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ESSAY

THE SLOVENIAN–CROATIAN BORDER DISPUTE

Bence CSEKE

ABSTRACT

Croatia and Slovenia are two Western Balkans neighbourhood states, coexisted in the former Austro-Hungarian Monarchy until 1918 and after that in the South Slav State (Kingdom of Serbs, Croats and Slovenes, renamed to Yugoslavia in 1929) until 1991. Their first border and ethnic disputes, regarding the Northwestern-Istrian Slovenian community, the Free Territory of Trieste, the Piran Bay and the Mura river issues, emerged after 1945 but they were kept under by the interests of the federal government in Belgrade. Thus, these disputes could not have been solved in negotiated ways within the political framework of the Socialist Federal Republic of Yugoslavia therefore the issues of the disputed borderlines came under heavy political fire after 1991, when serious tensions erupted with the Slovenian and Croatian secession. Since then, Croatia has constantly contested that the borders at Piran Bay and Mura River must be revised and corrected according to the international legal norms and the original cadastral and administrative parcels.

Later, in the threshold of the Croatia-EU membership negotiations the dispute has escalated so much, that the Slovenian government, as a member state of the EU, has blocked several times the Croatian EU accession hence it was necessary to solve this problem in diplomatic and legal ways in order to consolidate their relation and help the Croatian EU accession.

In my essay, I try to unfold the origin of the border dispute, present the problem- managing efforts and conclude the possible solution of the Croatian-Slovenian coexistence within the EU.

DETERMINING THE BORDERS AT PIRAN –
THE FREE TERRITORY OF TRIESTE AND ITS
DISSOLUTION

In 1945, the Istria Peninsula and its area were liberated by the Yugoslav National Army led by Josip Broz Tito, the future president of the Socialist Federal Republic of Yugoslavia. Tito has managed to take control over this territory, but he could not capture the German forces in Trieste whose general capitulated to the Allied troops at the end of the war. In order to avoid the possible emerging tensions between the partisans and the regular Allied Army, Sir William Morgan British General and its committee have drawn a demarcation line between the two military administrations.¹ The Morgan Line was approximately 70 miles long, started at the southern coast of Trieste curved through the Isonzo Valley and finally ended at the Austrian border.²

After Tito's withdrawal to East from the Morgan Line, the United Nations, Italy and Yugoslavia started to negotiate about the subdivision of the occupied Italian territories focusing on Trieste and the Istria Peninsula. At the end of the diplomatic negotiations in 1947, the UN Security Council Resolution 16 allowed the establishment of the Free Territory of Trieste (FTT) that was acknowledged as an independent state, but also divided into two zones by the Morgan Line.³ *Zone A* was controlled by the Allied Forces, and the southern *Zone B* was administered by the Yugoslavian National Army. Very soon, the political processes of the two Zones have diverged, thus *Zone A* has begun to establish a capitalist framework meanwhile *Zone B* has created a socialist administration structure since 1947.

Therefore, the integration of the FTT seemed to be unachievable, therefore the USA, the United Kingdom, Italy and Yugoslavia signed a quadrilateral agreement on 5 October 1954 in London, deciding on the dissolution of the FTT between Italy and Yugoslavia.⁴ According to the London Memorandum, the former *Zone A* with Trieste was given to Italy and Yugoslavia annexed the former *Zone B*.

¹ Pittsburgh Post-Gazette

² Múlt-Kor Történelmi Portál, LUKÁCS B. György

³ UNSC Resolution 16/1947

⁴ The London Memorandum – 1954

Nevertheless, after the signature of the memorandum, *Zone B* was further divided between the Slovenian and Croatian federal member states. Due to this decision, Slovenia managed to hold possession of the territory located between the Morgan Line and Dragonja River, while Croatia took control over the Istria Peninsula, South from the Dragonja River.⁵ As a consequence of the division of *Zone B*, Slovenia acquired ports at the Adriatic coasts, Piran, Portorož, Koper, Izola, hence it was capable to carry out maritime trade activities that have soon become the cornerstones of the Yugoslavian and also the Slovenian economic development.

Later in 1975, the London Memorandum was further confirmed by the Treaty of Osimo by Italy and Yugoslavia. The treaty did not modify the current separation of FTT, but consolidated the legitimacy of the 1954 division, thus finalized the border limitation at the Northern Adriatic area.⁶

THE COLLAPSE OF YUGOSLAVIA – EMERGING BORDER DISPUTE

For obvious reasons, the border dispute between Croatia and Slovenia could not emerge until the collapse of Yugoslavia, because the federal government has successfully covered the internal conflicts subjecting them under the Yugoslavian interests as in this case. However, the Slovenian minority issue between the Dragonja and Mirna Rivers controlled by Croatia, and the forced “Croatization” of Istria were delicate points making tensions periodically in the federal Croatian-Slovenian coexistence.⁷

Finally, the collapse of Yugoslavia has allowed again to evolve the initiatives of the border dispute of Croatia and Slovenia. In 1991, Slovenia and Croatia declared their independence based on the so called *uti possidetis* international legal norm, hence the former administrative federal borders were proclaimed as state borders that were disputed immediately by the Croatian government.⁸ It was thought that the former member states would negotiate quickly the issue of the problematic borderlines thus stabilizing their bilateral relations. But it soon became clear that the much-anticipated agreement that could solve the border

⁵ Múlt-Kor Történelmi Portál, LUKÁCS B. György

⁶ Official Document of the Treaty of Osimo

⁷ Duša KRNEL UMEK, 27-29. page

⁸ Matej AVBELJ and Jernej LETNAR ČERNIČ, 3. page

dispute could not have been adopted due to the crucial differences between the Croatian and Slovenian positions.

In June 1991, when Slovenia became an independent state, the government declared that the borders must be acknowledged according to international agreements (London, Osimo) that designated Dragonja River as the Southern border of Slovenia in that area.⁹ In this case, state borders comported with the *uti possidetis* administrative border were disputed by the Croatian state. The limitation issue has begun to deepen when Zagreb claimed if Slovenia relies on the international law, the border lines at Piran Bay must be changed according to the international law of the sea. In order to prove the territorial and maritime demands, the Zagreb government made a reference to the first sentence of Article 15 of the United Nations Convention on Law of the Sea:

*Article 15: 'Where the coasts of two States are opposite or adjacent to each other, neither of the two States is entitled, failing agreement between them to the contrary, to extend its territorial sea beyond the median line every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured. The above provision does not apply, however, where it is necessary by reason of historic title or other special circumstances to delimit the territorial seas of the two States in a way which is at variance therewith.'*¹⁰

To summarize, Zagreb argued that Piran Bay must be divided along the median line equidistantly. In this case, the Croatian-Slovenian border line should be drawn along the Northern stream of the Dragonja firth, so that Croatia could extend the borderline to the middle of the Piran Bay jeopardizing the Slovenian maritime interests. Meanwhile, Slovenia referred to the second sentence of the Article 14. It claimed that in the Piran bay issue the historical circumstances must be respected, therefore the Southern flow of Dragonja River could only be acknowledged as official borderline. Moreover, the ethnic border of Slovenia spreads to the Mirna River which is situated south from the Dragonja River, hence the Slovenian authorities did not want to allow the Croatian claims losing more Slovenian ethnic territories. But the most important reason of the Slovenian position

⁹ Duša KRNEL UMEK: Slovenians on the Adriatic, 34. page

¹⁰ United Nations Convention on the Law of the Sea, Article 14

was that if Croatia extended the borders to the median line at Piran Bay, Slovenia would lose its connection to the Adriatic high seas.



Blue: Croatian claim (West bank of Dragonja), Yellow: Slovenian claim (South bank of Dragonja), Light Blue: artificial channel

During the Yugoslavian atmosphere, the division of the Adriatic coast was rather irrelevant regarding the maritime trade practices because the federal state provided free access to the open sea equally for all member states. But after 1991, Zagreb discredited the Slovenian accession to the high sea therefore it became necessary to solve the maritime dispute so that Slovenia and Croatia manage to harmonize their trading and shipping activities.

THE ADRIATIC SEA AND THE SLOVENIAN ECONOMIC INTERESTS

After the London Memorandum, the Slovenian member republic has begun to establish its economy also on the possibilities provided by the Adriatic maritime connections and the common Yugoslavian coastal waters. Due to the geographical determination, Slovenian state has soon built up a relatively extended fishing activity over Slovenian waters that resulted the moderate overfishing of the Portorož (Piran) Bay. For this reason, in 1962 the Slovenian member republic decided to prohibit the fishing activity in the bay to protect the marine wildlife. Later in 1987, the Community of Coastal Municipalities adopted a decree on maritime fishery adopted the

regulation of the traditional fishing of mullets in the Portorož Bay.¹¹ But apart from this fact, over other marital areas fishery has remained an important economic activity and possibility, on which Slovenia could capitalize according to its requisites, although the sea area possessed by Slovenia was not sufficient to maintain such a large-scale activity as fishery.

The cornerstone of the fishery issue was the protection of the Slovenian connection to the high seas where it could pursue this activity economically and also beneficially. But the question of the connection corridor between Slovenian territorial waters and the high sea was not negotiated with Zagreb until 2001, as it will be mentioned below, thus the Slovenian must have coped with international legal problems regarding its fishing intentions.

Another important economic activity in the region is the saltmaking which points back to the Venetian times. It is one of the oldest and most traditional activities on the north-eastern shore of the Adriatic in the contemporary Slovenia, still practiced on 850 hectares near Sečovlje village, which is also a border crossing point between Croatia and Slovenia.¹² The saltation area spreads in the Dragonja firth which is claimed by Zagreb, consequently, the Croatian territorial demands endanger also this traditional, unique and still beneficial form of economic production, therefore Ljubljana will not accept the border changes according to the Croatian claims.

But above all, the most important Slovenian interests at the Adriatic Sea are the ports, especially the Koper international port through which Slovenia could maintain and develop commercial relations with other maritime states, especially in the Mediterranean. According to the profile of the port, it consists of several terminals (container, car, mineral, liquid cargoes, cereals, livestock, fruit, passenger) that prove commercial and delivery importance of Koper International Port. As the 2012 details show, total maritime throughput in Koper was 17 880 697 tonnes which means a decisive commercial growth in every terminal comparing with the total 17 051 314 tonnes in 2011.¹³ In addition, comparing Koper port to the Croatian

¹¹ These decrees were also important in the determination of the Croatian-Slovenian border at Piran Bay with the exact limitation of the fishery area at the Slovenian coast, also drawing the border between the two member republics. Duša KRNEL UMEK, 33. page

¹² Official website of the Salt Works in Sečovlje

¹³ Official document of Koper International Port – Terminals and Cargo

Rijeka port, the outstanding commercial importance of Koper must be underlined. As the statistics show, in 2010 the total commercial activity was 6 611 707 tonnes in Rijeka Port while Koper pursued a 15 372 043 tonnes international commercial traffic, thus the Koper port can gain much more economic profit for Ljubljana than Rijeka for Zagreb.¹⁴

Due to these commercial advantages and economic activities pursued in the Adriatic region, Ljubljana has acquired considerable additional governmental revenue, therefore the Slovenian state did not acknowledge any Croatian territorial demand in the Piran Bay, because Zagreb's claims would terminate this financial prosperity. But in the same time, the division of the former Yugoslavian, and still indeterminately used, territorial waters has remained unresolved, hence the issue of the Slovenian connection to high seas must have been negotiated in order that the maritime commerce of Ljubljana and Zagreb could adhere to the international legal regulations. For this reason, Croatia and Slovenia entered into conversation in the threshold of the millennium to consolidate their maritime border dispute.

DIPLOMATIC NEGOTIATIONS OVER THE MARITIME AND LAND BORDERLINE

It was a long overdue, when in 2001, the first bilateral agreement on the border dispute was signed by Janez Drnovšek and Ivica Račan the Slovenian and Croatian prime ministers. With the Drnovšek-Račan bilateral agreement the negotiators wanted to manage all elements of the border issue within one document defying the entire borderline between the two actors with a special focus on Piran Bay and the maritime border. Regarding the provisions of the agreement, Slovenia has successfully vindicated its geostrategic concept, because the left bank of the South prong of Dragonja River was acknowledged as official border as Ljubljana claimed

¹⁴ Of course, the integrated Croatian maritime trade volume is higher than that of Slovenia, because besides Rijeka port Croatia has six more international ports (Pula, Sibenik, Ploče, Zadar, Dubrovnik, Split) that extends the annual maritime trade volume to 23 100 000 tonnes. Above in the essay, I just made a comparison between Koper and Rijeka port underlining the fact that due to the transit and transportation infrastructure, Koper port could catch up with and finally outpaced Rijeka port that possesses also an excellent transit and embarking infrastructure.

