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Dependent Territories and Unrecognized States as Participants in Contemporary International Relations

Keywords: state, dependent territory, unrecognized state, international relations, international community

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Abstract

Due to contemporary political conditions, there is a number of geopolitical entities outside the states that are not internationally recognized as states, due to a number of sociological, legal, historical and political factors. The world's changes may contribute to the changes of the status of non-state geopolitical units. Authorities from unrecognized states have been making efforts for many years to recognize members of the international community as full, but this is a difficult task. Also, in the societies of dependent territories, the need for change is more and more often considered to be crucial, because it is very important for their future. There is no doubt that contemporary international relations constitute an interesting research field, if only due to the problems of recognition and lack of recognition of the states undertaken in the following considerations.

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Streszczenie**Terytoria zależne i państwa nieuznawane jako uczestnicy
współczesnych stosunków międzynarodowych**

Współczesne uwarunkowania polityczne powodują, że poza państwami istnieje wiele jednostek geopolitycznych, które nie są uznawane na arenie międzynarodowej za państwa. Przyczyną takiego stanu rzeczy jest szereg czynników socjologicznych, prawnych, historycznych a także natury politycznej. Następujące na świecie przemiany mogą przyczynić się do przekształcenia statusu jednostek geopolitycznych niebędących państwami. Władze nieuznawanych państw prowadzą zwykle działania na rzecz uznania za pełnoprawnych członków społeczności międzynarodowej, jednak jest to zadanie trudne. Również w społeczeństwach terytoriów zależnych coraz częściej mówi się o konieczności zmian, które są bardzo ważne dla ich przyszłości. Nie ulega wątpliwości, że współczesne stosunki międzynarodowe stanowią interesujące pole badawcze, chociażby ze względu na podjętą w poniższych rozważaniach problematykę uznawania oraz nieuznawania państw.

I. Introduction

According to the principles arising from international law, the population functions within states that maintain mutual relations. No international agreement contains a definition of a state, despite the practice indicating a clear need to clarify the mentioned term. The addressees of many international agreements are all states, which may raise doubts due to the difficulty of indicating whether a given geopolitical entity is considered a state in the light of international regulations or not². The issue of the number of states existing in the world is the subject of numerous discussions and polemics among political scientists, geographers, lawyers and historians, because there are geopolitical entities that are not recognized by the international community as states despite having numerous associated attributes.

² L. Antonowicz, *Pojęcie państwa w prawie międzynarodowym*, Warsaw 1974, p. 7.

In the science of international law, a number of different views were formulated regarding the recognition of states: 1) states have the right to recognize other states, but this is not their obligation; 2) states are obliged to recognize as states geopolitical entities that have met state requirements imposed by international law; 3) in case of recognition, states should be guided by the principle of good faith, self-determination of people and conditions of the statehood. Non-recognition of other states is not unlawful³. Inconsistency in this regard has resulted in complex cases where some geopolitical entities are only recognized by a few states.

As a part of the following considerations, the research hypothesis was verified, according to which the reason for not recognizing European *quasi* states⁴ and dependent territories is the model of exercising power in their area. In the analysis of the mentioned problem, an attempt was made to answer two questions: 1) do non-sovereign areas and unrecognized states share common features?; 2) why *quasi* states do not have international recognition?

II. The Essence of the Statehood

German lawyer and theoretician of the state, Georg Jellinek developed a three-element definition of the state, which assumes that the state consists of three elements: 1) territory; 2) population; and 3) power⁵. The territory is an area where the state can develop its specific activity, which is domination. In a positive legal dimension, units that are in a given territory are the subject to state authority and in a negative legal dimension, it is not possible for another authority to exercise power over a given territory without the express consent of the rulers. Issue of population in considerations G. Jellinek supports a twofold approach: objective and subjective, in which a population consists of the ruling and being ruled. The last element of the definition is the state power, which is exercised by state organs. In this context, one should agree with the opinion of the German scholar that power is a kind of

³ L. Antonowicz, *Państwa i terytoria*, Warsaw 1988, pp. 105–106.

⁴ There are other terms used in the literature for states with limited recognition, such as: *quasi* state, *de facto* state, pseudo-state.

