

Title to Territory in Europe in the Context of the Russian-Ukrainian Armed Conflict: Methods, Illegal Claims and Legal Assessments

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Summary: Illegal decisions and actions do not give rise to legal consequences. An annexed territory cannot receive the status of a part of an aggressor state. The question of a territorial dispute does not arise in this case. It is correct to talk about a unilateral unreasonable claim. Territory, as an integral part of the concept of state, as a criterion of statehood, has acquired special significance in the modern conditions. It is not only a natural resource (land, water, subsoil) and a space for the placement of technologies and hazardous waste. It may be considered as a line of protection. States may lay claim to one or another part of the territory of a neighboring state. The methods of territorial acquisitions of the past do not comply with the norms of modern international law.

Keywords: title to territory, territorial integrity, continuity of states, statehood, annexation of Crimea by the Russian Federation, International Court of Justice on territorial disputes, methods of territorial acquisition.

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1. Introduction

On February 24, 2022, Russia carried out a full-scale invasion of Ukraine, hoping to quickly seize its territory and establish its power. This was not for the first time when Russia ignored the title to territory and principles of international law. In 2008 Russian troops invaded in Georgia, latter, in 2014, they appeared in Crimea, installed pro-Russian government and illegally annexed this part of sovereign Ukraine.

In 2018, American researcher Mark Voyger warned that if Russia continued its lawfare activities unchecked, it “will be emboldened to continue applying those methods to justify its expansionist and interventionist policies in all areas that it regards as legitimate spheres of interest”.¹ However, international policy makers and state leaders ignored this warning.

Now, after a year and a half since the outbreak of the most brutal full-scale war on the territory of a European state since the end of the Second World War, the question of the title to territory has acquired a special meaning. How can this issue be resolved in international legal documents? What is the very picture of state continuity practice? What did the methods of acquiring territory look like in the past? Are the past practices commensurate with the current content of international law?

The essence of our hypothesis is that in the situation with the annexation of Crimea by Russia there is no territorial dispute, but a one-sided unfounded claim is obvious.

While exploring the problem and building our logical line, we relied on the works of O. L. Ayoola, G. H. G. A. Antselevich, Yu. G. Barsegov, L. Boisson de Chazournes, A. Cassesse, J. Crawford, S. Cybichowski, T. Guseinov, J. Dugard, T. D. Grant, B. M. Klimenko, P. P. Kremnev, K. Mamadu, U. Mamedov, L. Mälksoo, K. Marek, F. S. Mirzayev, Nogovitsyna Yu. O., N. V. Ostrouhov, A. Peters, R. F. Salimov, M. N. Show, E. V. Spektorsky, O. V. Tarasov, L. D. Tymchenko, A. Verdross, M. Voyger, O. V. Zadorozhnyi, N. V. Zaharova and others.

¹ VOYGER, M. ‘Russian Lawfare–Russia’s Weaponisation Of International And Domestic Law: Implications For Th Region And Policy Recommendations’. *Journal of Baltic Security*. 2018, 4(2), pp. 35–42. DOI: 10.2478/jobs-2018-0011.

They devoted their works to the study of state, its continuity, territory and international territorial issues.

The methodology for writing this article is based on the search for a rational international legal solution to the problem of acquiring the title to territory through the study of the norms of international law, looking into the historical background of the issue and analysing the claims of Russia as an aggressor state.

2. Territory and its Strategical Importance: Doctrine, International Legal Documents and Practice

Analyzing the nature of the requests of aggressor states, and primarily Russia, we may say with confidence that in modern conditions a state is, first of all, a territory. There are several explanations for that. Any state is a natural resource (land, water, subsoil), a space for the placement of technologies and hazardous waste. Finally, and this is very important, state territory may be considered as a line of protection. As noted László Bernát Veszprémy, “In spite of all technological innovations, geographical boundaries are still the best method of defending oneself... Russia will never cede the control of the lands she considers vital for the country’s future; she will never abandon the areas from where the country can be easily attacked”.²

This situation is neither new nor accidental. The medieval statehood arose due to the fact that peoples were moving. One nation was taking over another. It seized territory, land (terra). Hence the origin of the names of European states – Holland, Deutschland, England, Switzerland. “The resettled groups and tribes were already losing contact with their native land, – we read from E.V. Spektorsky. ... The conquered population had no independent meaning: it was assigned to a clump, attached to the land ... the territory was the center of the state”.³

The concept of territory was central to the political doctrine of the Ukrainian thinker of the early 20th century V.K. Lipinsky, who believed that the awareness of its own territory and the desire to have its own state is the determining factor of the Ukrainian national movement of his time. If nationalism and socialism were, in his opinion, the ideology of the community, the feeling of people of the same class, of the same faith, even if they live in another territory, then only the territorial ideology can become the defining element in building statehood.⁴

² VESZPREMI, L. B. The American Conservative. 2022, Aug. 1, 12:03 AM [online]. Available at: <https://www.theamericanconservative.com/the-inexorable-crowbar-of-geography>

³ SPEKTORSKY, E. V. *Gosudarstvo*. Petrograd: Publishing house “OGNI”, 1918, p. 6–7.

⁴ See: BABURIN, S. N. *Territoriya gosudarstva (pravovye problemy)*: dis. ... d-ra yurid. nauk. Moskva, 1998 [online]. Available at: <http://www.dissertcat.com/content/territoriya-gosudarstva-teoretiko-pravovye-problemy>

Contemporary trends of the international law reveal that the state is free to exercise its territorial superiority to the extent that the rights and lawful interests of other states are not affected. And for a very simple reason: since the international community consists of independent states, the sovereignty of one of them is necessarily limited by the sovereignty of the other.⁵

According to S.N. Baburin, the territory is a sign of the state under the condition that there is a unified society within its borders (an association of the population and state power). The condition and the sign of self-governance of the society is the preservation of the territorial integrity of the state.⁶ N.V. Ostrouhov notes that the observance of the principles of equal rights and self-determination of peoples, together with the principle of the territorial integrity of states, is one of the urgent problems of modern international law.⁷ However, the right to self-determination is not a “right to secession”.⁸

O.L. Ayoola stresses that in accordance with the purposes and principles of the UN Charter and other norms of international law, the territorial integrity of states should be based on self-determination of peoples. At the same time, the exercise of its right to self-determination by the people can not be regarded as a dismemberment of the state, a partial or complete violation of its territorial integrity.⁹ Nevertheless, international law also provides such forms of external self-determination as the unification, accession or separation of states. This is how the North and South Yemen merged into the Republic of Yemen (1990), the unification of the GDR and the FRG (1990), the disintegration of the USSR (1991), the separation of Czechoslovakia (1993), the separation of Eritrea from Ethiopia (1993),¹⁰ as well as the centrifugal tendencies continue in the territory of the former Yugoslavia.