Croatian Chamber of Economy Transport and Communications Department: Maritime, river and pipeline transport. Luka Rijeka – Statistics 2010. Koper International Port – Terminals and Cargo.

it, thus Slovenia could maintain its sovereignty over this territory.¹⁵ The other land borders of Slovenia – as the Mura River – were left also inviolate, thus the southern border of Slovenia has remained the former Yugoslavian inner borderline.¹⁶ Another Slovenian success was the delimitation of Trieste Bay. Although Croatia acquired approximately two thirds of the bay creating the common Italian-Croatian maritime border, but according to the international legal norms Croatia had to provide a corridor throughout the Croatian waters so that Slovenia could connect its maritime trade to international high seas (fourth annex).¹⁷ This guarantee was more than enough for Ljubljana whose interests were totally satisfied by the vindication of its territorial efforts, thus the Slovenian government considered the agreement as a great success over the stabilisation of the territorial state. Consequently, the Slovenian parliament has ratified immediately the bilateral agreement.

But on the other hand, Croatian people and also the Zagreb government considered the provision of the agreement unacceptable and the defeat of the Croatian territory demands, therefore in 2002 the Račan government sent a letter to Ljubljana stating that Croatia could not pursue the application of the agreement and insisting that the border dispute should have been settled in the International Tribunal of Justice in the Hague, hence the Croatian legislation did not ratify it.¹⁸ So thus, missing the Croatian ratification the Drnovšek-Račan agreement could not come into effect, consequently a decisive bilateral problem-solving legal act had to be taken out.

After the failure of the first attempt, the negotiators did not reset the diplomatic processes in the next three years. But problems that were left unsolved had negative impact on the cohabitation of the two states, because due to the constantly disputed and ambiguous limitation of Piran Bay many border incidents have occurred. For this reason, the foreign ministers of Slovenia and Croatia on 10 June 2005 signed the Brioni joint declaration

¹⁵ Treaty between the Republic of Slovenia and the Republic of Croatia on the common state border, 2001, Article III.

¹⁶ Treaty between the Republic of Slovenia and the Republic of Croatia on the common state border, 2001, Article VI.

¹⁷ Treaty between the Republic of Slovenia and the Republic of Croatia on the common state border, 2001, Article V.

¹⁸ European Perspectives, 97. page

whose purpose was not to solve the border dispute, but to ensure respect for the 1991 *status quo* to avoid further incidents.¹⁹

At this juncture, Ljubljana and Zagreb must have admitted that the current situation is insupportable therefore they should handle the problem-solving negotiations out of the ordinary bilateral routine. As a consequence, in 2007 the two then prime ministers of Croatia and Slovenia, Ivo Sanader and Janez Janša have agreed in Bled that they would transfer the competence of ultimate decision over the border dispute to the International Court of Justice.²⁰ Nevertheless, lacking enough confidence the Bled document was not supported by the Slovenian elite – as the rejected Drnovšek-Račan agreement by Croatian politicians – therefore Slovenia has neglected the agreement and the establishment of the international legal investigation commission. Consequently, the border dispute has so much escalated that Slovenia expressed its relative power as EU member with the emerging veto practice against the Croatian EU accession aggravating the tensions among the European enlargement negotiations. Among these circumstances, the border dispute seemed to be a deadlock situation that can be handled successfully alone with wider and increased cooperation of EU member states and the International Court of Justice in The Hague.

SLOVENIAN BLOCKADE AGAINST EU ACCESSION

In line with the dispute-solving attempts since 2001, Croatia has also launched its EU accession process signing the Stabilisation and Association Agreement in 2001, and the presentation of its accession request in 2003. Due to the initial overture between the EU and Croatia, Zagreb managed to start the accession negotiations in 2005, and hoped that this diplomatic process and the legal harmonization will be completed by the end of 2009.²¹ But the problem was that since the beginning of the EU-Croatia negotiations, Slovenia has repeatedly threatened and pressed the negotiators with the envisaged blockade of the Croatian accession process, if Zagreb does not respect the Slovenian territorial claims.

EU politicians and diplomats hoped that the Slovenian political elite and legislation will deter from this hostile attitude, but the situation turned into serious when the Ljubljana government declared just before the parliament

¹⁹ European Perspectives, 97. page

²⁰ European Perspectives, 98. page

²¹ Tomasz ŻORNACZUK, 56. page

elections in 2008 that it would block the accession negotiations at whatever cost because according to the Slovenian accusations, the Croatian delegation to EU has presented false information and positively varied facts in eleven accession chapters to influence the possible outcome of the border dispute during the consultations with Brussels.²²

Subsequently, Slovenia has successfully failed several times the Croatian goals, causing serious bouleversement within the progress of the Croatian EU accession efforts. Of course, the aim of Ljubljana was to make Croatia acknowledge the former Yugoslavian borders as actual interstate borderline, but the Slovenian government did not calculate that its reactions against the Croatian accession could get itself easily disliked among member states in the Council of EU, that are more or less but all in favour of the Croatian accession.

As Ljubljana contended, the disputed Croatian accession documents included several errors regarding the determination of the borderline. For example, in the chapter on agriculture and rural development, Croatia claimed that settlements on the left side of the Dragonja are the parts of the Croatian territory, but in fact they are possessed by Slovenia as the most important saltation area of the country. Furthermore, the chapter on Trans-European Networks had a reference to controversial and disputed maps with the maritime boundary that obviously supported the claims of the Croatian government.²³

Owing to the Slovenian unalterable standpoint, Ljubljana vetoed the EU-Croatia accession process in 2008, thus lacking the Slovenian authorisation, Croatia could not become the next joining state of the community, even if other member states have accepted the Croatian accession. In this case, the 2009 deadline to end the accession negotiations was not achievable therefore the EU politicians have decided to establish a problem-solving mechanism to make the Croatian accession manageable as soon as possible.

For this reason, Olli Rhen, former European Commissioner for Enlargement has proposed to Slovenia and Croatia that they should transfer the right of delimitation to an independent international legal commission which will determine the maritime and land borderline.²⁴

²² European Perspectives, 99. page

²³ Arjan ULJENREEF, 16. page

²⁴ Arjan ULJENREEF, 17. page

According to Rhen's initiative, the international Arbitration Tribunal would be led by the former Finnish president, Martti Ahtisaari, and contained one Slovenian and Croatian member who could select two additional international candidates. With the establishment of the international delimitation committee, Rhen aimed to make the accession negotiation neutral from border dispute, thus providing the facilitation of Croatian EU membership, while the border dispute would be solved within the framework of the Arbitration Tribunal.

Following Rhen's declaration, Slovenia has hailed this engagement and assures its support in this case. But Croatia feared that Slovenia, as an EU member state, could easily influence the work of the Arbitration Tribunal, hence Zagreb hesitated a little. But due to the European pressure and the engagement of the two disputing actors, Slovenia and Croatia have finally agreed on Rhen's initiative therefore Jadranska Kosor and Borut Pahor, the Croatian and Slovenian prime ministers could sign the Arbitration Agreement on 4 November 2009 in Stockholm with the participation of the Swedish EU presidency. After the approval, both states had to ratify the agreement, and fortunately the compulsory ratification was completed without any rejection, even in Slovenia a legislative referendum has also affirmed the document.²⁵

THE ARBITRATION PROCESS

The arbitration process was launched on 17 January 2012. Following the above mentioned tripartite agreement, the international commission was led by the French lawyer, Gilbert Guillaume former president of the International Court of Justice instead of Mr. Attisari, and the two external members were the German Bruno Simma and the English Vaughan Love. According to the provisions of the Stockholm agreement, Slovenia and Croatia could delegate Dr. Jernej Sekulec and Professor Budislav Vukas in order to project their maritime state interests.²⁶

As the latest document of the Arbitration Tribunal dated on 11 February 2013 affirms that Slovenia and Croatia proposed a mutual note concerning the territorial and maritime border dispute, with several volumes of maps

²⁵ European Perspectives, 100. page

²⁶ Official Arbitration Between the Republic of Croatia and the Republic of Slovenia

and documents in order to prove their territorial demands.²⁷ This note had three main targets:

- determining the land and maritime boundary between Croatia and Slovenia
- reassuring the Slovenian corridor to high seas
- dividing the maritime areas

Unfortunately, the tribunal will gather again quite late on 11 November 2013 therefore the delimitation process could linger over a long period. In this case, Croatia and Slovenia must still wait patiently for the judgement of the Arbitration Tribunal.

But to sum up, we can evaluate the EU problem-managing measures effective, because Slovenia has given up the veto practice therefore in December 2011, Croatia has managed to put an end to the accession negotiations hence it could join the EU on 1 July 2013. As the border delimitation between Croatia and Slovenia, the most important achievement was that the two parties have transferred this bilateral-local dispute to an international institution which is possibly able to handle the land and maritime border issue with success finding a solution that can be acceptable for both states. With this legal possibility, Croatia and Slovenia have succeed to get rid of the burden of the bilateral delimitation method therefore they have the possibility to carry out a less hostile international dispute management and a more flourishing coexistence within the EU which is the interest of both Croatia and Slovenia.

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ESSAY

HUNGARIAN FOREIGN POLICY IN THE EUROPEAN NEIGHBOURHOOD POLICY FRAMEWORK

Zoltán SZÁSZI

Hungary, a member of the European Union, NATO and the Visegrad Group, has a two-decade-long tradition of European and North Atlantic integration, originating in the downfall of Soviet Socialism in Central and Eastern Europe and the foundation of the Third Republic of Hungary. Ever since the 1990s democratic transition in Central and Eastern Europe, Hungary has defined its foreign policy making as driven by two prime objectives, namely, the pursue of Euro-Atlantic integration and the improvement of the country's position in its smaller region especially in terms of the ethnic Hungarian minorities of the neighbouring countries and economic interests. The first of these objectives, the Euro-Atlantic integration was accomplished by the mid-2000s, when the integration of Hungary into the Atlantic alliance systems and the European Union has been carried out to its fullest extent.

Hungarian foreign policy goals today can be best achieved within the institutional framework of the EU and the V4. The core Hungarian foreign policy interests lie in the field of European neighbourhood policy and accession. Understandably, Hungary focuses on the contribution to these aspects of the European foreign policy. This paper aims to assess the characteristics, importance and influence of Hungarian foreign policy making in these fields of EU foreign policy. In order to analyse the pursuing of core Hungarian interests in this system, the study models Hungarian foreign policy making through the methodology of a case study. To construct the working model of Hungarian foreign policy making within the institutional boundaries, I study the two major fields of foreign policy that Hungary focuses on. The first is the integration of Balkan and the Hungarian commitment to this process. The second is the Eastern Partnership program in the EU Neighbourhood Policy and the role of Hungary in it. To analyse these two fields, I must create two separate case studies.

I will discuss the capabilities and achievements of the Foreign Service and the governmental bureaucracy, and the two major roles on which the current Hungarian government can base its diplomatic influence to achieve its foreign policy goals: The EU Council Presidency and the Visegrád Group Presidency.

THE BALKAN INTEGRATION

Characteristics of the Balkan region, and its ties to Hungary

The Balkan region is a territory with complex socio-political and economic characteristics. The loss of state unity in the region, (the gradual disintegration of Yugoslavia, the Yugoslav War) did not only leave the region with multiple sovereign states in a tense regional system with blurred boundaries, but also with massive economic and social disruption.¹ This has led to a region-wide instability of the system, and after the final disintegration of Yugoslavia, this system consisted of Slovenia, Croatia, Bosnia-Herzegovina, Serbia, Montenegro, Macedonia, Albania, Bulgaria and later Kosovo. Three characteristics are important in the internal dynamics of this system. The first is that the new states vary in their level of territorial sovereignty, infrastructure and bureaucratic capabilities. Slovenia and Croatia, the two former Yugoslav EU member states are the most developed in terms of civil society, governmental bureaucracy efficiency, economy and fully operational sovereignty, while Bosnia and Kosovo have limited sovereignty over their own territory.² The second is that the collapse of the unified central power in the region leads to region-wide emergence of non-state factors, namely, ethnic groups and organised crime networks.³ The third is the presence of the internal political factors. Two larger, relevant fractions are present, namely, the pro-EU, 'liberal' reformists and the resisting, Euro-sceptic nationalist groups.⁴ While during

¹ *Arolda ELBASANI*: European Integration in the Western Balkans: Revising the Transformative Power of the EU. *In*: e-International Relations (<http://www.e-ir.info>) May 30 2013. URL: <http://www.e-ir.info/2013/05/30/european-integration-travels-to-the-western-balkans-revising-the-transformative-power-of-the-eu/>. (Accessed: 13.11.2013. 20:11)

The author discusses the complex situation of the Balkan region, and the collision of domestic actors – the Pro-EU 'liberal' reformists and the resisting nationalist political forces.