⁵ H. Olszewski, *Historia doktryn politycznych i prawnych*, Warsaw 1974, p. 310.

social relationship between those exercising it and the society which is subordinated to it⁶. The attribute of state power is its ability to autonomous organization and independent rule, which is implemented through the bodies appointed for this purpose. Linking the organs with the division of powers makes it possible to distinguish a state from a non-state association. In his considerations G. Jellinek treated sovereignty as an important feature of the state, but not as a necessary one. The result of this approach was the distinction of sovereign and non-sovereign states⁷.

There are all kinds of geopolitical entities in the modern world, which are not considered as states, but which meet the definition of G. Jellinek, examples of which are dependent territories and unrecognized states. In the case of dependent territories, the main problem is the limitation of sovereignty, which means that they are not considered to be full states. The situation of unrecognized states is different due to the lack of international acceptance and clear aspirations for independence. The Convention on the Rights and Obligations of States had a significant impact on the perception of the state, concluded at the 17th Pan-American Conference on December 26, 1933 in Montevideo. Article 1 of the Convention defined what attributes the state should possess as a subject of international law. It indicated: population, territory, government and the ability to maintain relations with other states. In Article 3, it was emphasized that the political existence of the state is not dependent on recognition by other states⁸. Therefore, it should be emphasized that nowadays recognition is an indispensable element necessary for active participation in international relations. Geopolitical units that have not been recognized as states, encounter numerous difficulties regarding, e.g. non-recognition of documents created by organs and institutions operating on their territory⁹.

⁶ J. Kostrubiec, *Nauka o państwie w myśli Georga Jellinka*, Lublin 2015, pp. 113–119.

⁷ L. Dubel, *Historia doktryn politycznych i prawnych do schyłku XX w.*, Warsaw 2007, pp. 368–369.

⁸ Convention on the Rights and Obligations of States, concluded at the 17th Pan-American Conference, which was held on December 26, 1933.

⁹ *Naddniestrze. Życie codzienne w państwie nieuznanym*, <https://www.gazetaprawna.pl/artykuly/1400004,naddniestrze-panstwo-nieuznawane.html> (20.10.2019).

III. The Problem of Recognition of States in the World

According to United Nations (UN) data, there are 195 states in the world¹⁰, and according to the original concept of Remigiusz Mielcarek from 2011, there are 306 states in the world, of which 209 are independent states and 97 are dependent territories¹¹. Nowadays, an important factor in recognizing the state on the international stage is its admission as a member of the UN.

A state seeking membership of the United Nations applies to the Secretary General and presents a letter in which it formally accepts the obligations imposed by the Charter. In the next stage, the application is considered by the Security Council, and the further stage of the proceeding is conditioned by obtaining 9 out of 15 votes in the absence of a veto by permanent members. Then a recommendation is made on the admission of a new member – a country to the United Nations. In case of a recommendation from the Security Council, the recommendation shall be forwarded to the General Assembly, where the condition for admission of a new state is obtaining 2/3 majority of votes. The state becomes a member of the UN on the date of adoption of the relevant resolution¹². The last country that became a member of the UN was South Sudan. The relevant resolution was adopted on July 14, 2011.

An equally important issue taken up in the science of international law – apart from the mentioned ones – are two theories regarding the recognition of the state, i.e. declarative theory and constitutive theory. The first theory assumes that the state becomes a subject of international law at the time of its creation. The fact of recognition by other states is only a confirmation and allows for the extension of rights and normalization of the international position. According to the constitutive theory, the existence of the state is independent of international recognition, but recognition is a prerequisite for achieving international legal subjectivity. According to the assumptions of the constitutive theory, unrecognized states are not states in the sense of international law¹³.

¹⁰ *Member States*, <https://www.un.org/en/member-states/index.html> (20.10.2019).

¹¹ R. Mielcarek, *Kontrowersje wokół liczby krajów świata*, "Studia Periegetica" 2012, No. 7, p. 92.

¹² *Państwa członkowskie*, http://www.unic.un.org.pl/poznaj_onz/panstwa_czlonkowskie.php (20.10.2019).

¹³ L. Antonowicz, *Państwa i terytoria*, Warsaw 1988, p. 97.

It is difficult to say which of the indicated theories reflect reality in a better way, because both concepts have numerous supporters and opponents. It is more accurate to refer to the facts, because it is difficult to disagree with the approach presented in the declarative and constitutive theory, according to which the fact of recognition is only a confirmation of the existence of the state. *Quasi* states in many cases function independently, and the very fact of international recognition does not determine their existence. Lack of international acceptance is a limitation that reduces the ability of such geopolitical units to receive international assistance, establish relationships with other states and attract investors. The problem is to indicate whether the *quasi* state is a subject of international law. It is difficult to answer this question unequivocally, which means that it is not possible to embrace both theories holistically.

