The Legal Regime of the Exclusive Economic Area

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Abstract: The objective of this research is to carry out a comprehensive analysis of the international legal regime of the exclusive economic area established by the 1982 Convention of and of the modern practice of its application, as well as the provisions of the legislation of the coastal states regulating the regime of the exclusive economic area. The methodological basis of the research was the dialectical method of cognition. This method of scientific knowledge has been combined with the use of historical-legal and comparative-legal methods, as well as logical techniques and research tools, whose application has contributed to achievement of the objective and solving the problems in the field considered. The value of this article consists of a comprehensive study of current theoretical and practical issues regarding the international legal regime of the exclusive economic area. The results of the present research can be used in research works, as well as in teaching the course of international sea law.

Keywords: coastal state; territorial sea; legal regime; UN Convention

Introduction

The main **objective** of this research is to carry out a comprehensive analysis of the international legal regime of the exclusive economic area established by the 1982 Convention of and of the modern practice of its application, as well as the provisions of the legislation of the coastal states regulating the regime of the exclusive economic area.

In compliance with the objective, it is proposed to identify the following **operational objectives**:

- to analyze the provisions of the 1982 Convention, a range of international treaties and other international legal instruments in the field of research, as well as the

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practice of their application;

• to analyze the legislation of the coastal states regarding the exclusive economic area as concerns the compliance with the provisions of the 1982 Convention;

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The **value** of this article consists of a comprehensive study of current theoretical and practical issues regarding the international legal regime of the exclusive economic area.

According to the authors, an essential feature of the research is that the institution of the exclusive economic area is taken into consideration together with the 1982 Convention and national law (Kolodkin, 2005, p. 65).

At the same time, the practice of applying the relevant conventional provisions, as well as the law of the coastal states, adopted both before and after the entry into force of this international treaty, is examined.

The provisions of the UN 1982 Convention on the sea legal regime in the sea is applied to the exclusive economic area, except for provisions incompatible with the legal regime of the exclusive economic area (Kolodkin, 2001, p. 59).

This applied in particular to the economic aspects of activities in the exclusive economic area, for example, the exploration and development of natural resources in this area.

The regime of the high seas recognizes the special rights of the states regarding the archipelagic waters, the exclusive economic area and the continental shelf, as defined in the 1982 Convention of on the Law of the Sea.

The point is that, although the 1982 Convention came into force, but a number of sea law problems have been settled quite generally in it, many customs have kept their significance.

Thus, it turns out that, with all the coding appearances, the law of the sea still remains an ordinary law.

This means that the states reserve the right to interpret its vague provisions.

But this mainly refers the new phenomena in international life- a mode of exploiting the adjacent economic area and access to the marine wealth of the lake-free states.

There is a more difficult problem - the exploitation of mineral resources at the bottom of the sea, but so far it is prospective, since most of the participants in international communication are not mature enough to carry out works on the seabed.

There is a more difficult problem - the exploitation of mineral resources from deep in the sea, but so far it is in potential, as most of the participants in international communication are not mature enough to perform deep sea work.

Even Russia, for completely incomprehensible reasons, has suspended its "offensive" on the deep in the oceans.

However, unresolved legal relations in maritime spaces clearly include the convening of the fourth UN conference on the law of the sea on the agenda (Lindpere, 2005, p. 98).

Saving people at sea is free without the consent of the master of the ship in distress.

But the salvation of the property - by its consent and at a cost.

The economic activities of the free seas states are carried out in accordance with international conventions: regarding fishing; at the whale; for pulling the gaskets and fur seals; for the conservation of living resources in Antarctica.

Such activities should comply with the standards of conventions for the control of marine pollution.

And, by the way, the 1982 Convention on the Law of the Sea pays particular attention to these environmental issues.

A number of environmental conventions have been concluded at regional level (Mediterranean Sea, the Baltic Sea, the Black Sea, etc.).

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The concept of exclusive economic area is one of the most important pillars of the 1982 Convention on the Law of the Sea.

The regime of the exclusive economic area is probably the most complex in the entire Convention.

