



2009 - 2019: A Decade Marked by the Benefits of an ICJ Ruling

Irina Munteanu

► To cite this version:

Irina Munteanu. 2009 - 2019: A Decade Marked by the Benefits of an ICJ Ruling. Romanian Journal of International Law, 2018, 20, pp.164-169. hal-02863185

HAL Id: hal-02863185

<https://univ-angers.hal.science/hal-02863185>

Submitted on 9 Jun 2020

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Cuvânt final / Closing Word

2009 – 2019

A Decade Marked by the Benefits of an ICJ Ruling

Irina MUNTEANU¹

10 years since Romania's Hague Trial. This represents the time passed since the ruling issued by the International Court of Justice (ICJ) on February 3rd, 2009, in the case of the maritime delimitation in the Black Sea between Romania and Ukraine. A historic moment for Romania, considering the extension of Romania's sovereign jurisdiction over an area of 9,700 km² of the disputed 12,200 km² area (the area of the continental shelf and the exclusive economic zone) and the benefits of the corresponding natural resources.

Our attention today will not focus on the content of the judgment or over the elements of the merits of the case, but, first of all, on its importance to Romania and to the team members involved in this effort and, subsequently, on the relevance of the ruling to the international community.

The Romanian State has not only benefited from a territorial and economic point of view of this success of Romanian diplomacy, but has also gained appreciation, especially at the regional level. By submitting this dispute to the International Court of Justice, Romania has demonstrated confidence in the international justice, in its ability to resolve a situation that lasted approximately 40 years (since the dispute arose), shaping its status as a promoter of international law enforcement and of the principles enshrined in this branch of law. This status has been confirmed and reaffirmed at the highest level on various occasions.

Naturally, the fact that the ruling of February 3rd 2009 proved Romania's gain also brought to these arguments the awareness of a well-done job, of an accomplished duty and of rewarded effort. It managed to show to the most skeptical within both internal and international levels that justice is on the side of those who have solid arguments and incontestable evidence. It has definitely increased Romania's own confidence in its capacity as a State to support its viewpoint independently of its territorial size or its economic power.

As a follow-up to this judgment, on 23 June 2015, following a public consultation process at the national level, Romania submitted to the UN Secretary-General the Declaration of Acceptance of the Mandatory

¹ Irina MUNTEANU is an expert in foreign affairs and a PhD candidate at the University of Angers (France). The opinions expressed in this paper are solely the author's and do not engage the institutions she belongs to.

Jurisdiction of the International Court of Justice. Through this formal act², Romania recognizes, along with 72 other States, the Court's jurisdiction of judging a particular case, without a special agreement, with any other State which accepts the same obligation.

The document bears the signature of Bogdan Aurescu. As a sign of fate, the internal process of drafting and approving the declaration's submission – in its current wording – ended at a time when the Romanian agent in the case of the maritime delimitation with Ukraine took over the role of head of Romanian diplomacy as minister of foreign affairs.

Participating in this international trial represented an important point not only for Bogdan Aurescu's career, but also for the entire team that ensured the mentioned result. Supporting this far-reaching project, which has been carried out over four years – from the time the Court was notified to the completion of the hearings – would not have been possible without the involvement and dedication of a group of experts (representing a mix of personalities).

Without forgetting the tremendous support of foreign consultants (Professors Alain Pellet, James Crawford and Vaughan Lowe and the assistants of the former two, Daniel Muller and Simon Olleson), we will focus on the Romanian members of this team, diplomats and specialists that have dedicated a great effort during this period of time, out of respect and passion for their profession.

Bogdan Aurescu – Romania's agent – took over other important files shortly after the ruling was passed. During 2010-2011, he was the chief negotiator for Romania of the Romanian-US Agreement on Missile Defense and the Joint Statement on the Strategic Partnership for the 21st Century between Romania and the USA, as State Secretary for Strategic Affairs. Between November 2014 and November 2015 he was Minister of Foreign Affairs.