IV. State with Limited Recognition

Currently, there is a number of the so-called unrecognized states, which are geopolitical entities that consider themselves states. However, the *quasi* state status determines the lack of recognition by the entire international community or by a significant part of it. The fact of not being recognized as a state may be expressed through special statements or results from the absence of any acts confirming recognition¹⁴. According to Marcin Kosienkowski, a *quasi* state can be defined as a geopolitical entity that meets certain conditions: 1) is sovereign in material terms, exercises full and independent power on its own territory and is effectively independent of other states and entities of international law, if occurs there; 2) does not have sovereignty in the formal dimension due to the fact that under international law it is subject to a state, constituting an integral part of that state, which it does not recognize; 3) it performs the functions of the state at least to a minimal extent¹⁵.

¹⁴ Ibidem, pp. 93–94.

¹⁵ M. Kosienkowski, *Naddniestrzańska Republika Mołdawska: determinanty przetrwania*, Toruń 2010, p. 22.

Table 1. Unrecognized states in Europe

Name of the state with limited recognition	Population	Surface (km ²)	States recognizing independence
Kosovo	1 907 592	10 887	113
Trans-Dniestr	530 000	4 000	0
Northern Cyprus	879 723	9 251	1
Donetsk People's Republic	2 326 254	8 538	0
Luhansk People's Republic	1 464 039	26 684	0

Source: Own study based on data from Internet sources¹⁶.

Table 1 compares data that depicts the area of selected states with limited recognition and population. On the basis of the mentioned information, it can be noticed that the phenomenon of states with limited recognition is diverse and affects millions of people in Europe. An important element of the list is a column showing the number of states that recognize a specific *quasi* state. The differences in this aspect are significant, what indicates the complexity of the problem. It is worth emphasizing that some geopolitical entities do not function as fully recognized states, but are active on the international stage, as exemplified by Kosovo¹⁷. The states with limited recognition listed in the table declare respect for democratic principles of exercising power. Elections are held in their area, and the models of exercising power are regulated by constitutions. The standards in force in the *quasi* states raise a lot of doubt, but at least at the level of statements by the ruling elites, the rule of law is respected in their area. However, problems related to respecting basic

¹⁶ <https://www.bbc.com/news/world-europe-18284837> (20.10.2019). <http://web.archive.org/web/20161226060715/http://www.wochurch.org/wp-content/uploads/2014/12/Cyprus-Praying-for-Our-World.pdf> (20.10.2019). <https://unpo.org/members/7916> (20.10.2019). <http://www.arso.org/03-2.htm> (20.10.2019). <http://www.beinkosovo.com/countries-that-have-recognized-kosovo-as-an-independent-state> (20.10.2019). <https://www.cia.gov/library/publications/the-world-factbook/geos/kv.html> (20.10.2019); https://www.gkslnr.su/files/chisl_260418.pdf (20.10.2019).

¹⁷ *Szef serbskiej dyplomacji straszy połączeniem Albanii i Kosowa*, <https://www.tvn24.pl/wiadomosci-ze-swiate,2/serbia-reaguje-na-umowe-albanii-i-kosowa-w-sprawie-polityki-zagranicznej,951300.html> (20.10.2019).

principles that are identical to modern democracies are not the main reason for not recognizing them.

V. Dependent Territories

In the science of international law, the term *territory* is used for geopolitical entities that are not states, and for their determination the most common term is *non-sovereign territory* or *dependent territory*. These are residential areas that do not form part of another country and do not have full sovereignty, which results from the lack of treaty capacity, the right of legation¹⁸ and the right to associate in international organizations. The powers of dependent territories in international matters are often clearly limited or such territorial units do not have them¹⁹.

There are many dependent territories in the world that operate on the basis of diverse systemic solutions and their power restrictions relate to issues which present conducting independent foreign policy. Like unrecognized states, dependent territories have its population, power and territory, but there are no unequivocal aspirations to achieve full sovereignty and international recognition among their activities. On the area of dependent territories of Jersey, Guernsey, Alderney in the public debate, there are more and more postulates for building relations with subjects of international relations.