² *Ibid.* "State-building both as a process of settling borders, consolidating national unity and/ or strengthening institutional capacities remains, is at best, incomplete across the Western Balkan cases. Bosnia and Kosovo are contested states that possess limited sovereign authority and are run as protectorates."

³ *Ibid.* "The violent collapse of Yugoslavia and consequent vacuum of state authority across the post-Yugoslav space has enabled the mushrooming of informal networks that use and prey on the formal institutions, reducing them to empty shells incapable of performing the tasks required by the EU (*Kostovicova and Bojicic-Dzelilovic* 2008:19). Even Albania, which transferred as an intact territory into its post-communist existence, suffered a violent breakdown of state authority in 1997, which enabled the collusion of illegal networks within the highest echelons of political power."

⁴ *Ibid.* "Europeanists' search for domestic conduits of change has, by and large focused on domestic actors with whom the EU can create some kind of 'coalition' to push forward its agenda of change ... and [there are] repelling groups who resist the EU enlargement agenda. By the 2000s, the situation in the Western Balkans was resolutely different from the vicious circle of nationalism, violence and authoritarianism that had locked-in their distinct path of transformation in the first decade of transition."

the 1990s, these groups (in connection with the ethnic factors) were dominant in the area, by the end of the 2000s, the capabilities of the pro-EU fractions enabled deeper Europeanisation of the region.

Hungary is interconnected with the Balkan region and is a northern neighbour of the Balkans. Also, Hungary is an EU, NATO- and Visegrád Group member, making the country one of key importance to the resolution of the Balkan conflicts. Two countries can be defined as most important for Hungarian foreign policy making in this region, Croatia and Serbia. While the liberal institutional framework generally enhances the Hungarian potential to achieve foreign policy objectives in the region, (through institutional roles studied in the next sub-chapter) these two countries present separate socio-political tendencies that can influence inter-state relations in the area, effectively serving as intermediary variables affecting the dynamics of foreign policy.

Institutional possibilities for Hungary in the Balkans

Generally, the European framework can increase Hungarian foreign policy making capabilities in the region through two institutional roles, the 2011 Hungarian Council Presidency and the 2013/14 Hungarian Visegrad Presidency. These two roles amplify the diplomatic capabilities of Hungary as a V4 and EU member state, enabling the country to influence the course of regional Europeanization and integration.

Hungary is the northern neighbour of the Balkan region and has a geopolitical role in the shaping of the regional state structure. As I discussed before, Hungary has an influence in the region, along with internal factors, which are political fractions and inter-regional actors. The influence of Hungary is hard to assess. Simply put, if we look at the region as a relatively closed system, Hungary is an outside factor interacting with this system and injecting influence into it. This influence serves the Hungarian interests which are socio-political and economical in their nature. The diplomatic relations of modern Hungary and the Balkans date back to the 1990s. This means that the origins of these ties are older than the integration of Hungary and Central Europe to the European Union. However, inter-state relations have been embedded into the European context of the EU neighbourhood and accession policy. Under this umbrella,

Hungary seeks cooperation in the Balkans, following the liberal institutionalist pattern of foreign policy making.⁵

The Hungarian Presidency of the Council of the European Union gave Hungary the possibility to influence the European Union's commitment to the integration of the Western Balkans. Three specific achievements support this claim.

The first of these achievements of the Hungarian Presidency is the organisation of the Western Balkans Forum, chaired by EU High Representative for Foreign Affairs and Security Policy, Lady Catherine Ashton, and attended by Member States Foreign Ministers. The importance of this meeting is that it creates an institutional framework to channel the EU's institutional potential towards the Western Balkans integration – Balancing out bureaucratic obstacles by the legitimative power granted by the presence of the High Representative for Foreign Affairs and Security Policy.⁶

The second accomplishment of the Hungarian Presidency is that it could combine the influence of EU officials, professionals and NGOs dedicated to democratic transition in order to boost the political momentum towards the Balkan Integration. Before the start of the 2011 Presidency, an ICDT (International Centre for Democratic Transition) conference took place in Budapest in November 2010. Hungarian officials and NGO professionals discussed the possibilities and challenges of the upcoming Hungarian Presidency, creating a professional authority to the Hungarian

⁵ Rebecca DEVITT: Liberal Institutionalism: An Alternative IR Theory or Just Maintaining the Status Quo? In: *e- International Relations* (<http://www.e-ir.info/>) September 1, 2011. "Furthermore within a liberal institutionalist model states seek to maximize absolute gains through cooperation, states are therefore less concerned about the advantages achieved by other states in cooperative arrangements. ... By focusing on International organizations such as the United Nations, the European Union and the World Bank, liberal institutionalism argues for greater emphasis on soft power and cooperation ..." URL: <http://www.e-ir.info/2011/09/01/liberal-institutionalism-an-alternative-ir-theory-or-just-maintaining-the-status-quo/>. (Accessed: 29.12.2013. 10:57)

⁶ Annual Western Balkans Forum takes place in Luxembourg In: Website of the Council of the European Union. (www.consilium.europa.eu) URL: www.consilium.europa.eu/uedocs/cms/122933.pdf. (Accessed: 16.11.2013. 16:32). "The meeting provided us with an opportunity to discuss the latest developments with all of our colleagues from the Western Balkans in a strategic manner. Our messages were clear: the Balkans region is very important to the European Union, the European perspective is tangible and we want to see the whole region move forward in EU integration.", said Lady Catherine Ashton, according to the official announcement of the Western Balkans Forum. The statement of the High Representative for Foreign and Security Policy carries both professional authority and political momentum towards the dedication to the Western Balkan integration.

commitment of the Western Balkan integration, connecting it with the importance of democratic transition in South-Eastern Europe.⁷

The final accomplishment of the Hungarian Presidency is that it actually affected EU neighbourhood and accession policy-making by speeding up the integration of the Western Balkans. Arguably, the Hungarian and Polish Council Presidencies did the bulk of the work behind the closing of the deal of the relatively fast Croatian accession.⁸

The other role that can potentially amplify the Hungarian institutional capabilities in foreign policy making in the Western Balkan integration is the Hungarian V4 Presidency.

The greatest possibility of this institutional role is that the Hungarian Visegrád Four group Presidency in 2013-14 grants Hungary a bureaucratic potential to influence the Balkans, connecting them on the Central European development axis, similar to the bureaucratic possibilities of the EU Council Presidency in 2011. The V4+ (The four Visegrád countries plus Romania and Bulgaria) group has an increased potential on the integration of the Balkans. More specifically, the Hungarian plans for the further Western Balkan integration include the political influence in the EU institutional mechanism towards further enlargement and integration and the instruments of the Visegrád Fund.⁹ The bureaucratic potential the V4 Presidency grants Hungary is important, in this case, because it brings the deeper commitment of the V4 and V4+ countries into the EU infrastructure

⁷ EU Integration of the Western Balkans and the Hungarian EU Presidency In: ICDT (<http://www.icdt.hu/>) URL: <http://www.icdt.hu/events-and-gallery/past-events/2010/eu-integration-of-the-western-balkans-and-the-hungarian-eu-presidency>. (Accessed: 16.11.2013. 19:27).

⁸ Péter RADA: The “Central European” Year of Hungarian Foreign Policy In: *Center for European Policy Analysis*. (<http://www.cepa.org/>) April 2 2013. URL: <http://www.cepa.org/content/“central-european”-year-hungarian-foreign-policy>. (Accessed: 16.11.2013. 19:27).

“... At the same time, Hungary will call attention to the other region of common V4 focus: the Western Balkans. Croatia’s EU accession this year is a good example of the V4’s pursuit of common interests and objectives, as the completion of the negotiations was one of the priorities of both the Hungarian and the Polish EU presidencies.”

⁹ EU Affairs In: *2013–2014 Hungarian Presidency, Visegrád Group* (<http://www.visegradgroup.eu>) URL: http://www.visegradgroup.eu/documents/presidency-programs/20132014-hungarian#_Regional%20Development. (Accessed: 17.11.2013. 09:32)

to balance out the obstacles of the EU enlargement.^{10,11} This can be best orchestrated by the continuation of the already existing meetings between V4 and Western Balkan foreign ministers, in order to synchronize the V4 countries' strategies on the European level to promote further Balkan integration.

The second institutional possibility is the one presented by the increased bureaucratic potential to influence the financial instruments committed to the Western Balkan integration. The plans for the Hungarian Presidency to host meetings on the implementation of the IPA instruments (Instrument of Pre-Accession Assistance) between Western Balkan officials and experts from the V4 bureaucracy can increase the efficiency of the IPA II. applied to the economic integration of the region. This is a socio-economical possibility. This instrument is used in the pre-accession process between the EU and the would-be member-state. The Hungarian V4 Presidency in this case can represent the economic interests of the whole of the Central European region, which is, to direct EU resources as much as possible, to the economic and social integration of the Balkan region.

The third possibility for Hungary to enhance the efficiency of the Balkan integration is to rely on the V4 Group's own instruments for integration. The Hungarian Presidency plans to create a new Western Balkan Fund, based on the model of the already existing Visegrad Fund to commit further financial instruments for the integration of the Western Balkans.¹² This measure is important both to Hungary and its V4 partners and the whole of the Communities. As discussed above, Hungarian interests lie in the fast economic integration of the Balkans. The idea of the Western Balkan Fund shows the economic nature of the Hungarian and V4 interests in the area.

¹⁰ Gergő RÁCZ: Hungary Pushes On for European Integration of Balkan Countries In: *Emerging Europe, Wall Street Journal blog*. URL: <http://blogs.wsj.com/emerging-europe/2012/06/15/hungary-pushes-on-for-european-integration-of-balkan-countries/>. (Accessed: 17.11.2013. 10:11) “*The governmental communication of the Orbán administration shows the diplomatic collision lines between the Pro-Integration and Contra-Integration political fractions. Of course the presence of such fractions is just a modelling tool to describe the tension between the Pro-Integration political will on one side and the institutional limitations and hesitance on the other, but it serves well to describe the dynamics of political tension behind the Balkan integration.*”

¹¹ Foreign Policy Initiatives In: *2013–2014 Hungarian Presidency, Visegrád Group*. URL: http://www.visegradgroup.eu/documents/presidency-programs/20132014-hungarian#_Regional%20Development. (Accessed: 17.11.2013. 09:32) This chapter further discusses the Hungarian Presidency's call for a joint effort for the stabilization of “South- Eastern Europe”.

¹² Eastern Balkans In: *2013–2014 Hungarian Presidency, Visegrád Group* URL: http://www.visegradgroup.eu/documents/presidency-programs/20132014-hungarian#_Regional%20Development. (Accessed: 17.11.2013. 09:51) The chapter further discusses the stabilization and euro-atlantic integration of the Balkans region.

Economic interests and institutional traditions create the necessity of the use of financial instruments as the means of cooperation in the European integration. The area is also important to the Communities in an economic sense, because the Balkan region is only *relatively* isolated as a regional politico-economical system. Its instability can easily spread to the more developed, larger Central European region due to the interconnected nature of economic system of the European communities.¹³

Social development and shared values apart, the pure economic necessity of wider Central European economic integration makes the Balkan integration a primary objective, not only for Hungary, but for the whole of the V4 group. In the framework of the EU, for the V4 countries, the economic interests can only be achieved through institutional means. In other words, economic integration of the Balkan region, as the most efficient way of international cooperation, is the most beneficial, if not only, course of action for Hungary and other V4 countries to achieve their foreign policy goals. The improvement of the Balkan region is a shared V4, V4+, and generally, Central European interest.¹⁴ In this sense, the institutionalist framework not only enhances the efficiency of cooperation, but effectively makes cooperation a kind of necessary trajectory on which already integrated Central European countries and Balkan partner countries can move forward, bound by the institutional system of the EU and the V4 and driven by their own economic interests.