The 1982 Convention introduced a number of major changes in the legal regime of the high seas. In particular, it gave coastal states the right to establish in its borders an exclusive economic zone with a special legal regime.

According to art. Art. 55 and 57 of the 1982 Convention, an exclusive economic area is an area located outside and adjacent to the territorial sea that falls within the special legal regime established in this Convention.

The external border of the exclusive economic area shall not exceed 200 nautical miles, taken from the baseline, from which the width of the territorial sea is measured.

The initiative to establish an exclusive economic area came from developing countries, who were concerned that the principle of freedom of fishing and the extraction of mineral resources on the open sea did not correspond to their interests and is beneficial only to the maritime powers that have the necessary economic and technical capabilities, as well as a modern large-capacity fishing fleet.

A mutually acceptable solution to this problem was found in 1982, at the 3rd UN Conference on the Law of the Sea, where the UN Convention on the Law of the Sea was adopted (Barabolya & Molodtsov, 1977, p. 15).

Currently, more than 100 coastal states have exclusive economic areas, whose outer border is 200 nautical miles (Wegelrin, 2002, p. 87).

The delimitation of the exclusive economic area between the states with opposite or adjacent coasts according to art. 72 of the 1982 Convention is implemented by agreement on the basis of international law, as indicated in art. 38 Statute of the International Court of Justice of the United Nations, to make a correct decision (Lazarev, 1983, p. 54). The problem of creating an exclusive economic area outside the territorial sea in the area immediately adjacent appeared at the end of the 60s and 70s of our century. The initiative of staging came from developing countries who believed that under the prevailing conditions of enormous technical and economic superiority of developed countries, the principle of freedom of fishing and extraction of mineral resources on the high sea does not meet the interests of Third World countries and it is beneficial only to the maritime powers that have the economic needs and technical capabilities, as well as a large and modern fishing fleet.

In their view, preserving the freedom of fishing and other industries would be

incompatible with the idea of creating a fair and equal new economic order in international relations (Malinin, 1983, p. 76).

After a certain period of objections and hesitations, which lasted about three years, the great maritime powers adopted in 1974 the concept of exclusive economic area, subject to the resolution of the problems related to the law of the sea, considered by the Third UN Conference on the law of the sea, on a mutually acceptable basis. Such mutually acceptable solutions, as a result of many years of efforts, were found by the Conference and included in the UN Convention on the Law of the Sea.

According to the Convention, the economic area is an area located outside and adjacent to the territorial sea, with a width of up to 200 nautical miles from the baselines from which the breadth of the territorial sea is measured (Kolodkin, 2001, pp. 13-14).

In this area, a specific legal regime was established.

The Convention granted the coastal state in the exclusive economic area, sovereign rights for the exploration and development of natural resources, both living and non-living, as well as rights in connection with other activities for the purpose of economic exploration and development of this area, such as energy production through the use of water, currents and winds.

The Convention provides for the right of other states, under certain conditions, to participate in the harvesting of living resources in the exclusive economic area. However, this right can only be exercised by agreement with the coastal state.

Also, the coastal state has recognized jurisdiction over the creation and use of artificial islands, facilities and structures, marine scientific research and conservation of the marine environment (Frolov, 2004, p. 37).

Marine scientific research, the creation of artificial islands, installations and structures for economic purposes can be carried out in the exclusive economic zone by other countries with the consent of the coastal state. At the same time, other states, both maritime and non-block, enjoy the freedoms of navigation, flights over, the installation of cables and pipes and other legal uses of the sea related to these freedoms in the exclusive economic area.

These freedoms are exercised in the area as in the open sea.

The area is also subject to other rules and regulations governing the rule of law in the high seas (the exclusive competence of the flag State on its ship, exemptions

allowed from it, the right to prosecution, provisions on safety of navigation, etc.). The exclusive economic zone is a territory that does not extend the sovereignty of either state and has a mixed legal regime (Nosikov, 2010, p. 20).

In accordance with the 1982 Convention, the coastal state of this region has sovereign rights only for the purpose of exploring, developing and conserving natural resources, both living and non-living, in the waters that cover the bottom of the sea, on the seabed and its depths.

