia with the mouth of the Danube, regarding Serpent Island intervening a formality justifying its occupation. In 1828-1829 another Russo-Turkish war ended with the Peace of Adrianople (Edirne) by which, the defeated Ottoman Empire, once again, accepted the occupation of the Danube Principalities by the Tsarist Empire until the payment of war reparations. It is understood that Russia retained control of Bessarabia, the mouth of the Danube, and although the treaty did not contain a provision to that effect, Russia continued to maintain the annexation of Snake Island.

Worried about Russia's rise, European powers, England, France, and Turkey launched what went down in history in 1853 as the "Crimean War," to stop the empire's intention to dominate the Balkan Peninsula and advance into central Europe. The war ended with the defeat of Russia, enshrined in the 1856 Paris Peace Treaty. Russia lost the Danube Delta and its islands, but they reverted to the Ottoman Empire, which pledged to maintain the lighthouse built by the Russians in 1837¹.

The Russian-Romanian-Turkish war of 1877-1878 followed, after which Romania gained its independence from the Ottoman Empire. The affairs of the war were settled by the Treaty of Berlin from June to July 1878. Russia, victorious, took revenge for the losses of the Crimean War. It received the south of Bessarabia again, and Romania received the south of Dobrogea with the islands (ridges) of the Danube Delta and the Serpent Island. It seemed that this "settlement" of territories would last a long time, especially after the First World War, through the establishment of Great Romania².

On June 26, 1940, the USSR sent an ultimatum to Romania for the evacuation of Bessarabia, with all its territories. The ultimatum came as a result of the Ribbentrop-

¹ The lighthouse was built using stone from the temple, sanctuary and other ancient Greek buildings. This would explain the paucity of archaeological evidence found on the island.

² During World War I, the only event on Snake Island was the bombing of it by a German cruiser.

Molotov Treaty by which the USSR and Hitler's Germany agreed on territorial annexations and areas of influence. Under these circumstances, Germany claimed the right to occupy Snake Island for military use. On August 28, 1944, a detachment of the Soviet navy occupied the island.

At the Paris Peace Conference, due to an equivocal situation¹, the Serpent Island remained, *de jure*, in the possession of Romania, although, *de facto*, it was occupied by the Soviet army. In order to clarify the legal situation of the island, the Protocol specifying the state border between Romania and the USSR was signed in Moscow in 1948. By this act, the island came under the authority of the USSR, although this was not provided for in the Paris Peace Treaty. In the same year, on May 28, based on the protocol, the island was handed over to the USSR, concluding a report on the spot between the first secretary of the Soviet embassy, Nikolai P. Shustov and the Romanian plenipotentiary minister, Eduard Mezincescu. Both the Moscow Protocol and the report of May 28, 1948 were not ratified by the Soviet and Romanian authorities (the Supreme Soviet of the USSR and the Grand National Assembly of the RPR / RSR). In August 1949, the Soviets began building a military base equipped with surveillance radars and communications interception and jamming facilities. In February 1961, the Treaty on the regime of the Romanian-Soviet border was signed, according to which the island remained part of the USSR. This treaty was not ratified by the Romanian parliament (MAN) either.

In the period 1967-1987, ten rounds of Romanian-Soviet negotiations took place for the delimitation of the continental plateau and the exclusive economic zones in the Black Sea, more precisely in the area of the Danube Mouth and Serpent Island, negotiations that remained without result. Among other things, the Soviets offered to cede 4,000 km² of the 6,000 km² around the island, an offer refused by the Romanians because the area bypassed oil fields.

3. The Current Situation

After the disintegration of the USSR in 1991, the island (with its military base and facilities) was taken over by Ukraine, the “legitimate successor” of the union whose existence ceased. In fact, on this basis, Ukraine took over all the territories annexed in 1940 by the USSR under the Ribbentrop-Molotov Pact, including southern Bessarabia and northern Bukovina. With regard to this succession, it is understood

¹ The Soviet delegation presented a map on a very large scale (1 / 1,500,000) and with many inaccuracies.

that Ukraine has never raised the issue of the legitimacy of the “acquisition” of these territories. Moreover, when Russia claimed the Crimean Peninsula, an international “problem” was created, solved by the “law of force”, which Romania could not and cannot do.

In 1996, Romania ratified the UN Convention on the Law of the Sea concluded in Montego Bay¹ in 1982, a convention signed by the Romanian state at the date of its conclusion. This international act contains clear provisions regarding the legal regime of the territorial sea, the contiguous area, the continental shelf and the exclusive economic zone. With the ratification of the convention, Romania made a statement stating that “uninhabited islands with no economic life of their own can in no way affect the delimitation of areas belonging to the main coasts of riparian states.” It is clear that the declaration took into account the situation of Snake Island and was accepted by all states that acceded to the convention.

In 1997, the Basic Political Treaty between Romania and Ukraine was concluded and entered into force, which did not solve the issue of the territories annexed by the USSR following the Ribbentrop-Molotov Pact, nor the issue of the continental plateau and exclusive economic zones. In this regard, a Treaty-Related Agreement was drawn up which provided for the possibility of recourse to the International Court of Justice in The Hague (ICJ) for the delimitation of the continental plateau and exclusive economic zones in the Black Sea in the event of failure of bilateral negotiations. This provision was intended to cause the two sides to resort to amicably solving the issues raised by the neighbors at the mouth of the Danube and the Black Sea.