Given these facts, it is clear that Hungarian foreign policy making, in terms of the Balkan region, is basically shaped by the institutional capabilities of the country within the framework of the EU and the V4. The basic pattern of Hungarian foreign policy making in the Balkan, therefore, is bound by the institutional traditions and the country's own politico-economic

¹³ Building the Future Together. The European Union and the Western Balkans pp. 05-07. In: *the website of the European Commission* (ec.europa.eu) URL: http://ec.europa.eu/enlargement/pdf/financial_assistance/cards/publications/brochure_en.pdf. (Accessed: 17.11.2013. 12:48) *This official source from the EC discusses the importance of the economic integration of the Balkans region and presents financial instruments on the EU level.*

¹⁴ Alexander Whyte: Neorealism and neoliberal institutionalism: born of the same approach? In: *e-International Relations*. June 11, 2012. "Although neorealists were primarily concerned with security, and neoliberals focused on the economy, rationalist theories share a common analytical starting point: i.e. states are in the self-interested main actors within the anarchic international system (Baldwin, 1993). Regardless of their slight differences, this self-help approach to anarchy held by rationalists generates a competitive notion to security and creates an issue for collective action. The logic of self-help encourages states to adapt to the system. Although neoliberals have conceded to neorealist the causal powers of the anarchic structure, they argue that this process of self-help can spawn cooperative behaviour between states, even in an exogenously given, self-help system" URL: <http://www.e-ir.info/2012/06/11/neorealism-and-neoliberal-institutionalism-born-of-the-same-approach/>. (Accessed: 29.12.2013. 14:12)

interests, which is cooperation. Through the liberal institutionalist lens, it is clear that the capability of Hungary to pursue its interests in the Balkans is enhanced and improved by the institutional framework of the EU and the V4. However, there are other factors at play which can lead to changes from the original pattern in case of each country.

Other contributing factors

Basically, Hungarian foreign policy making is enhanced by institutional capabilities in the Balkan region. However, this pattern is changed by many other factors, strengthening or weakening the diplomatic power of Hungarian foreign policy in the region. These factors vary in each country. As the most important countries for Hungarian foreign policy making are Croatia and Serbia in the region, this case study focuses on the socio-political factors in these countries that can affect their respective relationships with Hungary.

The closest diplomatic ally of Hungary in the region is Croatia. To understand the socio-political tendencies at play, we must observe the Croatian-Hungarian relationship through the lens of constructivist discourse theory expanded with the introduction of social myths described by *Walter Russel Mead*. The Croatian society has two alternatives for self-identification. The country was a part of Austria-Hungary as a country under the Hungarian Crown, until the 1920 Trianon Treaty, leaving massive socio-cultural relations between the two societies.¹⁵ The other alternative is the Yugoslav (South Slavic) identity. From a constructivist point of view, it can be argued that these two sets of norms are colliding and competitive “identity packages”, essentially, social constructions influencing the Croatian society’s internal social decision-making system. Constructivist discourse theory states that a society creates and re-creates norms through its massive network of social discourses, placing itself in a

¹⁵ Géza JESZENSZKY: Hungary and the Break-Up of Yugoslavia. In: *Hungarian Review*. March 10 2011. URL: http://www.hungarianreview.com/article/hungary_and_the_break-up_of_yugoslavia. (Accessed: 16.11.2013. 08:47) „Hungary’s position was ambiguous. From the 11th century until 1918 Croatia was in a dynastic personal union with Hungary, resembling the relationship of Scotland to England. Cultural and religious similarities, plus family ties between the two were complicated by memories of nationalist tensions in the 19th century, ending in divorce at the end of 1918.” The work of former Hungarian Foreign Minister Géza JESZENSZKY on Hungary’s regional connections.

social reality.¹⁶ Based on this observation, it can be stated that these two sets of social constructions can lead to two competing social myths in the Croatian society.¹⁷ The best fitting name of these myths would be the *Old Tradition*, promoting Croatia's past before the Yugoslav era, including its place in Austria-Hungary, and the *Yugoslav Myth* that provided legitimacy for the country's accession to the unified Yugoslavia. In the Yugoslav War, the *Yugoslav Myth* was obviously completely eroded, and Hungary saw opportunity in restoring its good relations to the Croatian society by selling firearms to Croatia and re-opening its Consulate-General in Zagreb, closed since 1941. Arguably, Hungary's role in the Croatian freedom fight strengthened the *Old Tradition* myth, which prevailed over the *Yugoslav Myth* in the independent Croatian nation. The true value of this myth, as a set of social constructions binding Hungary and Croatia in a friendly, allied diplomatic relationship is that on a regional scale, this socio-political environment enhances the efficiency of Hungarian foreign policy making in the country. The relations between the two countries were also strengthened by cordial personal-diplomatic relations on the highest level. Hungarian Prime Minister Viktor Orbán (in his first administration) maintained a good relation with Tudjman's Croatia even during the EU diplomatic isolation of the country and former president Árpád Göncz also frequently took diplomatic visits to the country.¹⁸

This set of social constructions, observed from the neoliberal point of view, arguably serve as a basis for Hungarian soft power in the country. The positive image of Hungary in the Croatian society allows the two countries to remain in close diplomatic proximity. While constructivist discourse theory says that it is the society itself that defines its own social norms, therefore, creating decision-making alternatives, and defining the possible courses of action for its leadership, societies can be influenced externally in their continuous norm-construction. From the neoliberal point of view, this influence is soft power, which can be used to "seduce" other societies. Image

¹⁶ KISS J. László: *Változó utak a külpolitika elemzésében*. pp. 57- 58., 400. Osiris Kiadó, Budapest, 2009. (Hungarian). *The Constructivism chapter of this work describes the epistemology of the constructivist school of International Relations theory. The discourse theory is part of this school of IR theory.*

¹⁷ Walter Russell MEAD: *Special Providence: American foreign policy and how it changed the world*. pp. 58-66. Taylor&Francis group 2002. *Mead defines social myths as „mixtures of fact, interpretation and fiction”, and that they are actually the simplified interpretations of complex politico-historical tendencies by the non-specialist public.*

¹⁸ Beáta HUSZKA: Hungary's Western Balkan policy in the Visegrad context pp.10. *Central European University* November 2010. URL: <https://cens.ceu.hu/publications/huszka/2010/19048>. (Accessed: 17.11.2013. 20:48) *Beáta Huszka is a Senior Researcher at the Hungarian Institute of International Affairs, specialising in the Western Balkans. In her work, she discusses Hungary's relations to its southern neighbours – The Western Balkan countries.*

and public perception is the essential cornerstone of soft power.¹⁹ It can be argued, that through its past diplomatic actions, its support of the Croatian side during the Yugoslav War and its support of the Croatian accession, Hungary has projected a considerable amount of soft power into the Croatian society, which was already prepared to receive this soft power due to the 90s change in social myths.

The model shows that based on the constructivist understanding of social norm creation in the Croatian society, the favourable social myths and the Hungarian soft power have a great impact on the Hungary-Croatia interstate relationship. Since Hungarian foreign policy making in the Balkan is driven by socio-political and economic interests, (The welfare and rights of the ethnic Hungarian minorities in the region and the economic relationships between the Balkan region on one side and Hungary and the V4 on the other) it is clear that these tendencies, as intermediary variables, enhance the power of Hungarian diplomacy and increase its efficiency in Croatia, affirming its position as the prime ally of Hungary in the Balkan.

The diplomatic relations of Hungary and Serbia are controversial and ambiguous. It can be said that there are both positive and negative tendencies regarding Hungarian foreign policy in the country. The first of these is the Hungarian contribution to the Serbian democratic transition. Hungary strongly supported the former democratic opposition before the downfall of the Milošević regime,²⁰ and the democratization of the country (The Szeged Process).²¹ This is arguably a source of Hungarian influence in the Serbian political system and a positive tendency for Hungarian foreign policy.

Diplomatic collisions between the two countries occasionally arise because of violent atrocities committed against ethnic Hungarians in Voivodina, (Hungarian: Vajdaság) northern Serbia.²² Understandably, these

¹⁹ Joseph S. NYE, Jr: Soft Power. pp. 105. *Public Affairs*, 2004. New York "Promoting positive images of one's country is not new, but the conditions for projecting soft power have been dramatically transformed in recent years. ... Diplomacy aimed at public opinion can become as important to outcomes as the traditional classified diplomatic communications among leaders. Information is power, and today a much larger part of the world's population has access to that power. ..."

²⁰ Ibid. pp. 14-15.

²¹ Edit SOÓS, Zsuzsanna FEJES: Hungarian Experiences of Cross-Border Cooperation. pp. 149-150. In: *Fundamentum human rights magazine*. URL: www.fundamentum.hu/sites/default/files/08-e-12.pdf. (Accessed: 18.11.2013. 21:47)

²² Hungary expects Serbia to respect Voivodina's autonomy In: *B92 news portal* August 2, 2012. URL: http://www.b92.net/eng/news/politics.php?yyyy=2012&mm=08&dd=02&nav_id=81577. (Accessed:

diplomatic collisions are disruptive to Hungarian foreign policy, however, the case with Voivodina, the Hungarian minority and its implications on the inter-state level are more complex.

The arguments over the right of the autonomous region Vojvodina (Vajdaság) are deeply embedded in Serbian internal politics and social decision-making.²³ Yet, if Vojvodina can be considered a partially autonomous actor in the Serbian political system, it can be argued that through the Hungarian minority, (which is the largest and politically most powerful ethnic minority in Vojvodina²⁴) Hungary is able to influence its decision-making as cultural connection between ethnic Hungarians and “the Motherland”. This argument is supported by the fact that high ranking Hungarian officials frequently attend events organised by minority Hungarian political parties and alliances in Vojvodina, in the case of the previous reference, (former) President László Sólyom. This Hungarian influence, combined with the Vojvodinian civil autonomy dedication is a force in motion to balance out the power of the Serb radical nationalist and anti-EU movements in the country’s political system.²⁵ While the political clashes over the Vojvodinian autonomy create a level of political pluralism favourable to the perception of Hungary, this perception of the country and Hungarians generally is also affected by radical nationalism promoting political monism and EU scepticism, and increasing intolerance within the Serbian society.²⁶

16.11.2013. 10:22). *Diplomatic tensions increased as the Hungarian demands regarding the cultural rights of ethnic Hungarian minority members in light of the Serbian EU accession.*

²³ Exit Strategy In: *The Economist* December 30 2009. URL: <http://www.economist.com/node/15180922>. (Accessed: 16.11.2013. 10:47) *The article discusses how Vojvodina, an autonomous region, is engaged in national politics battles over its minority rights.*

²⁴ Edina SZÖCSIK: The EU Accession Criteria in the Field of Minority Protection and the Demands of Ethnic Minority Parties, VU University of Amsterdam. In: *Journal on Ethnopolitics and Minority Issues in Europe* Vol. 11, No. 2, pp. 104-127. *The author presents the current state of the Hungarian minority in Vojvodina, and the issues with cultural rights.*

²⁵ Now Is the Time to Raise the Question of Vojvodina’s Autonomy – Kacin In: *InSerbia*. September 17 2013. URL: <http://inserbia.info/news/2013/09/now-is-the-time-to-raise-the-question-of-voivodinas-autonomy-kacin/>. (Accessed: 16.11.2013. 11:07)

When European Parliament Rapporteur for Serbia Jelko Kacin raised the question of the Vojvodina autonomy rights, the Serbian Foreign ministry immediately responded to heal the PR damages of a commencing wave of negative publicity. This shows the tensions of the Vojvodina case in Serbia.

²⁶ William WESTERN: The Effect of Nationalist Ideology on Violence in Yugoslavia in the 1990s In: *e-International Relations* May 15, 2012. *“Indeed, the mixed territories that existed peacefully were both “anomalous and threatening since they served as living disproof of nationalist ideologies” (Hayden 1996: 788). However, with the aim of constructing “homogeneous nation states (within the) heterogeneous territories” (Hayden 1996: 785), nationalist politicians came to “re(write) their respective republican constitutions to justify the state on the sovereignty of the ethnically defined nation in which others might be citizens but could not expect an equal right to participate in the control of the state” (Hayden 1996:*

The last factor contributing to inter-state relations is the most recent change of the Balkan political system. Hungary's recognition of the independent Kosovo was a diplomatic event causing disruption to the Hungary-Serbia relations. Ever since the foundation of the Third Republic, Hungary saw the pursue of the interests of ethnic Hungarians and the Hungarian minorities in its neighbouring countries as one of its prime objectives in foreign policy. This has taken the form of the promotion of ethnic and cultural autonomy as a desirable political solution to socio-political tensions in its area. The recognition of the Kosovo independence is the logical course of action for Hungarian foreign policy makers in this sense, even though it is clearly a decision destructive to Hungarian-Serbian inter-state diplomatic relations. The decision itself shows the value of normative, cultural values in Hungarian foreign policy making.

The alternative cost of the recognition of Kosovo is the positive improvement in Hungary-Serbian relations, while the alternative cost of the country's siding with Serbia would have been the loss of credibility of the Hungarian autonomy claims and the weakening of the relationship between Hungary, the ethnic Hungarian minorities, and the country's ideological allies (E.g. Croatia).