Table 2. Selected European dependent territories

Name of territory	Population	Surface (km ²)
Gibraltar	29 461	6,5
Bailiwick of Guernsey	66 697	78
Bailiwick of Jersey	99 602	116
Svalbard	2 583	62

¹⁸ The right of legation is the right to maintain international relations related to the right to political representation, the reception and removal of diplomatic representatives. Legation is vested in the states that are subjects of international law.

¹⁹ L. Antonowicz, *Państwa i terytoria...*, pp. 162–164.

Name of territory	Population	Surface (km ²)
Isle of Man	89 407	572
Faroe Islands	51 018	1393

Source: Own study based on: <https://www.cia.gov/index.html> (20.10.2019).

Table 2 indicates the diversity of dependent territories in terms of population and its occupied area. These are the surfaces that do not deviate in size from universally recognized states, an example of which is San Marino, which area is 61 km² and is inhabited by about 33 thousand people. The specificity of individual dependent territories is often varied and conditioned by their history, geographical location and legal culture. Democratic solutions apply in the territories indicated in the mentioned table. Particularly noteworthy is the characteristics of links with the country on which they depend, what significantly affects their way of functioning. So far, insignificant demands for independence have emerged among the residents of the British Crown's dependence. It is difficult to predict how the situation will develop in the coming years due to the dynamics of the following processes. An interesting example is the Channel Islands. Its inhabitants have a number of concerns about Britain's exit from the European Union, although the islands are not a member of the EU, but are only part of the EU's common customs territory. Great Britain represents the Channel Islands internationally and is responsible for their defense policy. There are two separate dependent territories in the Channel Islands – Bailiwick of Jersey and Bailiwick of Guernsey, which are dependencies of the British crown. The name Bailiwick is a relic of the past, which once was used to identify administrative units with its official – bailiff. Both Bailiwick Jersey and Bailiwick Guernsey compare the monarchs to the British, not to the government, and sovereignty itself is connected with tradition, it is not enshrined in a legal act²⁰. Relations with these dependent territories are maintained by the UK Ministry of Justice. In the case of Bailiwick Guernsey, the situation is more complex due to the fact that there are smaller dependent territories, which are its dependencies like Alderney, Sark or Herm and despite their connections, have separate organs. There is a sepa-

²⁰ R. Mielcarek, *op.cit.*, p. 102.

rate legislative, executive and judicial authority in both Bailiwick Guernsey and Bailiwick Jersey.

On the area of the Channel Islands there are discussions regarding relations with the United Kingdom, as exemplified by the conference in 2010 entitled “Sovereignty or dependence”. The authorities of Channel Islands are aware of the divergence of certain interests and the difficulties they may cause in relations with Great Britain. There were voices at the conference to consider the future nature of relations with Great Britain, the EU and other states in order to counteract the uncontrolled course of events²¹.

Although the Channel Islands are dependent territories, an Honorary Consulate of the Republic of Poland in St. George functions in their area; Helier, which territorial competence relates to the Channel Islands²². Poles residing in this area have the opportunity to vote in elections held in Poland. The island of Jersey has the seat of a constituency electoral commission in the city of St. Helier. Issues concerning Poles on the island of Jersey became the subject of an interpellation by Cezary Grabarczyk, MP, in 2006. The interpellation concerned the matter of not honouring Polish driving license documents by the Jersey authorities. The MP emphasized that it was necessary to exchange letters between the Ministry of Transport in Warsaw and the appropriate office in Jersey²³. As a response, Undersecretary of State Piotr Stomma noted that actions were taken in such a matter that it resulted in the introduction of relevant regulations on the island of Jersey, which allowed the recognition of Polish driving license documents²⁴.

On July 2, 2011, the Polish government regarding the avoidance of double taxation of natural persons entered into an appropriate agreement with Bailiwick Jersey, which was signed by a representative of the Republic of Poland

²¹ *Sovereignty or dependency on agenda at conference*, <https://web.archive.org/web/20110702113346/http://www.thisisjersey.com/2010/09/21/legal-ideas-of-political-importance> (20.10.2019).

²² *Konsulowie honorowi w londyńskim okręgu konsularnym*, https://londyn.msz.gov.pl/pl/informacje_konsularne/kontakt/konsulowie_honorowi (20.10.2019).

²³ Interpellation No. 3760 to the Minister of Transport regarding the failure of the Jersey authorities to honour Polish driving license documents.