As it is known, in the doctrine of international law and in the practice of states the thesis has long strengthened that in the event of the disintegration of one state and the emergence on its territory of new ones, the latter, by virtue of

⁵ KOKOROKO, D. Souveraineté étatique et principe de légitimité démocratique. *Revue quebecoise de droit international*, vol. 16.1, 2003, s. 39.

⁶ BABURIN, S. N. *Territoriya gosudarstva (pravovye problemy)*: avtoref. dis. ... d-ra jurid. nauk. Moskva, 1998 [online]. Available at: <http://law.edu.ru/book/book.asp?bookID=82590>

⁷ OSTROUHOV, N. V. *Territorialnaya tselostnost' gosudarstv v sovremennom mezhdunarodnom prave i ego obespechenie v Rossiyskoy Fedratsii i na postsovet'skom prostranstve*. Moskva: Yur-litinform, 2009, p. 128.

⁸ See: SHULGA, A. M., NOVIKOVA, L. V., SIDOROV, V. I. (et al.). *Teoria derzhavy i prava: navch. posibn.* Kharkiv: HNU im. V.N. Karazina, 2014, p. 44.

⁹ AYOOLA, O. L. *Mezhdunarodno-pravovye problemy territorialnykh sporov v Afrike*: avtoref. ... dis. kand. jurid. nauk. Moskva, 1993, p. 7.

¹⁰ See: GUSEINOV, T., MAMEDOV, U. Okkupatsiya territoriy Azerbaidzhanskoy Respubliki: Ritorika o samoopredelenii i voprosy mezhdunarodnoy otvetstvennosti, *Mezhdunarodnoe pravo i problemy integratsii*. 2014, vol. 1(37), p. 275.

the *fait accompli*, inherit this territory within the borders established by treaty order and extend to it its state sovereignty.¹¹ In matters of disposition of its territory, the state is limited to the interests of the people, who the only is entitled to make a final decision. Any ethnos living in the state territory has the right to cultural-national self-determination (development), limited only by the common interests of the people of the corresponding state. No national (ethnic) self-determination can cross out such a common interest as unconditional preservation of the inviolability and integrity of the state's territory.¹²

The ideas of the right of peoples to self-determination and the principle of territorial integrity of states are fixed in authoritative sources of international law, contained in the declarations of the UN General Assembly, documents of international organizations; they are often appealed during ethnic conflicts. The emergence of the doctrine of national self-determination dates back to the era of the Enlightenment and is associated with the names of such thinkers as J. Locke, G. Grotius, E. de Vattel, J.-J. Rousseau, who theoretically substantiated the sovereignty of the people through the theory of "natural law". The first French Constitution, adopted on September 3, 1791, declared: firstly, freedom and equality in rights from birth; secondly, that the purpose of each state is to ensure the natural and inalienable human rights; thirdly, that the source of sovereignty rests, in essence, in the nation, which laid the foundation for the idea of self-determination of peoples, proceeding from the natural human right given to it from birth. The French bourgeois revolution of 1789–1794 for the first time in the world proclaimed the refusal to conquer foreign territories, the restriction of the rights of monarchs in possession of state territory, and the inviolability of national borders. In May 1790, a draft declaration was submitted to the National Assembly, which later became a decree, and it indicated that the invasion of one state from another threatens the freedom and security of all ... Thus, based on the principles of popular sovereignty, territorial supremacy, non-interference in the internal affairs of other states, the subject of ownership of the territory was called the people.¹³ The influence of the people and its right to self-determination and statehood was discussed in detail in the context of Germany's legal status after

¹¹ See: ANTSELEVICH, G. A. Nekotorye aspekty razvitiya nauki i praktiki mezhdunarodnogo morskogo prava v suverennoy Ukraine, in: MELNYK, A. YA., MELNYK, S. A., KOROTKIY, T. R. (eds.). *Mezhdunarodnoe pravo kak osnova sovremennogo miroporiadka*: kolektivnaya monographia. Liber Amicorum k 75-letiyu prof. V. N. Denisova. Kyiv-Odessa: Feniks, 2012, p. 507.

¹² See: BABURIN, S. N. Supra note 4, p. 10.

¹³ See: YAVKIN, N. V. *Problema obespecheniya edinstva i territorialnoy tselostnosti gosudarstva v usloviyah bor'by narodov za samoopredelenie*: dis. ... kand. polit. nauk. Nizhniy Novgorod, 2004, p. 22–23.

its defeat in World War II. In particular, the question was considered whether the existence of the German State had ceased or was continuing.¹⁴

According to the provisions of Art. 1 of the Inter-American Convention on the Rights and Duties of States adopted in Montevideo in 1933, the state as a subject of international law should have the following characteristics: a) permanent population; b) a certain territory; c) the government; d) the ability to enter into relations with other states.¹⁵

In the case of revising the list of criteria of statehood, T. Grant proposed to subject to reflection such categories as: independence, a claim to statehood, people's process, external and internal legitimacy of formation (taking into account such criteria as democracy and minority policy), organic ties (common historical, cultural, religious or ethnic ties), membership in the UN, recognition.¹⁶ J. Crawford lists "prohibition of aggression and acquisition of territory by force", "right to self-determination", "prohibition of racial discrimination" as additional criteria of statehood.¹⁷ J. Schwarzenberger names "ability to stand by itself", which would mean, according to T. Grant, political and military independence in the legal understanding of statehood.¹⁸

According to L. Mälksoo, the concept of statehood in international law reflects the definition of the state used in the Montevideo Convention.¹⁹

Ensuring territorial integrity and unity is the main function of any state. During the first consultations of the period of the Second World War between F.D. Roosevelt and W. Churchill regarding the Atlantic Charter elaborated in August 1941, both states solemnly promised not to seize the territories and not to seek such acquisitions, while simultaneously condemning the territorial changes "incompatible with the free expression of the will of the peoples concerned". However, already on March 7, 1942, W. Churchill wrote to F.D. Roosevelt: "In

¹⁴ See: MALKSOO, L. Sovetskaya anneksiya i gosudarstvennyi kontinuitet: mezhdunarodno-pravovoy status Estonii, Latvii i Litvy v 1940–1991 gg. i posle 1991 g. *Issledovanie konfliktov mezhdu normativnost'yu i siloy v mezhdunarodnom prave*. Tartu: Tartu Ülikooli Kirjastus, 2005, p. 62–63.