THE EASTERN PARTNERSHIP

Background of the larger region and its complex relations with the EU

The second case study focuses on the Eastern Partnership program, the relations of Eastern Partnership and V4/EU member countries in the initiative, and institutional possibilities for Hungary in it. However, the complex dynamics of diplomacy and inter-state relations between Hungary and other countries in this region is not as rich and detailed as in the case of the Balkan region, which is essentially "closer to the heartland".

The strategic importance of the Eastern partnership for Hungary and the V4 countries, more generally, to Central Europe is the major reason for the Hungarian commitment to the EU Eastern Partnership program. Hungarian interests in this region lie in the maximization of energy

787). Essentially, the 'other' citizens who were not of the majority ethno-nation came to be discriminated against and counted as second class citizens" URL: <http://www.e-ir.info/2012/05/15/the-effect-of-nationalist-ideology-on-violence-in-yugoslavia-in-the-1990s/>. (Accessed: 29.12.2013. 15:32)

security and the improvement of beneficial economic relations – with the exception of Ukraine, which is a country with ethnic Hungarian minorities that also present cultural interests. However, as a rule, Hungarian, (and generally, V4 and Central European) interests in the Eastern Partnership are politico-economical in their nature. The assessment of these interests would require a geo-political analysis. However, that is not the topic of this paper. This case study does not focus on the nature of Hungarian economic interests in the Eastern Partnership countries, but on foreign policy making, the course of action Hungary chooses to pursue them.

Though Central European member countries have the most economic interests in the Eastern Partnership sphere, energy security is a shared EU interest in this area. The fact that the EU as a whole has interests in the Eastern Partnership sphere on the Communities level²⁷ is supported by numerous facts. Aside from their regional economic ties with Central European countries, these countries are crucial to the energy security of Europe. This claim is supported by many facts. First, the energy policy risk the 2006 and 2008 Russia-Ukraine fiascos posed marked the geopolitical importance Ukraine has in the short to middle term of energy policy. In the case of Georgia, there is a possibility for a new, non-Russian gas pipeline, which presents EU interests in the country. In the case of Armenia, the country is tied to the EU along with Georgia and Ukraine in the European Energy Community agreement system, which regulates the energy policies and the energy sector in the wider European region and European political space. These ties between the Eastern Partnership countries and the EU create supranational relations on multiple levels for the entirety of the Communities. Still, energy security remains of the highest importance mostly for Central European countries, which are most dependent on Russian gas pipelines.²⁸ This, in the case of EU member states mean that the countries involved are mostly the Visegrád Four countries (Poland, Czech Republic, Slovakia, Hungary) but also include the V4+ (Romania and Bulgaria) and other strategic allies and partners (like Slovenia and Croatia)

²⁷ Fabian STROETGES: A Review of the New European Neighbourhood Policy In: *e-International Relations* April 22, 2013. URL: <http://www.e-ir.info/2013/04/22/a-review-of-the-new-european-neighbourhood-policy/>. (Accessed: 17.11.2013. 08:32). *The paper places the Eastern Partnership as a special program in the EU neighbourhood policy framework.*

²⁸ Sebastian MANG: The Need for a New European Union Energy Policy In: *e-International Relations* August 16, 2013. URL: <http://www.e-ir.info/2013/08/16/the-need-for-a-new-european-union-energy-policy/>. (Accessed: 18.11.2013. 09:11). *The article analyses the energy policies of the EU in light of the geopolitical characteristics of the wider region.*

of the Visegrád countries within the EU and other non-member states connected to the V4 group. (The Balkan region) The growing importance of the energy security of the region is affirmed by its perception and acknowledgement by the V4, and V4+.²⁹ However, these interests are solely external factors in this case study.

The European neighbourhood policy, unlike in the Balkan, cannot operate at its fullest potential in the Eastern Partnership case. The EU, Russia and the Eastern Partnership states are interlocked in a controversial triangle of regional political distrust,³⁰ despite the mutual economic interests. This makes it harder for the institutional mechanisms of the EU to project influence into the sphere of the Eastern Partnership countries. While the EU's eastern neighbours do not wish to get too close to the EU,³¹ (for fear of its influence over their home societies, or in Constructivist terms, their own social decision-making system) they also see the Russian politico-economic power dangerous. Therefore, this wider regional system has reached its equilibrium with the Eastern Partnership states placed both between and outside of the EU and Russia's foreign policy spheres. Various member countries within the EU have differences in their interests in pulling the Eastern Partnership countries closer to Europe. Central European countries find the Eastern Partnership more important as a way to secure their relationship with the Eastern Partnership countries and achieve their economic and political goals in them. For Central European member states, the Eastern Partnership countries usually happen to be neighbours or important actors in the smaller regional system.

Hungarian foreign policy in the Eastern Partnership sphere

As in the case of the Balkan, Hungarian foreign policy making in the Eastern Partnership sphere fits into the European institutional foreign

²⁹ Declaration of the Budapest V4+ Energy Security Summit. *Ministry of Foreign Affairs, Republic of Hungary* February 24 2010. URL: http://www.mfa.gov.hu/NR/rdonlyres/ABA63911-6A6B-4F1E-B65D-0D3956236E8B/0/V4_Energy_Declaration.pdf. (Accessed: 18.11.2013. 09:57)

³⁰ Why the Eastern Partnership Is Crucial for the EU and the West In: *Carnegie Europe*. September 10, 2013. URL: <http://carnegieeurope.eu/strategieurope/?fa=52913>. (Accessed: 17.11.2013. 21:23). *In his analysis, the author asserts the importance of the Eastern Partnership program for Europe, in the era of falling Western primacy in the world.*

³¹ Edward LUCAS: The Eastern Partnership: Screwed up In: *The Economist* Jul 25 2013. URL: <http://www.economist.com/blogs/easternapproaches/2013/07/eastern-partnership>. (Accessed: 17.11.2013. 22:27). *The article discusses the reluctance of Eastern leaders to lead their countries into the „Europeanfamily”.*

policy pattern. Hungarian foreign policy is integrated into the European framework of the EU and the V4, however, the main form of cooperation is not integration, but rather the Hungarian contribution to the Communities level foreign policy making (Neighbourhood policy and the Eastern Partnership program) and bilateral cooperation within the institutional boundaries.

It is important to see that Hungary does not direct its foreign policy equally to the whole of the Eastern Partnership sphere, but rather pursues its core interests in its prime foreign policy interest sphere. This interest sphere consists of two crucial countries, Moldova and Ukraine. Hungarian foreign policy making operates under the Visegrád umbrella in this region and within the EU institutional boundaries. From the liberal institutionalist point of view, institutional leadership roles of the country play a crucial role in the dynamics of this relationship system because they give the Hungarian foreign policy a temporary boost – an amplification of both power and efficiency. There is one important institutional leadership role in this model, which is the 2013-14 Hungarian V4 Presidency.

From the Hungarian foreign policy point of view, the Eastern Partnership is the second important regional neighbourhood policy program. The Hungarian approach to this system of relationships is shaped within the framework of the Visegrád Four's joint efforts to addressing the Eastern Partnership situation. Hungary's V4 Presidency, as in the case of the Balkan Integration, is a temporary boost to Hungarian foreign policy power in terms of institutional capabilities and thus increases the Hungarian capability to influence the Eastern Partnership program in a way that would benefit the Visegrád Countries and Hungary.

A specific opportunity to influence the Communities level neighbourhood policy towards the Eastern Partnership sphere using the power Hungarian institutional roles give the country's foreign policy is a diplomatic opening in the current Eastern Partnership Summit in Vilnius, an event organized under the Lithuanian EU Council Presidency.^{32,33} Apart from the fact that

³² Adrienne WARREN: V4, EU and the Eastern Partnership: There is No Back-Up Plan In: *Eastbook* July 5 2013. URL: <http://eastbook.eu/en/2013/07/country-en/poland-en/v4-eu-and-the-eastern-partnership-there-is-no-back-up-plan/>. (Accessed: 18.11.2013. 16:42)

³³ The third Eastern Partnership Summit in Vilnius In: *Official page of the Lithuanian Presidency*. URL: <http://www.eu2013.lt/en/vilnius-summit>. (Accessed: 18.11.2013. 16:57). *The official news were posted on the day that I could access them. Until the submission of this paper, no specific updates were made official on the details of the results of the summit.*

the previous two regular Eastern Partnership Summits were organised in Visegrád countries, (Prague, Czech Republic, 2009. and Warsaw, Poland, 2011.) which gives professional authority and insight to the Czech and Polish delegates, it is up to the Hungarian V4 Presidency to spearhead a joint cooperation among the V4 to influence the Eastern Partnership program at this crucial milestone. Therefore, the summit is actually a window of opportunity, to reach into the dynamics of the Eastern Partnership program. It is clear that the greatest opportunity for the Hungarian V4 Presidency is the potential to divert the institutional power of the V4 into influencing the Eastern Partnership program.

Apart from the V4 Presidency roles, Hungary has bilateral agreements with Eastern Partnership countries. As Ukraine and Moldova are the two most important countries in this sphere, this analysis focuses on their bilateral relationships with Hungary. Hungarian diplomatic relations in these countries have a potential to improve democratization and economic integration through bilateral cooperation.

In the case of Moldova, the Common Applications Centre at the Hungarian Embassy handles visa application and issues visa documents in sake of eleven other EU countries to Moldovan citizens. This increased bureaucratic authority arguably gives the country's diplomatic delegation prestige, because it provides a public service to the Moldovan society directly, which is basically the sphere of public diplomacy.³⁴ Such a role can benefit the country's profile in the norm-creational process of social decision-making. Bureaucratic capabilities can be used in multiple ways to advance democratization and integration of the region.

In the case of Ukraine, Hungarian diplomacy has two priorities. One is the energy security of the gas accessibility through the Russian pipelines going through Ukraine. This is a matter that is of crucial geo-political importance to the whole Central European region and the EU itself. The other is the state of the Hungarian minority living in the Zakarpattia Oblast (Hungarian: Kárpátalja) region of Ukraine. The ethnic Hungarian minority in this region (along with other national minorities) suffers atrocities from both the regional and country bureaucracy and radical nationalist groups.³⁵

³⁴ VÉGH Zsolt: Egy éves a Keleti Partnerség II.: A magyar érdekek In: *Foreign Policy Analysis blog*. June 9. 2010. URL: http://fpa-mcc.blog.hu/2010/06/09/egy_eves_a_keleti_partnerseg_ii. (Accessed: 18.11.2013. 17:31) (Hungarian). *This paper analyses the results of the first year of the Eastern Partnership, in relation to the interests of Hungary.*

³⁵ Ibid. VÉGH Zsolt – Moldova section

Thus, the cooperation between Ukraine and Hungary is mostly project-based. An example is the establishment of the EuroClip foundation within the Nyíregyháza Initiative, which was supported by the regional government of the city Nyíregyháza in north-eastern Hungary and the Ministry of Foreign Affairs.³⁶ This initiative was created to support regional cooperation and democratization in the eastern neighbourhood.

Hungarian diplomatic relations had a crucial role in the establishment of the Euroregion Dniester structure between Ukraine and Moldova.³⁷ This kind of diplomacy – the wielding of bureaucratic power to broker deals between Eastern partnership countries – can be very useful to further advance Europeanization of the wider European region. This kind of policy-making involves traditional “high politics” (Embassies and foreign ministries) but actually influences the Europeanization of the countries in question going around the high politics obstacles of national politics. As I discussed in the previous sub-chapter, the EU foreign and neighbourhood policy, faces the resistance of the Eastern Partnership countries on the highest levels of administration because of the fear of “getting too close to Europe”, and endangering the domestic power structure by letting in European democratization to the country. However, bilateral cooperation between EU member states and the Eastern Partnership countries, especially on the regional bureaucracy level, does not involve “high politics”, the full mechanism of the EU’s Neighbourhood Policy in the same fashion as the Eastern Partnership program does, with its head-on approach on national political systems. Hungary, in its efforts to influence the regional cooperation and integration of the countries relied on the institutional capabilities and financial instruments of the Visegrad Fund in contributing to the Euroregion Dniester. However, Hungary was only one of the contributing countries. Thus, the Hungarian potential in case of the Eastern Partnership does not lie in influencing and single-handedly re-shaping the integrational process of the countries most important to Hungary, the V4, Central Europe and the EU generally. Rather, the true opportunity is to spearhead regional joint efforts to address specific bureaucratic infrastructural, public diplomacy, economic and integrational issues, based on the diplomatic power of the V4 infrastructure. This means that during the Hungarian V4 Presidency, the true Hungarian potential

³⁶ Op. cit. Edit SOÓS, Zsuzsanna FEJES pp. 149-151.