He is currently a Presidential adviser on foreign policy (since 2016), a member of the UN International Law Commission, of the Hague Permanent Court of Arbitration, alternate member of the European Commission for Democracy through Law (the Venice Commission) of the Council of Europe, the arbitrator designated by Romania in accordance with Article 2 of Annex VII to the UN Convention on the Law of the Sea (together with other scientific roles). Bogdan shares the same passion for international law, which he passes along to his students, generation after generation, in his capacity of professor at the Faculty of Law of the University of Bucharest.

The 10th anniversary of the ICJ ruling finds Cosmin Dinescu – Romania's co-agent during this trial – as Secretary-General of the Ministry of Foreign Affairs. Following a position as Romania's Ambassador to Croatia during 2010-2016, he returned to the MFA headquarters to face the multiple challenges of this position, coordinating the entire consular, financial and administrative activity of the institution.

² Romania's Declaration contains certain exceptions. Its integral text may be read online, at <https://www.icj-cij.org/en/declarations/ro>

The role of Romania's second co-agent – according to custom, Romania's ambassador to The Hague – was fulfilled in the written phase of the trial (2004-2008) by Iulian Buga, then in the oral phase by Călin Fabian. They represent today our national interests as Romania's Ambassador to Sweden (Iulian Buga), respectively the Director of the Protocol Department within the Ministry of Foreign Affairs (Călin Fabian).

Ioana Preda – the team veteran, as Bogdan Aurescu called her, continued her 'journey' in the field of international relations, both in Bucharest – at the headquarters of the Ministry of Foreign Affairs – and within a EU mission in Georgia, gathering experience that she is currently using at Romania's Permanent Mission in Brussels. Her expertise is all the more valuable in this position given Romania's exercise of the Council of the European Union Presidency in this first semester of 2019.

Liviu Dumitru remained honest to his commitment, working all these 10 years within the MFA Legal Affairs Department. He was initially Head of the Office for Maritime Borders and Delimitations, then deputy director and, starting with 2016, the director of the International Law and EU Law Directorate. The name of the directorate has suffered certain changes, but Liviu's involvement has remained unchanged, showing the same dedication for using International Law as a 'tool' of his diplomatic career.

Mirela Pascaru has undertaken various activities within the MFA headquarters and the external service. She continued working with Bogdan Aurescu as adviser to the Secretary of State, she then was the deputy mission head at Romania's Embassy to Hungary, and subsequently adviser of the minister for foreign affairs. She is currently working with Liviu Dumitru as deputy director of the International Law and EU Law Directorate. The two continue to be a successful team in this context as well.

After completing her diplomatic posting at The Hague, Irina Niță initially returned to the Legal Affairs Department, subsequently being an adviser within the minister's cabinet and general director of the Human Resources Department. Starting with September 2016, Irinița – as she is called by her close friends – embraced a new challenge within the external service at Romania's Embassy to Belgrade, where she currently is. Her vast experience over the last 10 years can only confirm Irina's focus and adaptation capacities – essential abilities in her career.

Other experts from the MFA were involved – Catrinel Brumar and Rodica Vasile (during the oral hearings), Elena Paris, Ionuț Gâlea and Alina Orosan (during the negotiations and the written phase) – all these maintaining the same high standard of their professional activity.

Catrinel Brumar initially continued her activity as a diplomat within the Legal Affairs Department, including by coordinating the Office for Implementing International Sanctions. Since 2012, however, Catrinel has been Romania's Agent to the European Court of Human Rights, defending the national interests before this prestigious international court. It is an offering activity – with its benefits and risks – that involves dedication, loyalty and a refined legal sense.

Rodica Vasile – the team's IT expert – who supervised the optimum performance of the technical equipment during the preparation and undertaking of the oral hearings, continues the

same commitment within the MFA special department, by offering assistance mostly to Romania's embassies and consular offices abroad.