¹⁵ See: ALEKSANDROVA, E. S. Eshcho raz k voprosu legitimnosti prava na setsesiyu: demokraticheskoe pravo na samoopredelenie vs detsentralizatsiya gosudarstva? In: BIRYUKOV, P. N. (ed.). *Mezhdunarodno-pravovye chteniya*. Voronezh: VGU, 2014, vol. 12, p. 20.

¹⁶ GRANT, T. D. Defining Statehood: The Montevideo Convention and its Discontents. *Columbia Journal of Transnational Law*. 1999, 37 (2): 403–457, p. 450.

¹⁷ CRAWFORD, J. *The Creation of States in International Law*. Oxford: Clarendon Press, 1979, p. 47, 118, 105–106, 227.

¹⁸ In: GRANT, T. D. Defining Statehood: The Montevideo Convention and its Discontents. *Columbia Journal of Transnational Law*. 1999, 37 (2): 403–457, p. 438.

¹⁹ MALKSOO, L. Op. cit., p. 40; see also: TCHERNICHENKO, S. V. State as a Personality, Subject of International Law and Bearer of Sovereignty, *Russian YBIL*. 1993–1994, St.-Petersburg: "Russia-Neva", 1995, p. 15.

the face of increasing difficulties in the war, I come to the conclusion that the principles of the Atlantic Charter should not be interpreted in terms of changing the borders of Russia that existed at the time of Germany's entry into its territory".²⁰ The problem of territorial integrity was considered in a number of international legal documents, including the materials of the Helsinki Conference on Security and Cooperation in Europe (1975). The Declaration of Principles includes a special section entitled "Territorial Integrity of States". Shortly after the collapse of the USSR in 1994, the Declaration on respect for the sovereignty, territorial integrity and inviolability of the borders of the CIS member states was signed,²¹ the parties of which confirmed that while building their relations as friendly, the states will refrain from military, political, economic or any other form of pressure, including blockade, as well as support and use of separatism against territorial integrity and inviolability, as well as political independence of any of the participating states in the Commonwealth. It was established that the seizure of territory with the use of force can not be recognized, and military occupation of the territory of states can not be used for international recognition or imposing a change in its legal status.

According to W. Bernam, the problem is that the more states recognize the existence of general principles of law, the more common and blurred becomes their content. For example, everyone agrees that the principle of *pacta sunt servanda* (treaties must be respected) exists in one form or another in all legal systems. However, when disputes arise regarding the content and significance of this principle, states are no longer unanimous.²²

3. Illegal claims of Russia

With the start of a full-scale Russian military invasion of Ukraine in 2022, the issues of annexation and occupation, as well as state continuity, acquired special poignancy. Since the thesis on the right of the Russian Federation to the territory of Ukraine on the basis of continuity had no prospects, one of the motives for annexing its territory was the refusal to recognize the existence of a state that owns a title, i.e. Ukraine. It should be stressed that the Legal Department Office

²⁰ See: SALIMOV, R. F. *Problemy implementatsii printsipa territorialnoy tselostnosti i nerushimosti granits gosudarstv na sovremennom etape*: avtoref. ... dis. kand. yurid. nauk. Baku, 2010, p. 11.

²¹ Deklaratsiya pro dotrymannia suverenitetu, territorialnoy tsilistnosti ta nedotorkannosti kordoniv derzhav-uchasnyts' SND 1994. Official site of the Suoreme Rada of Ukraine [online]. Available at: http://zakon2.rada.gov.ua/laws/show/997_480

²² BERNAM, W. *Pravovaya sistema SShA*. 3-y vyp. Moskva: Novaya yustitsiya, 2006, p. 1047.

of the Council of Federation of the Federal Assembly of the Russian Federation on the appeal of the State Duma deputy A.N. Saveliev on the legal expertise of “Information on the succession of the Russian Federation, the principle of continuity and repatriation in connection with the request of the deputy of the State Duma of the Federal Assembly of the Russian Federation A.N. Saveliev” No. SAN-588-6 of May 25, 2006 reported that the fact that the territory of one state once in the past (before the adoption of the UN Charter) belonged to another state, in no case can serve as the basis for making claims about its return at the present time. This statement (approach) contradicts such fundamental principles as territorial integrity and inviolability of state borders, which stipulate *inter alia* that changes in the territories of states and their borders can occur only in accordance with international law (conclusion of an international treaty, association, separation, accession of states, etc.). Otherwise, the political map of the world would constantly be changing and thus extremely unstable. On this basis, Russia, as the legal successor to the Russian Empire, might claim, for example, the inclusion in its territory of Poland and Finland, which were part of the empire in the past. Of course, such a demand can not be recognized as legitimate from the perspective of the norms and principles of contemporary international law.²³ Since international law tends to preserve the stability of international relations, it is quite natural that there is a clear presumption in the practice of states in favor of the continuity of existing states.²⁴ Specialists in public international law wrote about the principle of the maximum possible continuity of states.²⁵ Perhaps this is why the practice has gone along the path of its recognition.

The Russian Federation’s claims that Ukraine is not a sovereign state and has never existed (or alternatively) that Ukraine is only 32 years old (counting from the collapse of the USSR and the adoption of the Declaration of Independence), and it did not take place as a state, etc. Such theories are justified by the Russian scholars in the following way: acceptance by almost all republics (except the RSFSR) of acts of state independence conflicted with constitutional legislation on the procedure for secession from the USSR, the results of a referendum on the preservation of the USSR of March 17, 1991, and thus could not have legal consequences.²⁶

²³ See: NIGMATULLINA, Z. B. Spravka Deputatu Gosudarstvennoy Dumy Federal’nogo Sobraniya Rossiyskoy Federatsii A.N. Savelyevu iz SF po probleme kontinuiteta. Moskva, 2007 [online]. Available at: <http://www.savelev.ru/journal/case/attachment/?caseid=49&id=17>

²⁴ See: MAREK, K. *Identity and Continuity of States in International Law*. 2e ed. Geneve: Librairie Droz, 1968, p. 548; CRAWFORD, J. The Creation of States in International Law. *Cambridge Law Journal*. 1979, vol. 9, p. 417; CZAPLINSKI, W. La continuité, l’identité et la succession d’états – évaluation de cas récents, 26 *Revue Belge de Droit International*. 1993, p. 375.