³⁷ Euroregion "Dniester" presented its own development strategy till 2016 In: *Euroregion Dniester official webpage*. URL: <http://dniester.eu/en/793>. (Accessed: 18.11.2013. 18:11)

lies in the possibility to actually galvanize the Visegrád Group neighbourhood policy towards the closest of the Eastern Partnership countries. (Belarus, Ukraine, Moldova) In this fashion, the V4 infrastructure and the Visegrád Fund could serve as a bridge to channel the full institutional power of the EU onto the internal structure of the countries in question, opening a port into the countries that can go around the high politics resistance towards Europeanization.

CONCLUSION

Hungary pursues various socio-political and economic interests in its smaller neighbourhood. While the core socio-political interest of the country lies in the promotion of the human and cultural rights of the vast Hungarian minorities in neighbouring countries and the promotion of cultural autonomy generally, the economic interests of the country require deeper economic inter-state relations and the fast accession of Hungary's partner countries into the EU, and in the case of the Eastern Partnership, the achievement of the highest possible energy security.

The prime spheres of Hungarian foreign policy-making in the EU Neighbourhood Policy system are the Balkan region and the Eastern Partnership. The two most important countries in the Balkan are Croatia and Serbia. Croatia is the closest ally of Hungary in the region, while Serbia also has a basically positive, however, somewhat ambiguous and controversial relationship with Hungary. Though Hungarian foreign policy making is basically defined by cooperation within the institutional frameworks, various other factors can change the relation of a specific country to Hungary.

Hungarian foreign policy making, since the completion of the integration of Hungary and Central Europe into the North-Atlantic and the European institutions, have converged and shaped by the foreign policy of the Communities. This has been shaping Hungary's foreign policy toward non-member partner countries in the region. Hungarian foreign policy has been integrated into the European framework of the European Union and the Visegrad Four group's neighbourhood policy system. This is because working within the institutional boundaries can and does enhance the efficiency and power of the foreign policy of Hungary. This enhancement applies for the larger community mechanics as well as bilateral cooperation under the umbrella of the EU and the V4, however, as the study shows,

certain institutional leadership roles can temporarily further amplify Hungary's foreign policy. These roles are the 2011 Hungarian EU Council Presidency and the 2013-14 Visegrad Four Presidency. The possibilities institutional roles grant Hungary are opportunities to enhance the country's foreign policy in its power and efficiency – However, are also opportunities to shape neighbourhood policy that, due to its cooperative nature, is beneficial to the Central European Region, the Visegrad Four group and the whole of the Communities of the European Union.

ESSAY

A SEA OR A LAKE – WHAT DIFFERENCE DOES IT MAKE? QUESTIONS OF THE DELIMITATION OF THE CASPIAN SEA

Kinga SZÁLKAI*

INTRODUCTION

The Caspian Sea is the largest enclosed body of water in the world. Geographically, this “sea” is in the majority of the cases considered as a lake, more specifically as a saltwater remnant lake, a remnant of the Tethys Ocean, which became landlocked more than 5.5 million years ago.¹ Although categories of waters such as seas, lakes, enclosed seas and inland seas are rather easily distinguishable in the field of geography, this is not the case from the aspect of international law. Based on the several possible interpretations of the relevant regulations and customs of international law, the legal status of the Caspian Sea is debated. According to the main standpoints, it could be classified as an enclosed sea, a border lake, or a *sui generis* entity with unique features.

The question of the legal status of the Caspian Sea, however, is not only a geographical or a legal issue, but also and primarily an important factor in power politics. The littoral states, Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan dispose over significant oil and gas reserves both in the form of offshore deposits at the bottom of the Caspian Sea and onshore fields expanding to the whole area of the basin. The delineation of the Caspian Sea, nonetheless, would have a significant impact on the scope of the possessed offshore hydrocarbon fields. Therefore, the littoral states take sides in the international legal debate according to their natural resource

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¹ Muhammad Aurang Zeb MUGHAL, “Caspian Sea,” In *Biomes & Ecosystems*, ed. Robert Warren Howarth (Ipswich, MA: Salem Press, 2013), 37.

interests, in order to secure the possession of the possibly greatest extent of acquirable seabed areas with access to oil and gas fields.

The unilaterally followed gain-maximizing strategies, however, have led to a paradoxical situation around the Caspian Sea. The exploration and utilization of the appealing offshore natural resources are seriously hampered and discouraged by the unclear international legal status of the Caspian Sea. While the littoral states persist on their standpoints and keep delaying the official delineation of the area in order to gain more access to hydrocarbons, they also block the exploration and utilization of the debated oil and gas fields with creating an uncertain environment for the related activities – keeping not only other littoral states but also themselves off from the desired resources.

My aim in this article is to give an overview on the development of this situation from the beginning of the 20th century to the present day. In the first section, I give an outline about the significance and the paradoxical situation of the offshore hydrocarbon reserves of the Caspian region. After that, I analyse the international legal solutions for the delineation both in the case of an enclosed sea or a border lake. After the evaluation of these solutions, I move on to the case of a *sui generis* entity, where historical circumstances and documents can be used as the source of the settlement of the status of the Caspian Sea. In the fourth part of the article, I examine the standpoints of the littoral states one by one. As a conclusion, I evaluate whether on the basis of the observable trends, an agreement is possible in the near future.

HYDROCARBON RESERVES IN THE CASPIAN BASIN

I can't think of a time when we've had a region emerge so suddenly to become as strategically significant, as the Caspian', claimed Dick Cheney in 1998, at that time serving as the CEO of Halliburton.² The Caspian Basin is considered to be one of the oldest oil-producing regions all over the world, and its importance in natural gas production is also growing quickly.³ According to the analyses of the US Energy Information

² Michael Andersen, "The Irresistible Rise of Democracy," *Index on Censorship* 1 (2006): 8.

³ U.S. Energy Information Administration (EIA), Caspian Sea Region, Regional Analysis Brief, August 26, 2013, accessed December 19, 2013, http://www.eia.gov/countries/analysisbriefs/Caspian_Sea/caspian_sea.pdf.

Administration (EIA), the region is becoming more and more significant in the global energy market.

Although the consequences of territorial disputes make it difficult to give estimations about the exact quantity and extent of hydrocarbon reserves in the area, EIA estimates that the proved and probable reserves in the Caspian region contain 48 billion barrels of oil and 292 trillion cubic feet of natural gas.⁴ For comparison, the amount of the estimated oil is very close to that of the proved reserves of the United States,⁵ while the estimated natural gas reserves can be compared with the proved reserves of Saudi Arabia.⁶ Most of these reserves are offshore; almost 75% of the oil and 67% of the gas sources are located within 100 miles from the coast.⁷ Beyond these, the U.S. Geological Survey (USGS) estimated undiscovered oil and gas resources of the Caspian Sea area on the basis of geological information. According to their report, “the combined mean undiscovered petroleum resources in the Caspian Sea area are 19.6 billion barrels of recoverable crude oil, 243 trillion cubic feet of recoverable natural gas, and 9.3 billion barrels of recoverable natural gas liquids.”⁸

Although many probable reserves are waiting for discovery, and many proved reserves (especially offshore) still could not have been utilized, the current hydrocarbon production of the Caspian region is already impressive. The area produced an average of 2.6 million barrels oil per day in 2012, which makes 3.4% of the world supply, and the third of this amount came from offshore fields.⁹ This average amount can be compared with the production of such countries as Kuwait and Brazil.¹⁰ Although two-thirds of the amount of Caspian oil currently comes from onshore fields, offshore

⁴ EIA, *Caspian Sea Region*, 8.

⁵ Central Intelligence Agency, *The World Factbook. Country Comparison: Crude Oil – Proved Reserves*, accessed December 19, 2013, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2244rank.html>.

⁶ U.S. Energy Information Administration (EIA), *International Energy Statistics, Proved Reserves of Natural Gas*, accessed December 19, 2013, <http://www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm?tid=3&pid=3&aid=6>.

⁷ EIA, *Caspian Sea Region*, 8.

⁸ U. S. Geological Survey, *Assessment of Undiscovered Oil and Gas Resources of the North Caspian Basin, Middle Caspian Basin, North Ustyurt Basin, and South Caspian Basin Provinces, Caspian Sea Area*, World Petroleum Resources Project Fact Sheet, 2010, accessed December 19, 2013, <http://pubs.usgs.gov/fs/2010/3094/pdf/FS10-3094.pdf>. 4.

⁹ EIA, *Caspian Sea Region*, 11.

¹⁰ Central Intelligence Agency, *The World Factbook, Country Comparison: Crude Oil – Production*, accessed December 19, 2013, <https://www.cia.gov/library/publications/the-world-factbook/rankorder/2241rank.html>.

fields, which are still relatively undeveloped, seem to be the biggest prospects for future growth in production. Among these prospective fields, the Kashagan field of Kazakhstan is the most promising one – according to some sources, it is the largest known oil field outside the Middle East.¹¹ As for natural gas production, the region produces 2,549 billion cubic feet per year, which can be compared with the capability of Indonesia.¹² According to EIA estimations, the features of the Caspian gas reserves suggest that the expected increase in Caspian hydrocarbon production will be boosted by the growing production from these reserves.¹³ Expectations are especially high in the case of the Galkynysh field in Turkmenistan, as a 2009 audit claimed that it is possibly the world's fourth largest natural gas field.¹⁴

On the basis of the analysed data and trends, it can be claimed that the Caspian region is already a significant area of hydrocarbon production, and its importance is expected to increase in a rapid pace in the near future. Moreover, according to EIA, foreign investment and globally rising energy prices together boost the oil and gas production in the region. Therefore, the rivalry for the possession of the seabed and its offshore oil and gas fields among the littoral states is more than justified.

Nevertheless, the development of hydrocarbon utilization does not only depend on the increasing demand, but a considerable amount of investment is also needed to boost this growth, especially in the case of offshore production. The oil and gas fields of the Caspian are relatively far from export markets. Therefore, hydrocarbon producer countries require expensive infrastructure and large investments to transport their oil and gas to the global market. Natural circumstances, such as the periodical freezing of the Caspian Sea can also hamper the development and increase the costs.¹⁵ The majority of the littoral states cannot finance such monumental investments without foreign sources. Whether the littoral countries are able to construct the necessary utilization and export

¹¹ U.S. Energy Information Administration (EIA), *Oil and Natural Gas Production is Growing in Caspian Sea Region*, Today in Energy, September 2013, accessed December 19, 2013, <http://www.eia.gov/todayinenergy/detail.cfm?id=12911>.

¹² U.S. Energy Information Administration (EIA), *International Energy Statistics, Dry Natural Gas Production*, accessed December 19, 2013, <http://www.eia.gov/cfapps/ipdbproject/IEDIndex3.cfm?tid=3&pid=26&aid=1>.

¹³ EIA, *Caspian Sea Region*, 14.

¹⁴ EIA, *Oil and Natural Gas Production is Growing*.

¹⁵ Ibid.

infrastructure depends mostly on the question of whether they can attract foreign investment to the region.¹⁶

However, the issue of the unclear legal status of the whole Caspian Sea, and the following general business uncertainty discourage foreign investors and hamper the exploration and exploitation of the oil and gas reserves in the region. All things considered, the conclusion can be drawn that the expected Caspian hydrocarbon boom cannot take place without the legal settlement of the status of the Caspian Sea and its water boundaries, and, for this reason, the settlement is a common interest for all littoral states possessing hydrocarbon fields in the region. In the following sections, I intend to give an overlook on the possible means and ways of settling the international legal status of the Caspian Sea and the territorial debates among the five littoral states.

A SEA OR A LAKE?

Whether the Caspian Sea can be considered as a sea, a lake, or a *sui generis* entity, different sets of international legal regulations and customs would apply to the delineation of it. In this section I intend to give an overview on the differences of these sets of regulations and customs.

International Law of the Sea and the Caspian Question

If the legal category “sea” is applied to the Caspian, the United Nations Convention on the Law of the Sea (UNCLOS)¹⁷ defines the delimitation of its area among the littoral states. The UNCLOS explicitly determines the extent of the national sovereignty of the coastal states. According to its measures, “1. *The sovereignty of a coastal State extends, beyond its land territory and internal waters (...) to an adjacent belt of sea, described as the territorial sea.* 2. *This sovereignty extends to the air space over the territorial sea as well as to its bed and subsoil.*”¹⁸ This territorial sea cannot exceed 12 nautical miles, measured from baselines determined in accordance with the UNCLOS. There is a so-called contiguous zone connected to the territorial sea, which extends to 24 nautical miles from the baselines from which the extent of the territorial sea is measured. In this zone, the state is able to

¹⁶ EIA, *Caspian Sea Region*, 1.