Along with this, the coastal state has sovereign rights both for the management of these resources and for other types of economic exploration and development of this area, such as energy production through the use of water, currents and wind.

When exercising their rights and fulfilling their obligations under the 1982 Convention in the Exclusive Economic Area, foreign states shall duly consider the rights and obligations of the coastal State (Wegelrin, 2002, p. 76).

Despite the fact that the legal regime of the exclusive economic area is formulated by the 1982 Convention in sufficient detail, the question of the legal status of the exclusive economic zone remains debatable at present. The lack of a specific article regarding the legal status of the exclusive economic area in the text of the 1982 Convention has resulted in the doctrine of international law, practically, from two points of view. The first one results from the fact that in the exclusive economic area the status of the open sea is maintained, but with certain exceptions in favor of the coastal state.

The representatives of the second point of view argue that the exclusive economic zone has its own legal status, different from both the status of the territorial sea and that of the open sea, in other words, the exclusive economic zone is a sui generis area. No state has the right to claim the subordination of the economic zone to its sovereignty. This important provision applies without prejudice to other provisions of the legal regime of the exclusive economic zone (Barabolya & Molodtsov, 1977, p. 15).

In this regard, attention must be paid to the fact that the Convention requires the coastal state and other states, when exercising their rights and obligations in the area, to take due account of mutual rights and obligations and to act in accordance with the provisions of the Convention (Abashibze, Arsentiev & Lazarev, 2005, p. 78).

Even at the height of the work of the Third UN Conference on the Law of the Sea, a significant number of states, which go beyond the course of events and are trying to

direct them in the right direction, have adopted laws on establishing along the shores of their fishing or economic zones up to 200 nautical miles (Golitin, 1976, p. 17).

At the end of 1976, almost six years before the conclusion of the Conference, the United States, the United Kingdom, France, Norway, Canada, Australia and a number of other countries, including developing countries, adopted these laws.

The results of the present research can be used in research works, as well as in teaching the course of international sea law.

Conclusions

The chosen theme seems to be very relevant, given the entry into force and ratification by our country of the 1982 United Nations Convention on the Law of the Sea (hereinafter referred to as the 1982 Convention).

This international treaty governs the international legal regime of marine areas, including the exclusive economic zone regime.

The 1982 Convention, which was the result of the Third United Nations Conference on the Law of the Sea, has had and continues to have a significant impact on the activities of states in the use and development of the natural resources of the oceans.

Of course, the subjects of international law in carrying out their activities in the World Ocean, which affect the rights and obligations of other subjects of international law, must act not only in accordance with the norms and principles of international maritime law, but also with the norms and principles of international law in general, including the Charter of United Nations, in the interests of maintaining international peace and security, the development of international cooperation and mutual understanding.

Maritime monitoring and surveillance is defined as the ability to monitor all activities in the maritime field, in order to support, where necessary, an efficient decision-making process regarding the actions to be carried out.

The indicated characteristics of the EEZ allow us to conclude that from the spatial point of view the EEZ is a three-dimensional region located outside the territorial sea and adjacent to it, having a certain width and which includes not only the surface of the water, but the entire water column above the seabed, its seabed and airspace above these waters.

Convention of one or more judicial bodies listed in the convention, for the resolution of its disputes regarding the interpretation and application of its provisions.

The International Tribunal for the Law of the Sea is a new judicial body, which, in addition to the optional jurisdiction that is vested in all international courts and arbitration, also has compulsory jurisdiction over certain categories of disputes.

The convention is unique in the theory of international law: on the one hand, it is codifying in nature, on the other it is the establishment of norms.

The Law of the Sea introduced by the UN Convention on the Law of the Sea: exceptional economic area; straits used for international transportation with the right of transit in them; archipelagic states with right archipelagic passage through archipelagic waters; closed and semi-closed sea; marine scientific research; protection and conservation of the marine environment.

Clearly, further crystallization of the relevant provisions in practice can result in significant controversy.

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