²⁵ See: DAHM, G. *Völkerrecht*. Band I. Stuttgart: Kohlhammer, 1958, s. 85.

²⁶ KREMNEV, P. P. *Mezhdunarodno-pravovye problemy, svyazannye s raspadom SSSR*: avtoref. dis. ... d-ra yurid. nauk. Moskva, 2010, p. 12.

E. Aman emphasizes that the changes that took place in Eastern Europe in the late 80s – early 90s of the 20th century led to the emergence of a number of successor states, most of which were formed as a result of the collapse of the USSR. In the studies devoted to the disintegration of the Soviet Union, one question was first examined: Are all the newly formed states new states. In fact, the emerging states (Russia and the Baltic States) took different positions on this issue. Most of the countries that emerged on the territory of the USSR have not clearly expressed their position on this issue. The Baltic States represented themselves as successors of states that existed before 1940.²⁷ At the same time, Russia also speaks about the incessancy (continuity) of the state existence of the Russian Empire, the Russian Republic, the RSFSR, the USSR and the Russian Federation.²⁸ It is true on the official level. From the scientific perspective, there is an opinion that the concept “the Russian Federation is a state-continuer of the USSR” does not stem from the doctrine of the continuity, but is a new category of the event of succession of states, the result of recognition by international organizations²⁹ and talking about the continuity of the Russian Federation does not matter.³⁰ As pointed out by O. V. Zadorozhnyi, the concept of “the RF is a successor state” and “the general successor” of the USSR contradicts the conventional and customary norms of international law.³¹ If one analyzes the issue of the property of the former USSR, in respect of some objects, the Russian Federation acts as a legal successor, concerning others – as a continuator.³² F. R. Gasimov expresses the same opinion about international treaties.³³ In the opinion of O. V.

²⁷ AMAN, E. *Vzgliad evropeyskikh yuristov na raspad SSSR*, *Pravovedenie*. 1999, vol. 2, p. 220–230 [online]. Available at: <http://law.edu.ru/article/article.asp?articleID=149079>

²⁸ Poyasnitelnaya zapiska «K projektu Federalnogo zakona ‘O vnesenii izmeneniy i dopolneniy v Zakon Rossiyskoy Federatsii ‘O vnesenii izmeneniy v Federalnyi zakon ‘O grazhdanstve Rossiyskoy Federatsii’ ”» ot 23.06.2014 No. 157-FZ [online]. Available at: <http://base.consultant.ru/cons/cgi/online.cgi?req=doc;base=PRJ;n=32537>

²⁹ KREMNEV, P. P. *Obrazovanie i prekrashchenie sushchestvovaniya SSSR kak sub'ekta mezhdunarodnogo prava*: avtoref. dis. ... kand. yurid. nauk. Moskva, 2000, p. 10; see also: VEL'YAMINOV, G. Vossoedinenie Kryma s Rossiei: pravovoy status, *Gosudarstvo i pravo*. 2014, vol. 9, p. 17.

³⁰ KREMNEV, P. P. O novykh poniatiyah i kategoriyaх pravopreemstva gosudarstv: teoretiko-prakticheskie voprosy, *Zhurn. mezhdunar. prava i mezhdunar. otnosheniy*. 2010, vol. 1, p. 25; see also: KREMNEV, P. P. *Raspad SSSR: mezhdunarodno-pravovye problemy*. Moskva: Zertsalo-M, 2005, p. 173–242.

³¹ ZADOROZHNIY, O. V. *Mizhnarodne pravo u vidnosynah Ukrainy i Rosiys'koy Federatsii*: avtoref. dys. ... d-ra yuryd. nauk. Kyiv, 2015, p. 18.

³² GAVLO, Yu. N. *Raspad SSSR i mezhdunarodno-pravovoy status Rossiyskoy Federatsii*, *Izv. Altaysk. un-ta. Yurisprudentsiya*. 2000, vol. 2 [online]. Available at: <http://cyberleninka.ru/article/n/raspad-sssr-i-mezhdunarodno-pravovoy-status-rossiyskoy-federatsii>

³³ GASIMOV, F. R. *Priznanie gosudarstv i pravitelstv: sovremennaya mezhdunarodno-pravovaya teoriya i praktika*: avtoref. dis. ... kand. yurid. nauk. Kazan', 2005. 21 p. [online]. Available at: <http://law.edu.ru/book/book.asp?bookID=1191693>

Tarasov, the termination of the existence of the USSR can definitely be qualified as the disintegration of the state.³⁴

After the collapse of the USSR, the former union republics outlined their borders, being guided, in fact, by the principle of *uti possidetis juris*. In modern international legal relations, the principle of *uti possidetis* was for the first time applied in the process of decolonization of Latin America. Thus, during the adoption of declarations of independence by Latin American states at the beginning of the 19th century, taking into account the continuation of armed conflicts with the mother countries, it was decided to preserve the territorial *status quo* in the region, until a more convenient moment for resolving the issues of delimitation lines.³⁵ The principle of *uti possidetis* is universal and is used to establish the state border along the line of administrative delimitation, i. e., where the frontier did not exist before.³⁶ The idea of the universality of the principle of *uti possidetis* and its application in situations of disintegration of modern states has often been abused.³⁷ Nevertheless, many experts in the field of international law support this concept.³⁸ We want to emphasize that the revision of the recognized borders contradicts the referred norm, which today is equivalent to the principle of territorial integrity and inviolability of borders.³⁹

As L. Boisson de Chazournes notes, this is a rather delicate situation, especially because of the problems of the succession of states.⁴⁰ That is why, we suggest to study the issue of the continuity of states more carefully.

Continuity is a political theory about the incessancy of the state and, in the legal sense, the continuity of its obligations. This is a difference from the concept

³⁴ TARASOV, O. V. *Sub'ekt mizhnarodnogo prava: problemy suchasnoy teorii*. Harkiv: Pravo, 2014, p. 265.

³⁵ LALOND, S. *Determining Boundaries in a Conflicted World: The Role of Uti Possidetis*. Montreal & Kingston-London-Ithaca: McGill Queen's University Press, 2002, p. 28.