¹⁷ United Nations Convention on the Law of the Sea (UNCLOS), 1982. UNTS I-31363.

¹⁸ UNCLOS, Article 2.

exercise control concerning customs, fiscal, immigration or sanitary issues.¹⁹ Regarding the legal status of the Caspian Sea, however, the most significant part of the territorial regulations of the UNCLOS is the exclusive economic zone. The exclusive economic zone is beyond and adjacent to the territorial sea, and it extends to 200 nautical miles from the baseline.²⁰ In this zone, although it is considered to be the part of high seas which are open to all states,²¹ the littoral states have, among others, “*sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and with regard to other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds.*”²² It means sovereignty over the seabed, the subsoil and the exploitation of its natural resources, that is, the oil and gas fields in the Caspian issue. If the exclusive economic zones of the littoral states overlap, as in the case of the Caspian would, the UNCLOS regulates the delineation on the basis of the median line principle. This means that none of the parties can “extend its territorial sea beyond the median line, every point of which is equidistant from the nearest points on the baselines from which the breadth of the territorial seas of each of the two States is measured.”²³

Under the application of regulations of the UNCLOS, the littoral countries would divide the water and the seabed into sectors that are roughly proportional to the length of each state’s coastline. According to the median line principle of the UNCLOS, Azerbaijan would gain 15.2%, Iran 14.6%, Kazakhstan 29.9%, Russia 15.6%, and Turkmenistan 19.2% from the area of the Caspian Sea.²⁴ These regulations would mostly benefit Azerbaijan, which would gain some of the largest oil and gas deposits in the region.²⁵ Similarly, Kazakhstan would also be able to achieve advantages from the

¹⁹ UNCLOS, Article 33.

²⁰ UNCLOS, Article 56.

²¹ UNCLOS, Article 87.

²² UNCLOS, Article 56.

²³ UNCLOS, Article 15.

²⁴ Mehrdad HAGHAYEGHI, “The Coming of Conflict to the Caspian Sea,” *Problems of Post-Communism* 3 (2003): 34.

²⁵ Azerbaijan maintains that the Caspian Sea is a border lake. However, it also claims that the water body has to be delineated to national sectors according to a median line.

settlement according to the UNCLOS. On the other hand, the application of international law would provide distinct disadvantages for Iran.²⁶

The regulations of the UNCLOS may seem to be clear, however, the application of them might be problematic in several aspects of the Caspian case. First of all, the littoral states who support the application of the UNCLOS claim that the Caspian is an “enclosed or semi-enclosed sea”, which is defined in Article 122 of the convention as a “sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States.”²⁷ The UNCLOS does not clarify whether (and which) parts of an enclosed sea can be considered as a high sea, and whether (and how) the zonal provisions are applied to its case. This fact alone would make the application of the UNCLOS problematic.

Moreover, the average width of the Caspian Sea is only 175 nautical miles. It determines the fact that even if the littoral states could agree on the status of a “sea”, they would need another compromise about the practical method of the application of the median line concept, which would determine the extent of their exclusive economic zones. In this compromise, again, a lot is in stake during the negotiations, which could lead to further delays in the settlement of boundaries.

The problem of the practical application appears not only in the case of the median line, but also in an overall sense. The UNCLOS namely recognizes historical reasons and special circumstances, and on the basis of them, it allows to choose other ways for the settlement of boundaries,²⁸ which would necessitate a consensus among the littoral states not only on the application of the convention, but also on the certain methods of the application.

All things considered, even if the littoral states could agree on the “sea” status of the Caspian Sea and accept the UNCLOS as the valid regulating regime of the area, the debate over natural resources could not be settled unambiguously on this legal basis. Moreover, from the coastal states, only Russia has ratified the convention as a whole (Iran did it only partially),²⁹

²⁶ ZIMNITSKAYA, Hanna, and James VON GELDERN. “Is the Caspian Sea a Sea; and Why Does It Matter?” *Journal of Eurasian Studies* 2 (2011) 3.

²⁷ UNCLOS, Article 122.

²⁸ UNCLOS, Article 15.

²⁹ UN Division for Ocean Affairs and the Law of the Sea, *Chronological lists of ratifications of, accessions and successions to the Convention and the related Agreements as at 29 October 2013*, accessed December 19, 2013, https://www.un.org/depts/los/reference_files/chronological_lists_of_ratifications.htm.

therefore, in the present situation, it could not be considered to be legally binding in the case of the other four states, which would seriously hinder its application as the legal framework of a five-state solution in the Caspian question.

Other possible solutions

If the Caspian is a “lake” in legal terms, the littoral states, in the absence of an international convention about international lakes, cannot turn to codified international law to settle their boundaries. In this situation, customary international legal regulations concerning border lakes are applicable. In the case of a border lake, coastal states regulate the division of the water body through international agreements based on their negotiations. On the basis of the negotiations, lakes can be delineated in different ways.³⁰ There are several well-known examples of such agreements: the Great Lakes of North America (between the United States and Canada), Lake Victoria (Kenya, Tanzania and Uganda), Lake Malawi (Malawi and Mozambique) and Lake Titicaca (Bolivia and Peru).³¹ In the majority of the cases, coastal states have exclusive sovereignty over the natural resources, shipping and fishery issues in a national sector. Non-littoral states are generally excluded from any kind of sovereignty claims. The principles for the delimitation of these sectors generally involve the thalweg, the coastal line and the middle line approaches.³² The thalweg, the “*line of maximum depth along a river or lake*”³³ is in the most of the cases applied to rivers, and only seldom to international lakes. The coastal line principle was used in colonial times, but since then, middle line approaches are the most popular, in several cases even replacing the coastal line principle. Nonetheless, there are no regulations of international law codifying a universally accepted method of drawing the middle line in the case of border lakes. In customary international law, the most frequent cases involve the principle of geographical middle line and approximate

³⁰ EIA, *Caspian Sea Region*, 5.

³¹ Kaj HOBÉR, “Ownership of the Oil and Gas Resources in the Caspian Sea: Problems and Solutions – International Arbitration and Contractual Clauses,” *Stockholm Arbitration Report 1* (2004), 4.

³² Barbara JANUSZ, *The Caspian Sea. Legal Status and Regime Problems*, Chatham House, Russia and Eurasia Programme, Briefing Paper 2005/02, accessed December 19, 2013, http://www.chathamhouse.org.uk/files/3273_bp0805caspian.pdf.

³³ Nuno Sérgio Marques ANTUNES, *Towards the Conceptualisation of Maritime Delimitation: Legal and Technical Aspects of a Political Process* (Leiden; Boston: Martinus Nijhoff Publishers, 2003), 170.

(formal) middle line. These approaches in practice can be modified according to astronomy, land boundaries or historical borders in specific cases.³⁴

On the whole, the application of the legal approaches towards border lakes may lead to an even more confusing situation in the case of the Caspian Sea. As a judicial opinion summarizes, *“Delimitation of lakes sometimes referred to the median line of the middle of the water, sometimes to the thalweg, and sometimes followed the banks of the lake or did not purport to be based on any method.”*³⁵ A similarly flexible approach, which builds the whole prospective regime on the compromise of the littoral states, would not be able to solve the debate on the status and the delimitation of the Caspian Sea.

A further possibility could be the utilization of the area as a condominium of the littoral states, that is, the common use of its resources, regulated by a commonly established regime.³⁶ However, the history of the treaties concerning the Caspian Sea does not legitimate the use of this category, moreover, judicial opinions and the decisions show that the principle of condominium is not a generally recommended practice in the international law.³⁷ From the practical side, this solution would necessitate an even broader consensus and compromise among the littoral states, than the application of the UNCLOS, or the middle line approach of customary international law on border lakes.

On the basis of the examined solutions, the conclusion can be drawn that the tools of international law cannot provide a clear solution to the status of the Caspian Sea, especially without the consensus and compromise of the littoral states. It is a unique water body, where historical reasons and specific circumstances can form and reform the approaches among the littoral states and in the international community towards the official status of it. Nowadays, however, a tendency towards a consensus could be observed among experts and other commentators of the Caspian issue, according to which this water body is a sui generis entity, requiring unique solutions to a unique situation.³⁸ In this case, historical reasons can play a very important role in the delineation process. In the next section, I deal

³⁴ JANUSZ, *The Caspian Sea*, 4.

³⁵ Separate Opinion of Judge Ammoun in the North Sea Continental Shelf Cases 1969 ILR, 149.

³⁶ JANUSZ, *The Caspian Sea*, 5.

³⁷ *Ibid.*, 6.

³⁸ HOBÉR, “Ownership of the Oil,” 2.

with the historical documents which have been issued several times as important parts of the discourse around the Caspian issue.

HISTORICAL DOCUMENTS

In order to present an overview on the historical documents of the territorial debate over the Caspian Sea, the article has to look back to the 19th century, when the expansion of the Tsarist Russia led to many conflicts with Persia. The following agreements between the two countries (the most important two of which are the Gulistan Treaty of 1813³⁹ and the Turkmenchai Treaty of 1828⁴⁰) regulated several aspects of the possession of the Caspian Sea, and banned the Persian naval fleet from it. The next milestone in the status of the Caspian was the Treaty of Friendship of 1921 between Persia and the Russian Socialist Federal Soviet Republic.⁴¹ The treaty overruled the earlier agreements and restored the military presence of Persia in the Caspian waters.⁴² Beyond these issues, the treaty also mentioned fishery rights⁴³, but there was no explicit agreement on the delineation of the water body.

In the following decades, the emphasis was put on the territorial sovereignty over the Caspian Sea. The Treaty of Establishment, Commerce and Navigation of 1935⁴⁴ limited exclusive fishery zones in ten nautical miles in the case of both Iran and the USSR, and granted fishery rights in the remaining territories for both countries. In addition to this, the countries agreed on that *“there shall, throughout the area of the Caspian Sea, be only vessels belonging to the Union of Soviet Socialist Republics or to Iran...”*⁴⁵ It means, they excluded third states and their citizens from the Caspian Sea, and treated it as a kind of condominium of Iran and the USSR. However, this status was never expressed explicitly in the relevant

³⁹ *Gjulisztanszkej mirnij dagavor*, 1813 (Гюлистанский мирный договор). Online:

http://www.hrono.ru/dokum/1800dok/18131012ru_per.php. (Accessed December 19, 2013).

⁴⁰ *Turkmancajszkej mirnij dagavor mezdju Rosszej i Iranom*, 1828 (Туркманчайский мирный договор между Россией и Ираном). Online: <http://www.hist.msu.ru/ER/Etext/FOREIGN/turkman.htm>. (Accessed December 19, 2013).

⁴¹ *Treaty of Friendship* [between Persia and the Russian Socialist Federal Soviet Republic], February 26, 1921, Soviet Treaty Series 1 (1917-1928): 92–98. Online:

<http://www.worldlii.org/int/other/LNTSer/1922/69.html>. (Accessed December 19, 2013).

⁴² *Treaty of Friendship*, Article 1, Article 11.

⁴³ *Ibid.*, Article 14.

⁴⁴ *Treaty of Establishment, Commerce and Navigation*, with Final Protocols and Annex [between Iran and the Union of Soviet Socialist Republics], August 25, 1935. 176 LNTS 301, 317.

⁴⁵ *Ibid.*, Article 14.

documents. In 1940, the countries reiterated these claims in the Treaty of Commerce and Navigation.⁴⁶ This treaty was the first one that contained some references to the exploitation of the hydrocarbon fields in the region. According to Article 9(8), Iran grants the USSR “*the right to set up petrol pumps in Iran and to construct petroleum storage depots and other buildings necessary for dealing in petroleum and its products*” on the basis of existing Iranian regulations. As for the condominium-like use of the Caspian Sea, only an attachment of the 1940 treaty refers to it, mentioning that it is “*regarded by both contracting parties as a Soviet and Iranian Sea*”⁴⁷

None of the treaties and agreements mentions the issue of delimitation, not even the Agreement Concerning the Settlement of Frontier and Financial Questions of 1954⁴⁸, which regulated the border issues between Iran and the USSR. Several sources, however, refer to the fact that after the implementation of this treaty, the territory of the Caspian Sea was *de facto* delineated at the Astar-Gazan-Kuli line. The areas which lay northern from the line belonged to the USSR, while the southern part was the possessed by Iran.⁴⁹

The northern part of the Caspian Sea was further delineated in 1970, when the Soviet Oil and Gas Ministry issued a decree on the delimitation of the Soviet water body among the Soviet Socialist Republics of Azerbaijan, Kazakhstan, Turkmenistan and the Russian Soviet Federative Socialist Republic.⁵⁰ After the dissolution of the Soviet Union, this situation also contributed to the controversy around the legal status of the Caspian Sea, as the in the Alma-Ata Declaration of 1991⁵¹ the new republics insisted on maintaining the former Soviet borders, but they refused to adapt the *uti possidetis iuris* principle in the case of the Caspian Sea.⁵²

⁴⁶ Kamyar MEHDIYOUM, “Ownership of Oil and Gas Resources in the Caspian Seal,” *The American Journal of International Law* 1 (2000): 180.