In the period 1998-2004, 34 rounds of negotiations took place between Romania and Ukraine for the delimitation of the continental plateau and the exclusive economic zones in the Black Sea, 24 at the level of the plenum of delegations and 10 at the level of experts. Given Romania's statement on uninhabited islands with no economic life of their own, the parties have adopted a prudent tactic. Romania, relying on the acceptance of the declaration by all states that signed the Montego Bay Convention of 1982, avoided expressly indicating Snake Island in the negotiations, and Ukraine, in order to remove the island from the effect of the declaration, built a hotel on it and a bank branch without sewerage and a source of drinking water. It is understood that the negotiations have failed, with Ukraine not accepting Romania's proposals in accordance with the declaration made with the

¹ A city in Jamaica.

ratification of the 1982 Convention and the provisions of the 1997 Conex Agreement.

Meanwhile, respectively in 2003, the Treaty on the state border regime between Romania and Ukraine was concluded. Moreover, the two parties, convinced that they would not solve the disputed issues between them through negotiations, had recourse to the ICJ, a procedure which imposed the condition of the existence of such a treaty. But this aspect concerned exclusively the Romanian side, which did not own the disputed territories and areas, unlike the Ukrainian side. On September 9, 2004, the last round of negotiations between the two parties took place in Bucharest, and as no agreement was reached, on September 13 of the same year, Romania filed a request to notify the ICJ, which it submitted to the Court Registry at September 16, 2004. In October 2004, the first meeting of the agents of the two parties with the President of the ICJ took place in order to set the deadlines for the submission of written pleadings. The following month (November 2004) the ICJ granted a period of 9 months for the submission of the Romanian Memorandum and the Ukrainian Counter-Memorandum. By all accounts, Romania, as a plaintiff, filed an application (Memorandum), and Ukraine, as a defendant - a counterclaim (Counter-Memorandum).

The Romanian Memorandum presented the factual and legal elements relevant to the case (geographical context, historical circumstances, the provisions of the relevant international norms, the current situation, the proposed solution and its arguments) accompanied by evidence. On 16 May 2006, the Ukrainian side submitted a Counter-Memorandum, following four rounds of consultations at expert level in 2005-2006, which were unsuccessful.

On 5 July 2006, Ukraine requested a “postponement” motivated by “technical reasons”, a request allowed by the ICJ. Then followed the proceedings of the hearings and pleadings, concluded on September 19, 2008. At the beginning of 2009, the ICJ ruled in the territorial dispute between Romania and Ukraine, its decision being final, binding and enforceable, with immediate applicability, without any formalities.

As I have shown, in view of the declaration made on the occasion of the ratification of the UN Convention on the Law of the Sea concluded in Montego Bay in 1982 and its acceptance by all signatory states to the convention, Romania has not made Snake Island an application to the ICJ of The Hague, considering that the international court will take this into account. The ICJ, however, considered that Snake Island was not

the subject of the dispute, but only the delimitation of the continental plateau and the exclusive economic areas. Therefore, as the ICJ did not rule on this issue, its decision strengthened Ukraine's "right" to the island. And so, a de facto illegal situation (established by the Ribbentrop-Molotov Pact) became legal through the ICJ decision in The Hague. An "extensive" interpretation of the ICJ decision can be successfully used by Ukraine in justifying the possession of territories that never belonged to it, such as southern Bessarabia and northern Bukovina.

However, the authorities in Bucharest appreciated that the ICJ decision from 2009 represents a "success" of the Romanian diplomacy, considering the fact that out of the disputed area, 79.34% was attributed to Romania and only 20.60% was attributed to Ukraine. About Snake Island - not a word. In fact, by this decision of the ICJ, Romania lost the island and we avoid the word "final", given the historical course of this "rock" that never belonged to Ukraine.

4. Conclusions

The Serpent Island (Leuce, Leucos, Leuke, Fidonisi) was *ab initio* in the composition of the Dacian Kingdom of Burebista. Historical circumstances led it to take possession of Greek settlers, who founded fortresses on the banks of the Pontus Euxinus (Byzantium, Callatis, Tomis, Histria, etc.), then the Romans, Genoese and Venetian navigators and merchants, Romanian voivodes (Mircea the Elder and Stephen the Great), ending with its annexation, for a long time, by the Ottoman Empire. The long Russian-Turkish wars followed, after which the island passed from one power to another, reaching at one point (1878) in Romania until 1940.

The historical circumstances of the middle of the 20th century threw it into the arms of the USSR, at that time the island presented only a strategic-military interest. After 1980, with the discovery of hydrocarbon deposits in its vicinity, the importance of the island gained new significance.

The Romanian state has not ratified any international act (treaty, pact, convention) concerning the property right of the USSR or Ukraine over the island. The 2009 ICJ Hague decision indirectly and unfairly recognized Ukraine's "ownership" of Snake Island. Romania, by the same decision, "acquired" an important part of the continental plateau of the Black Sea, adjacent to the area of interest of Ukraine, rich in hydrocarbons (oil and natural gas), resources granted by Prime Minister Tariceanu

to a Canadian company, before the ICJ decision from The Hague (November 2008, Sterling Resources).

According to some “specialists”, the decision of the ICJ at the bar is a reality that “Romanians will have to get used to.” In other words, the law of force overcomes the force of law. What would Ukraine have to say in this regard about Snake Island and the Crimean Peninsula?!

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