³⁶ NOGOVITSYNA, Yu. O. *Pravonastupnytsvo Ukrainy: mizhnarodno-pravovi aspekty: avtoref. dys. ... kand. yuryd. nauk*. Kyiv, 2005, p. 10.

³⁷ GEVORGIAN, L. *Vopros unasledovaniya administrativnyh granits SSSR v mezhdunarodnom prave* [online]. Available at: <http://publications.ysu.am/wp-content/uploads/2014/02/410.pdf>

³⁸ SHAW, M. N. *The Heritage of States: The Principle of Uti Possidetis Juris Today*. *British Year Book of International Law*, 1996, vol. 67, p. 97; KRUGER, H. *The Nagorno-Karabakh Conflict: A Legal Analysis*. Berlin-Heidelberg: Springer, 2010, p. 42–44; PETERS, A. *The Principle of "Uti Possidetis Juris": How Relevant is it for Issues of Secession?* In: WALTER, C., UNGERN-STERMBERG, A., ABUSHOV, K. (eds.). *Self-Determination and Secession in International Law*. Oxford: University Press, 2014, p. 95–137.

³⁹ See also: MIRZAYEV, F. S. *Uti Possidetis v self-determination: The lessons of the post-soviet practice*. Thesis submitted for the degree of Doctor of Philosophy. Leicester: University of Leicester, School of Law, 2014, 318 p.

⁴⁰ BOISSON, Ch. L. *Les ordonnances en mesures conservatoires dans l'affaire relative à l'application de la Convention pour la prévention et la répression du crime de génocide*. *Annuaire français de droit international*. XXXIX, Editions du CNRS, Paris, 1993, p. 517.

of “succession”, when one state assumes certain international rights and obligations of another – existing or ceased to exist. The problem of continuity arises in the case of cardinal changes in the state – a revolution and a change in the state regime, the disintegration or unification of a state.⁴¹ S. Cybichowski spoke about such an understanding of law and the state, where the people were given an advantage over the state.⁴² According to A. Verdross, the identity of the legal personality of a state depends not on the identity of its constitution, but rather on the continuity of its population.⁴³

In this understanding he was not alone.⁴⁴ However, there is an opinion that the “people’s continuity” must be confirmed by the active actions of the population against annexation.⁴⁵ Such a situation takes place, since, in the opinion of R.L. Bobrov, the essence of the international personality of a state is the people.⁴⁶ The continuity of the people is permanent, irrespective of not only the existence of the state and its actions in the event of annexations, but even if it is necessary to leave temporarily (willingly or unwillingly) the territory of its residence. But the continuity of a state directly depends on the continuity of the people. Here we absolutely agree with the above opinion of A. Verdross, but with one addition: If the given people is not torn from the place of their historical residence. Thus, the identity of the legal personality of a state, regardless of its name and various circumstances that occurred during its entire existence (occupation, annexation, etc.) follows from the continuity of the people on the territory of its historical residence.

Lauri Mälksoo, a Professor at the University of Tartu, Estonia, devoted his work to the study of the problem of the continuity in relation to the Baltic States, and he drew attention to the fact that Estonia, Latvia and Lithuania were wiped out by the political map of the world in 1940, but in 1991 they “awakened”.⁴⁷ According to L. Mälksoo, for a number of researchers who recognize the identity of the legal personality of the modern Baltic countries, the starting point is

⁴¹ PYHTIN, S. *Sobytiya 1917 g. i problema nepreryvnosti rossiyskoy gosudarstvennosti*. Moskva, 2009 [online]. Available at: <http://legitimist.ru/sight/politics/2010/arxivnye-novosti/sobyitiya-1917-g.-i-problema-nep.html>

⁴² CYBICHOWSKI, S. *Das volkerrechtliche Okkupationsrecht*. XVIII Z. fur VR, 1934, s. 318–319.

⁴³ VERDROSS, A., SIMMA, B. *Universelles Volkerrecht. Theorie und Praxis*. Berlin: Ducker & Humblot, 1984, s. 231.

⁴⁴ VEROSTA, S. *Die Internationale Stellung Österreichs: Eine Sammlung von Erklärungen und Verträgen aus den Jahren 1938 bis 1947*. Wien: Manz, 1947, s. 9.

⁴⁵ SCHEUNER, U. Die Funktionsnachfolge und das Problem der staatsrechtlichen Kontinuität. In: MAUNZ, T. (Hg.). *Vom Bonner Grundgesetz zur gesamtdeutschen Verfassung (Festschrift für F. Nawiaszky)*. München: Isar Verlag, 1956, s. 21.

⁴⁶ BOBROV, R. L. *Osnovnye problemy teorii mezhdunarodnogo prava*. Moskva: Mezhdunarodnye otnosheniya, 1968, p. 64.

⁴⁷ MALKSOO, L. Op. cit., p. 17.

obviously the unity of the notions ‘the identity of the legal personality’ and ‘the continuity’.⁴⁸

In 1919 the Charter of the League of Nations prohibited the seizure of the territory of another state and its annexation, which, unfortunately, did not yet mean the final proclamation of the principle of territorial integrity of states, since the adoption of the Charter of the League of Nations occurred while the recognition of territorial changes in Europe and was often accompanied by mutual discontent of the subjects.⁴⁹ The attitude of states towards illegal acts and the consequences of illegal acts is clearly stated in the Resolution adopted on March 11, 1932, by the Extraordinary Assembly of the League of Nations. The document stated that members of the League of Nations were obliged not to recognize any situation, treaty or agreement that could be created by means contrary to the Statute of the League of Nations or the Treaty of Paris.⁵⁰

V. Shetzel argued about the illegality of annexations, saying, nevertheless, the possibility of acquiring the appropriate title in a case of recognition by the community, and the refusal of such recognition testified to the illegality of annexation, confirming that the conqueror could not acquire the title to the conquered territory.⁵¹ However, today, the authors are also unanimous on the issues of legitimating the new state. In 1987, John Dugard wrote that jurists agreed that an act committed in violation of a fundamental rule that affects a community rather than a state ... was void and therefore should not be recognized.⁵² N.V. Zaharova claims that an aggressor state has no rights as the successor, its actions aimed at appropriating the rights to the seized territory, as well as any rights of the state to which this territory belongs, are legally null and void.⁵³ And the identical is position of the European Court of Human Rights in its decision in the case of “*OAO Neftyanaya kompaniya Yukos v. Russia*” on July 31, 2014. It confirmed the principle *ex injuria jus non oritur*.⁵⁴

⁴⁸ Ibid., p. 101.