⁴⁷ JANUSZ, *The Caspian Sea*, 3.

⁴⁸ *Agreement between Iran and the Union of Soviet Socialist Republics Concerning the Settlement of Frontier and Financial Questions*, December 2, 1954, UNTS 6497; 451:227.

⁴⁹ Farid Rauf oglu SHAFIYEV, “The Legal Regime of the Caspian Sea: Views of the Littoral States,” The Jamestown Foundation, *Prism* 6 (2001), accessed December 19, 2013, http://www.jamestown.org/single/?no_cache=1&tx_ttnews%5Btt_news%5D=28012&tx_ttnews%5BbackPid%5D=223.

⁵⁰ JANUSZ, *The Caspian Sea*, 5.

⁵¹ *The Alma-Ata Declaration*, December 21, 1991. Online: http://lcweb2.loc.gov/frd/cs/belarus/by_appnc.html (accessed December 19, 2013).

⁵² HOBÉR, “Ownership of the Oil,” 3-4.

To summarize, historical agreements theoretically contain relevant paragraphs and references which could have been used in the settlement of the status of the Caspian Sea. However, the overview of the historical agreements also shows that these documents and their validity can be interpreted in different ways depending on the political interests of the parties. Therefore, instead of making a contribution to the settlement of the status of the Caspian Sea and to the delimitation of the debated borders of the littoral states, the historical documents of the territorial debate underline the fact that the regulations of international law cannot be applied exclusively to solve the Caspian question.

In reality, the littoral states refuse to agree on the current validity of these historical documents, be they referring to a condominium-like status, to a *de facto* delimitation between the USSR and Iran, or to *de iure* borders within the former Soviet Union. Azerbaijan, Iran, Kazakhstan, Russia and Turkmenistan instead have rather explicit ideas of the delineation of the Caspian Sea. In the next section I analyse these ideas and claims.

STANDPOINTS OF THE LITTORAL STATES

In the past two decades, the littoral states conceptualized their standpoints concerning the delineation and the status of the Caspian Sea according to their natural resource interests, applying international legal regulations and treaties in order to gain a bigger slice from the Caspian “cake” of hydrocarbons. Initially, Russia and Iran represented similar standpoints based on the bilateral treaties of Persia (since 1935, Iran) and the USSR in 1921 and 1940. They treated the water body as an inland lake, which is exempt from the effect of international law, and proposed a condominium-like utilization.⁵³ Azerbaijan and Kazakhstan, on the other hand, claimed that the former Soviet treaties are not valid anymore in the case of the Caspian Sea, and they clearly refused the application of them.⁵⁴ As for Turkmenistan, Ashgabat has remained indecisive in the Caspian question, and kept switching sides in the course of the decades-long debate.⁵⁵ Although the standpoints of the littoral states have been changing in the

⁵³ ZIMNITSKAYA and VON GELDERN, „Is the Caspian Sea a Sea,” 6.

⁵⁴ Abilov SHAMKHAL, “Legal Status of the Caspian,” *Hazar Raporu* (Summer 2013): 131-132.

⁵⁵ SHAMKAL, „Legal Status,” 133.

course of time, these initial positions largely have determined their behaviour in the Caspian question.

In the beginning of the 1990s, Russia, as the successor of the USSR, declared its commitment to the treaties which were in effect when the Soviet Union dissolved, at least until a new framework is established.⁵⁶ In the past two decades, Moscow proposed several recommendations to create this new framework, which mirrored the clashes of internal actors within the country. On the one hand, private oil companies and the Ministry of Fuel and Power have had interests in expanding their business in the Caspian region. On the other hand, the Ministry of Foreign Affairs has never given its full support to this expansion (and to the pressure on the other littoral states that it would have generated), as its main aim was to maintain the good will of Azerbaijan and Kazakhstan towards Russia, and to hinder their close alliance with the West.⁵⁷ The decade of the 1990s was characterized by the inability of Moscow to reach an internal consensus among the different groups of political elites and the economic lobby, which was mirrored in the proposed standpoints of Russia during the decade, ranging from a common regime of utilization to a middle-line-based all-embracing delimitation. It has led to the fact that at the end of Yeltsin's term, the position of Russia over the Caspian Sea was contradictory in several senses.⁵⁸

After the continuous failures to reconcile internal and external interests, in 2002 Russia has decided to choose another path to reach the rich natural resources of the Caspian Sea, and begun to regulate its relations over it through bilateral negotiations until a five-state solution is reached. Russia signed a bilateral agreement with Kazakhstan in 2002 and with

Azerbaijan in 2003.⁵⁹ In the latter year, the three countries came to a tripartite agreement on the delimitation of the adjacent areas.⁶⁰ Presently, these countries produce oil and gas in the Caspian Sea area on the basis of these agreements.

⁵⁶ Bahman AGHAI-DIBA, *The Law & Politics of the Caspian Sea in the Twenty-First Century: The Positions and Views of Russia, Kazakhstan, Azerbaijan, Turkmenistan, with Special Reference to Iran* (Bethesda, Maryland: IBEX Publishers Inc., 2003), 19.

⁵⁷ ZIMNITSKAYA and VON GELDERN, „Is the Caspian Sea a Sea,” 8.

⁵⁸ ZIMNITSKAYA and VON GELDERN, „Is the Caspian Sea a Sea,” 9.

⁵⁹ HOBÉR, “Ownership of the Oil,” 6-7.

⁶⁰ *Ibid.*, 6.

For Moscow, however, not only hydrocarbon reserves make the Caspian important, but also military and commercial shipping. For this reason, Russia maintains its claim towards the common management of the water surface. Therefore, in spite of the functioning bilateral agreement on the seabed and its resources, Moscow is committed to reach a five-state agreement on the status of the Caspian Sea.⁶¹ In its recent five-state settlement plans, Russia presently follows a kind of modified median line method, under which Russia receives 18.5% Kazakhstan gains 29%, Azerbaijan and Turkmenistan have close to 19% each, and Iran gets only 14% of the seabed.⁶²

The interests and standpoints of Kazakhstan and Azerbaijan are similar in the Caspian question. Although Azerbaijan considers the water body as a border lake, and Kazakhstan as an enclosed sea⁶³ (under Article 122 of the UNCLOS,⁶⁴ the application of which would enable Azerbaijan to gain significant advantages as well), the two states argue for the whole delimitation of the Caspian Sea, sharing both the seabed and the water surface. They both refuse settlement on the basis of the agreements of 1921 and 1940, the status of condominium, and the current Iranian standpoint of equal sharing as well.⁶⁵ In practice, they manage their possessed areas under bilateral agreements with Russia.

Turkmenistan, as I have already referred to it, for a long time did not have a clearly conceptualized standpoint in the Caspian question. Initially, it refused, and then supported the principle of a condominium, after that it argued for the whole delimitation of the seabed and the water surface.⁶⁶ The Turkmen standpoint is significantly influenced by its debate with Azerbaijan over the Kyapaz oil reserves. Although in 1998 the two states agreed on a settlement on the basis of the median line principle, they could not agree on the method of drawing the median line.⁶⁷ All things

⁶¹ Sergei BLAGOV, "Moscow Aims for Caspian Settlement in 2011," *The Jamestown Foundation, Eurasia Daily Monitor* 216 (2010), accessed December 19, 2013, <http://www.russialist.org/russia-caspian-settlement-dec-452.php>.

⁶² ZIMNITSKAYA and VON GELDERN, „Is the Caspian Sea a Sea,” 10.

⁶³ Rustam MAMEDOV, "International Legal Status of the Caspian Sea: Issues of Theory and Practice," *The Turkish Yearbook* 32 (2001): 224.

⁶⁴ "... 'enclosed or semi-enclosed sea' means a gulf, basin or sea surrounded by two or more States and connected to another sea or the ocean by a narrow outlet or consisting entirely or primarily of the territorial seas and exclusive economic zones of two or more coastal States."

⁶⁵ SHAMKAL, "Legal Status," 131-132.

⁶⁶ MEHDIYOUM, "Ownership of Oil," 187.

⁶⁷ *Ibid.*, 184.

considered, Ashgabat does not even try to maintain a declared position, as other littoral states do. Instead, Turkmenistan makes it unambiguous that its position only depends on the changing political situation in the Caspian region.⁶⁸

Iran has been mentioned many times as the main hindering force of the settlement of the Caspian question. Compared with the post-Soviet states in the region, it has many different features, which fact has led to a specific, isolated situation in the area. These differences are not only political, social and cultural, but also practical. Iran namely has other significant hydrocarbon reserves, especially in the region of the Persian Gulf, which can be more efficiently exploited. Moreover, as the Caspian Sea is deeper on its southern end, and the circumstances are not beneficial for oil and gas production, the exploration and exploitation would necessitate a major amount of foreign investment – which seems to be impossible to attract in the present political situation. Therefore, it is not an urgent matter for Tehran to clarify the legal status of the Caspian Sea.⁶⁹

On the other hand, in the course of time, while the interests of the post-Soviet states of the region gradually approximate each other, the position of Iran is becoming weaker. In 2009, the four post-Soviet littoral states took part in an informal meeting about the Caspian question in Aktau, where Iran was not invited to. Although after the meeting (and the following storm of indignation in Iran) the four states claimed that they do not intend to solve the question without Iran, Tehran remained distrustful. Since the incident, it keeps reiterating and emphasizing, that the settlement would be impossible without the agreement of all five littoral states.⁷⁰ As for the standpoint of Iran, after 1998, when the majority of the other littoral states refused this proposal, it changed its initial claim of maintaining the regulations of the treaties of 1921 and 1940 and utilizing the Caspian Sea in the framework of a condominium-like common regime. Since then, Tehran has argued for sharing the Caspian on an equal base.

Initially, Iran supported a definition of equality which would mean 20% of the debated territories for each littoral state. However, this definition was changed with the course of time. At the Baku conference in 2010, Iran

⁶⁸ SHAMKAL, “Legal Status,” 133.

⁶⁹ MEHDIYOUM, “Ownership of Oil,” 183.

⁷⁰ BLAGOV, Moscow Aims for Caspian Settlement.

claimed more than 20% of the Caspian Sea area, and it also proposed a 25-mile exclusive coastal zone for the littoral states.⁷¹

CONCLUSION

To summarize, there are several different international legal regulations and customs to settle the special status of the Caspian Sea – and the littoral states interpret and use them according to their changing political interests in the region. After the analysis of the legal categories of an “enclosed sea”, a “border lake”, and a “*sui generis* entity”, it became clear that the decisive factor in this territorial debate has not much to do with international law and the related proofs and arguments. All things considered, it is unambiguous that the decisive factor in the future of the Caspian region and its hydrocarbon fields is whether the littoral states are able to agree on a compromise deal that is acceptable for each party. Coming to a compromise, however, involves the abandonment of some of the represented interests of the parties – and in the present situation, it seems that the littoral states do not intend to abandon their interests even partially.

Nevertheless, as I emphasized it several times, the unclear status of the Caspian Sea means a constant loss for these states, especially in terms of the debated proven and probable offshore oil and gas fields, the exploration and utilization of which are delayed until the end of the territorial disputes. Moreover, on the long run, the delayed settlement of the Caspian question could lead to broader consequences on the security of the region beyond hydrocarbon reserves as well. The most important question from the aspect of the settlement of the status of the Caspian Sea is whether the leaders of the littoral states recognize these negative consequences of their reluctant behaviour in the near future.

Considering the above-described processes and trends, a five-state compromise does not seem probable in the near future. As the empirical experience indicates, bilateral agreements make a feasible temporary solution to the problem of the delineation of hydrocarbon reserves, so that the exploration and utilization can advance even in the case of offshore fields. However, the question of the exploitation of oil and gas fields is only a part of the broader game of power politics around the resources of Caspian

⁷¹ Bahman AGHAI-DIBA, “Iranian Doctrine of the Caspian Sea,” *Payvand Iran News*, December 27, 2010, accessed December 19, 2010, <http://www.payvand.com/news/10/dec/1260.html>.

Sea. Without a five-state compromise, which would regulate not only the territorial borders through the Caspian Sea, but also the rights and obligations concerning military, naval, commercial, economic and environmental issues in, under and above its waters, the tensions stemming from these interconnected issues concerning the status of the Caspian Sea might rise, leading to considerable security risks in the region.

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