²⁴ Response of the Undersecretary of State in the Ministry of Transport – under the authority of the Minister – to interpellation No. 3760 regarding the failure to honour Polish driving license documents by the Jersey authorities.

and Jersey²⁵, which clearly indicates that in some foreign affairs the island's authorities have limited powers.

Poland has concluded similar agreements with other dependent territories, including Bailiwick Guernsey and the Isle of Man. The authorities of Bailiwick Jersey have also undertaken limited cooperation with other states, including Rwanda or the Netherlands through the Minister for External Relations. Dependencies of the British Crown are considered tax havens, which in financial matters necessitates taking appropriate agreements with other states.

VI. Summary

The analysis of the issue of unrecognized states and non-sovereign areas is a scientifically significant issue mainly due to the complex situation of this type of geopolitical units on the international arena, terminological difficulties and the fact that about 1/3 of the world's territories have this status. The border between the state, an unrecognized state and dependent territory exists but is imprecise. Both state with limited recognition and dependent territories has its power, people and territory, and more or less limited powers in the sphere of international relations. The main difference concerns the genesis of their creation and aspirations. Unrecognized states usually strive for international recognition, while dependent territories usually carry out activities aimed at increasing the scope of competence in relations with other entities on the international stage. A number of events that are currently taking place in the world allow to predict the impact on the situation of this type of units. The process of creating new states is continuing and the world cannot remain passive in the face of the aspirations of numerous communities, especially when their interests diverge significantly from the purposes of the most influential states operating on the international stage. The research hypothesis put forward at the beginning of the considerations was verified negatively, because in the case of European dependent territories and states with limited recognition, the problem of non-recognition does not result from the model of exercising power. The reason are international regulations and aspi-

²⁵ Agreement between the Republic of Poland and Jersey on the avoidance of double taxation of individuals, drawn up in London on December 2, 2011.

rations of individual geopolitical units. A democratic system is not a prerequisite for a given geopolitical unit to be recognized as a state, as exemplified by the existence of many states that grossly violate human rights and democratic principles. The problem of recognition results from many factors determined by relations between states and the established international order. *Quasi* states are often treated instrumentally, and their existence serves the purpose of achieving the purposes of some states. In the case of dependent territories, the reason for not recognizing them as states also results from the attitude of the authorities that do not seek international recognition and relations with the states on which they depend.

The findings regarding research questions seemed to be also interesting. In the first of them ('Whether dependent territories and unrecognized states define common features?') it should be emphasized that common features are determined by the properties of given geopolitical entities. Many states with limited recognition and non-sovereign areas have the same properties, which are: 1) disposing of territory 2) presence of population; 3) exercising authority on a given area. In many cases, the common feature is the possibility of establishing limited relationships with other states and other non-sovereign areas. Another common feature is often the lack of full sovereignty that results from the situation of a given geopolitical entity.

In turn, the second question ('Why *quasi* states do not have international recognition?') is problematic and requires understanding of the relationship between individual states. It is difficult to answer this question in a universal way, because each case of a *quasi* state is special. Often, the fact of recognizing a given entity as a state is not in the interest of a specific group of states that cooperate with each other and do not want to lead to a deterioration in mutual relations. This is also due to doubts that with the recognition of subsequent *quasi* states, national liberation tendencies will be stimulated in communities that will also demand their own separateness. The last reason for non-recognition are formal conditions and complex procedures that contribute to the fact that it is difficult for unrecognized states to become a full member of the international community.

Literature

Antonowicz L., *Państwa i terytoria*, Warsaw 1988.

Antonowicz L., *Pojęcie państwa w prawie międzynarodowym*, Warsaw 1974.

Dubel L., *Historia doktryn politycznych i prawnych do schyłku XX w.*, Warsaw 2007.

Kosienkowski M., *Naddniestrzańska Republika Mołdawska: determinanty przetrwania*, Toruń 2010.

Kostrubiec J., *Nauka o państwie w myśli Georga Jellinka*, Lublin 2015.

Mielcarek R., *Kontrowersje wokół liczby krajów świata*, "Studia Periegetica" 2012, No. 7.

Olszewski L., *Historia doktryn politycznych i prawnych*, Warsaw 1974.

Sobczyński M., *Państwa i terytoria zależne. Ujęcie geograficzno-polityczne*, Toruń 2006.