⁴⁹ See: ZADOROZHNIY, O. V. *Porushennia agresyvnouy viynouy Rosiys'koy Federatsii proty Ukrainy osnovnykh pryntsyviv mizhnarodnogo prava*. Kyiv: K.I.S., 2015, p. 129.

⁵⁰ Off. J., Special Suppl., No 101, p. 8, Documents, 1932, p. 284.

⁵¹ See: MALKSOO, L. Op. cit., p. 43.

⁵² DUGARD, J. *Recognition and the United Nations*. Cambridge, England: Grotius Publications, 1987, p. 132–133. John Dugard's work builds on the argument of Professor J. Crawford, who argued that states have a common law duty not to recognize an act committed in violation of the norm. *jus cogens*. For details: CRAWFORD, J. *The Creation of States in International Law*. Oxford: Clarendon Press, 1979, p. 123.

⁵³ ZAHAROVA, N. V. *Pravopreemstvo gosudarstv*. Moskva: Mezhdunarodnye otnosheniya, 1973, p. 9–10.

⁵⁴ Official site of the ECHR [online]. Available at: [http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145730#{“itemid”: \[“001-145730”\]}](http://hudoc.echr.coe.int/sites/eng/pages/search.aspx?i=001-145730#{“itemid”: [“001-145730”]}).

4. Methods of Acquiring Territory in the Past

In the last century, the principle of self-determination of peoples played the most significant role as the legal basis for territorial changes. The implementation of this principle led to major territorial changes, which resulted in the emergence of many new states on the political map of the world in Europe, Asia, Africa, and Latin America. M.E. Cherkas draws attention to the fact that gradually, on the place of primary domestication, a derivative acquisition has come, when the territory of one state passes to another on agreemental or extra-agreemental grounds.⁵⁵ The principle of self-determination of peoples has long been the subject of study by international lawyers. A. Cassese studied it thoroughly, and he elaborated a comprehensive concept of its development as a legal principle in accordance with the UN Charter and its interaction with other principles and norms of international law.⁵⁶

The existing classification of methods for acquiring territory is based on Roman law and does not fully correspond to the modern realities. Most cases can not be attributed to the corresponding classification. As a rule, there are five main models of territory acquisition: occupation of *terra nullius*, acquisition of territory on the basis of antiquity of possession or according to historical circumstances (prescription), cession, increase in territory (accretion).

The term of legitimization of property acquired through force (annexation) and the recognition of rights as legally significant are very important issues within the international system that is now resolved at the international judicial level.

Occupation is a way of acquiring territory by the state through joining, under certain conditions, territories that do not belong to anybody (*terra nullius*). The occupation can only be carried out by states and must be aimed at proclaiming sovereignty over these territories. In international law, it is customary to distinguish between fictitious and effective occupation.⁵⁷

One of the main problems of modern international law is associated with the influence of time on the definition of a certain amount of rights and obligations. This can cause a number of difficulties, if, for example, legal in the XI century territorial status ceased to be so in the XIX century. The general rule governing such cases is the following: they must be considered in accordance with the conditions and norms which existed at the time of the acquisition of the disputed territories. Thus, according to the results of the Arbitration Court's consideration

⁵⁵ CHERKES, M. Yu. *Mizhnarodne pravo: pidruchnyk*. 5-te vyd. Kyiv: Znannya, 2006, p. 172.

⁵⁶ See: CASSESE, A. *Self-Determination of Peoples: A Legal Reappraisal*. Cambridge, New York: Cambridge University Press, 1995. 365 p.

⁵⁷ See: TYMCHENKO, L. D. *Mezhdunarodnoe pravo: uchebnik*. Kharkov: Konsum; Un-t vnutr. del, 1999, p. 298–299.

of the case of Palmas (1928), it can be concluded that the territorial claims that have passed to Spain from the United States on the basis of continuity are subject to assessment, taking into account the principles of international law in effect at the time of the discovery of this island. The case also reveals that although the emergence of certain rights is based on the norms of international law of the relevant period, their continued existence depends on the evolution of law. In practice, this condition operates in the context of the relevant rules governing the acquisition of territory, covering recognition and acquiescence. As B.M. Klimenko notes, tacit acknowledgment usually means the absence of a corresponding protest in cases where there are grounds for this. For example, the absence of a protest regarding the spread of the legislation of the other party to the disputed territory can be regarded as recognition of the effect of this legislation in the given territory with the corresponding consequences,⁵⁸ i.e., in fact, the waiver of its right to it. G. Dahm disagrees with this approach, arguing that the act of refusal should be clearly expressed and can not be presumed ... the fact that the state does not resort to the right it has, does not mean giving it up.⁵⁹ I.C. McGibbon argues that not always the absence of protest means a tacit recognition, for example, in the case when the parties agreed to leave the question open.⁶⁰

Real, continuous and peaceful implementation of the state's activity in a certain territory is a reliable and natural criterion for determining the existence of its sovereignty over it. However, despite its effectiveness, the implementation of such control may not be equivalent to the possession of a certain territory. The necessary actions for the acquisition of sovereignty in each specific case depend on such conditions as the type of territory, the seriousness of the arguments of the opposing party, as well as the specific features of international relations. There are a number of categories corresponding to situations caused by the need to determine historical and geographical territorial rights. Some of them, being exclusively political or moral principles, may not have purely legal significance. Others in the long term entail certain legal consequences. For example, the legitimacy and necessity of applying the principle of territorial integrity of states, along with the rules prohibiting interference in the internal jurisdiction of states, is not being questioned by anyone today. Thus, Art. 2(4) of the UN Charter prohibits the use of force or the threat of use of force against the territorial integrity

⁵⁸ KLIMENKO, B. M. *Mirnoe reshenie mezhdunarodnyh sporov*. Moskva: Mezhdunarodnye otnosheniya, 1982, p. 158.

⁵⁹ DAHM, G. (et al.) *Völkerrecht Band I/3*. Berlin: De Gruyter Recht, 2002, s. 771.

⁶⁰ MACGIBBON, I. C. *The Scope of Acquiescence in International Law*. British Year Book of International Law, 1954, vol. 31, p. 143.

and political independence of states.⁶¹ With the assertion in international law of the principle of self-determination of peoples, all the largest and most significant territorial changes occur or should occur on its basis. In this sense, according to Yu.G. Barsegov, self-determination should be considered the main principle of territorial division.⁶² At the present, humanity faces many unresolved problems. One of these problems is various kinds of territorial disputes, which often result in violent armed conflicts.⁶³ The roots of some territorial disputes go back to the distant past, in the historical period of the division of the world, when territories were acquired for various reasons: primary discovery, occupation, acquisitive prescription, conquests.

Roman private law under the occupation understood the appropriation and possession of things with the intention of retaining them. It justified the right of ownership of the invader and extended it to all ownerless things according to the principle expressed in the laws of the XII tables – *res nullius cedit primo occupanti* – an abandoned thing follows the first seized.⁶⁴

It was later considered that the discovery of a land, the installation of a flag or other emblem of the state whose representative had made the discovery, as well as the announcement of the entry of that state into possession, were sufficient to enable this land to be recognized as the territory of the state that claimed it. The lack of a developed communication system led to the fact that one and the same land was discovered and joined several times by different states. Subsequently, the annexation of the “no-man’s” territory required the establishment of administrative power and actual control over this territory. As a rule, the administration was small, and attempts at actual control were very vague. Such uncertainty created the basis for territorial disputes.

Under the acquisition of prescription was understood the acquisition of sovereignty over the territory by the actual and unbreakable possession of this territory for a long time. This doctrine contained a lot of contradictions. The actual and unbreakable possession was differently understood. Certain terms of such ownership also did not exist. A distinctive feature of acquisitive prescription was that it represented the entry into possession of a territory previously considered

⁶¹ See: BUROMENSKIY, M. V. (ed.). *Mizhnarodne pravo v dokumentah*. Kharkiv: Vyd-vo Nats. un-tu vnutr. sprav, 2003, p. 174.

⁶² BARSEGOV, Yu. G. *Territoriya v mezhdunarodnom prave. Yuridicheskaya priroda territorialnogo verhovenstva i pravoye osnovaniya rasporyazheniya territoriy*. Moskva: Gosyurizdat, 1958, p. 101.

⁶³ MAVADU, K. *Razreshenie mezhdunarodnykh sporov v sovremennom mezhdunarodnom prave: na primere territorialnogo spora mezhdru Respublikoy Mali i Respublikoy Burkina-Faso*: avtoref. ... dis. kand. yurid. nauk. Moskva, 2010, p. 3.

⁶⁴ PERETERSKIY, I. S. *Rimskoe chastnoe pravo: uchebnik*. Moskva: Zertsalo-M, 2012, p. 209.

to belong to another state or which had an obscure identity. All this also created conditions for the emergence of territorial disputes.

Since ancient times it has been recognized that a land territory that does not belong to any state (*terra nullius*) with adjacent coastal waters can be acquired by a sustained, prolonged occupation that satisfies the following requirements: the invader must be a sovereign state, the territory must initially be a no man's land or once again become a no man's land, the occupier must confirm there the actual dominance (the principle of effectiveness) and exercise this dominance constantly, i.e. with the intention of sustainably governing the territory. Upon the completion of the occupation, the occupier acquires territorial sovereignty over the occupied territory. This sovereignty is preserved even if the territory is temporarily abandoned (with the exception of the dereliction).⁶⁵ Today, this method of acquiring territory has lost its former significance, but some norms continue to play a role in resolving disputes over previous acquisitions, as well as for judgments about the right over parts of the seabed and subsoil outside of territorial waters and polar territories.

Different rules have already been worked out on the question of the occupation: it is indisputable that the amount of the necessary exercise of domination depends on the population density and on other circumstances (for example, as it was stated in the arbitration of Max Huber in the case of Palmas on April 4, 1928, the occupying state can exercise its domination indirectly – through the native representative).⁶⁶ But always effective exercise of domination is necessary on the occupied territory, as well as “the intention and desire to act as a sovereign ... and all manifestations or the exercise of this authority” – as emphasized by the Permanent Court of International Justice in the judgment of Eastern Greenland case of 5 April 1933.⁶⁷

Only on uninhabited islands is enough symbolic claim to possession, for example, raising the flag. As the King of Spain pointed out in the arbitral award of 9 February 1931 on the dispute between France and Mexico about the island of Clipperton: On November 17, 1858, the island of Clipperton was annexed by France, and then on December 13, 1897, was captured by Mexico, which declared it to be its property on the fact that it was near its territorial waters and was actively used by Mexican fishermen and seamen. Also, Mexico positioned itself as the legal successor of Spain in the region. Mexico sent a military garrison to the island, installed a lighthouse and organized phosphate mining with Britain, after which a territorial conflict broke out between France and Mexico. In 1930, France appealed to the Permanent Court of International Justice in the Hague

⁶⁵ The abandonment of the territory without the intention to return; renunciation of sovereignty over the territory.

⁶⁶ See: VERDROSS, A. *Mezhdunarodnoe pravo*. Moskva: Izd. inostr. lit., 1959, p. 256.

⁶⁷ Ibid.

with a demand to return officially the island. In 1931 the World Court ordered to resolve the conflict to the King of Italy Victor Emmanuel III, who on January 28, 1931, decided it in the interests of France.⁶⁸

But in no case, the mere discovery accompanied by the declaration of annexation of any territory (without subsequent occupation) does not entail the acquisition of territorial sovereignty. The state-discoverer has only the pre-emptive right to occupation, which must be carried out within a reasonable time. From the theory of occupation follows the theory of adjacent territories, asserting that the occupier simultaneously acquires those territories (and islands), which consist in a natural relationship with the occupied one. This theory was rejected by the arbitration award in the case of Palmas in the matter of islands outside territorial waters, as an unreasonable claim.⁶⁹

In a decision on the land and maritime border between Cameroon and Nigeria (Cameroon v. Nigeria) of 10 October 2002, the ICJ, referring to its case-law, indicated that it had repeatedly made decisions regarding the legal relationship between the “effectivités” and legal title.⁷⁰ Referring to the decision on the border dispute (Burkina Faso v. Republic of Mali), the Court noted:

“If the action is not in accordance with the law, when the territory in question is in fact not governed by the state that possesses the title, it should be preferred to the owner of the legal title.

*Thus, each of the mentioned methods of acquiring territory in the past concealed the grounds of territorial disputes. In addition, it often happened that the same territory was acquired by different states for different reasons. One state believed, for example, that it acquired this territory on the basis of occupation, and another believed that it acquired this territory on the basis of acquisitive prescription.”*⁷¹

The theory of historical fixing of title is very controversial and can not replace the ways of acquiring the title established in international law, which take into account many important factual and legal aspects. This conclusion should be understood in such a way that the seizure of territory, even legally contrary to international law, in effect at the time the dispute was resolved, had to meet the requirements imposed on such actions by the relevant epoch. Therefore, when resolving territorial disputes, it becomes necessary to give a legal assessment of the facts that took place in the distant past. From the most ancient origins of the

⁶⁸ Ibid.

⁶⁹ See: VERDROSS, A. Op. cit., p. 257.

⁷⁰ See: CARON, D. D. (ed.). International Decisions [online]. Available at: <http://www.ijl.org/wp-content/uploads/2016/08/Case-Note-on-Land-and-Maritime-Boundary-Between-Cameroon-and-Nigeria-ICJ-2002.pdf>

⁷¹ See: KLIMENKO, B. M. Op. cit., p. 28.

dispute, which are taken into account, until the resolution of the dispute on the merits are often centuries pass. In connection with the need to assess the past, a reference should be made to the provisions of the Declaration on the Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations of 1970 which prohibits a change in the ownership of territory by the threat or use of force, but at the same time stipulates that this should not be interpreted as depriving the validity of agreements concluded before the adoption of the UN Charter.⁷²

Old international law did not prohibit either aggressive wars or the forcible seizure of territories. The concept of understanding war including aggressive one was developed, because there was a struggle between nations, hence all wars must be considered legitimate.⁷³ However, it was believed that in itself the fact of armed seizure and military occupation of a foreign territory does not mean its legal accession. For the latter, a declaration of the winner of the annexation of the conquered territory was required. In the absence of such an act, the territory remained part of the defeated state. However, these rules were not always strictly observed, and numerous wars for division and redistribution of territories often led to a complicated and confusing situation.

Like the primary occupation, the acquisition of territory on the basis of long-standing possession as a prerequisite also has a long and effective occupation of the territory. But this type of acquisition differs from the primary occupation in the following: it refers to a territory that was at the time of occupation still the territory of another state, or if there was a dispute between two states regarding the title for this territory.

Such occupations do not justify the immediate acquisition of the territory, since the fact of effective domination can be the basis for the emergence of the relevant rights only if and only to the extent that international law links these legal consequences to it. Possession of a foreign or disputed territory without a corresponding treaty is legal and law-forming in the case that there is an unbreakable, uninterrupted and uncontested exercise of domination, as it was noted in the Mexican arbitration award in the El Chamizal case on June 15, 1911.⁷⁴ Under this circumstance, the British Declaration on the annexation of the Boer Republic and the Italian Declaration on the annexation of Tripolitania and Abyssinia published by annexing states before the end of hostilities were recognized

⁷² Deklaratsiya o printsipah mezhdunarodnogo prava, ksayushchihsya družhestvennyh otnosheniy i sotrudnichestva mezhdru gosudarstvami v sootvetstvii s Ustavom OON 1970 g [online]. Available at: http://www.un.org/ru/documents/decl_conv/declarations/intlaw_principles.shtml

⁷³ GORHOVSKAYA, E. V. Agressiya kak mezhdunarodnoe prestuplenie: genezis razvitiya po-niatiya, *Almanah mezhdunarodnogo prava*. 2009, vol. 1, p. 45.

⁷⁴ See: VERDROSS, A. Op. cit., p. 258.

as void in the context of international law. The same principle was established by the sentence of the International Military Tribunal in Nuremberg on October 1, 1946. In particular, before the Tribunal it was stated that the annexation of Austria was justified by a strong desire for an alliance between Austria and Germany that was expressed in many quarters. It was also alleged that these peoples had many similarities that made such a union desirable, and that as a result, the goal was achieved without bloodshed. The Tribunal came to the conclusion that these statements, even if they are correct, are in fact not significant because the facts definitely prove that the methods used to achieve this goal were aggressive. The decisive factor was the military power of Germany, which was ready to take effect if it met any resistance. Moreover, none of these considerations, as Gossbach's report on the meeting of November 5, 1937, shows, was the motive for Hitler's actions. On the contrary, this document emphasizes, first and foremost, the advantage that Germany acquires militarily as a result of the annexation of Austria.⁷⁵ So, after the occupation of Austria by the German army on March 12 and the annexation of Austria on March 13, Jodl wrote in his diary: "After Austria's annexation, Hitler declares that there is no need to rush to resolve the Czech question, since Austria must first be digested. However, preparations for the "Green Plan" (i.e. the plan against Czechoslovakia) must be carried out vigorously; they must be re-prepared taking into account the changed strategic positions resulting from the annexation of Austria".⁷⁶

5. Conclusion

There have been significant political and socio-economic transformations throughout the world at the end of XX century. Undoubtedly, one of the most significant events of this period was the disintegration of the USSR, as a result of which the balance of forces in the international arena underwent serious changes. The challenge by several states of the principles of inviolability of borders and territorial integrity, which for a long time are the basis of stability in Europe and throughout the world, adds a particularly dangerous character to this process. At the beginning of the 21st century the need to rethink some concepts, that previously seemed unshakable, stands before the science of international law with all sharpness, which requires avoidance of stereotypes, freedom from ideological

⁷⁵ Nyurnbergskiy protsess. Sbornik materialov. V 2-h t. T. 2: Prigovor mezhdunarodnogo voennogo tribunala. Moskva: Yurid. lit., 1954, p. 966.

⁷⁶ Ibid., p. 967.

cliches and independent research of theoretical and practical problems of international law, especially territorial issues.⁷⁷

As we can see, the situation with the annexation of Crimea by the Russian Federation is similar to that condemned by the Nuremberg Tribunal. And exactly this conclusion must follow regarding the legitimacy of such annexation. In this issue there is no territorial dispute, but there is a one-sided unreasonable claim.⁷⁸ The difference between territorial disputes and unilateral claims is also made by the American scientist A. Burghardt, while noting that the latter do not have sufficient legal grounds.⁷⁹ With such a conclusion everybody should agree on the basis of the norms of modern international law.

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⁷⁷ See: SALIMOV, R. F. Op. cit., p. 4–5.

⁷⁸ See: MALKSOO, L. *Russian Approaches to International Law*. Oxford: Oxford University Press, 2015, p. 180–183.

⁷⁹ BURRGHARDT, A. F. The Bases of Territorial Claims. *Geographical Review*. 1973, No. 2, p. 228.

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