Elena Paris has shared the same passion for International Law and foreign affairs, both from her position as head of the MFA Office for Implementing International Sanctions, and from within the institution's political departments. She is currently working at the Western and Central Europe Directorate, by managing the specific challenges of the bilateral relations within this area.

The 3rd of February 2019 finds Ionuț Gâlea at Sofia, as Romania's Ambassador to Bulgaria. Prior to this important challenge, he was General Director of the Legal Affairs Department during 2011-2016, combining the many faces of international legal activity. Ionuț is, moreover, a senior lecturer at the Faculty of Law of the University of Bucharest. By undertaking a considerable effort in order to combine his diplomatic and academic activities (both from the perspective of his loaded program and the distance involved), Ionuț overcomes any obstacles out of respect for his students and passion for the subject he teaches.

Alina Orosan has shown the same perseverance in developing her diplomatic career in International Law, by evolving during these 10 years as deputy director and director of the International Law and Treaties Directorate, and subsequently as general director of the Legal Affairs Department. It is in this quality that the 10th anniversary of the ruling finds her.

The team of the Ministry of Foreign Affairs was supplemented by technical experts, easily assimilated within Romania's team, because, in reality, the served interest was the national one, without any institutional or organizational barriers.

Rear admiral Eugen Laurian has been part of the team ever since the negotiations with Ukraine, the first round of which took place in 1998. His valued contribution facilitated a link that has not disappeared after the Court's ruling. Rear admiral Laurian, now a military reserve, happily remembers all the important moments from the more than a decade he invested in this project, kindly and humbly granting interviews on the case when he is asked to.

Captain Ovidiu Neghiu accompanied the team to the September 2008 hearings, offering special assistance and sharing the feeling of a unitary project outlined during these moments.

Lieutenant Commander (now in reserve) Octavian Buzatu – Tavi for the team members – had the essential role of team cartographer. His indisputable graphic skills have offered Tavi the possibilities of offering, during the last 10 years, similar services to other States undertaking procedures of maritime delimitation, being considered one of the first cartographers in the world offering similar expertise in this type of trials.

Regardless of the activities the team members are currently undertaking or the numerous projects they are part of, the maritime delimitation with Ukraine will represent a reference mark for their careers.

And, in a happy coincidence for Romania, the judgment passed by the ICJ in this case will also remain in the Court's institutional memory, as its 100th judgment. Not from coincidence,

however, the judgment was adopted unanimously, with no separate or dissenting opinions. The text was assumed in its entirety by the whole panel of judges.

At the same time, the manner in which the Romanian arguments persuaded the Court and the remarkable proportion it gained from the disputed total (almost 80%) by applying these arguments represent a landmark for the relevant caselaw.

It is otherwise well-known that, statistically, the cases of maritime delimitation before the ICJ are not solved by the absolute win of one of the parties. Consequently, the percentage obtained by Romania on February 3rd, 2009, was considered by foreign advisers 'an extremely good result' (Alain Pellet) and 'a strong victory' (James Crawford)³.

From the perspective of this ruling's impact at the regional level, the submission of the dispute to the International Court of Justice itself and its subsequent judgment represented a model of managing inter-State conflicts.

Moreover, if we focus on recent international evolutions, we can note that such conflicts do not avoid Romania's geographical location and would benefit from more positive examples like this.

Including from the perspective of the bilateral relation between Romania and Ukraine, the jurisdictional settlement of this dispute allowed the parties to relax their bilateral agenda and to focus on other elements that had been surpassed within the last years by the subject of the maritime delimitation as far as their importance of temporal priority was concerned.

Finally returning to the team, the 10 years have not been overlooked. Its members came together every year, most times all of them, around the date of February 3rd in order to celebrate this victory they have assimilated to a family anniversary. Besides the joy of being reunited and the beautiful memories, they were also most probably reunited by being aware of the joint effort and teamwork in promoting grand projects.

None of them, however, were aware of the drafting of this article or of its content, prior to publication.

³ Evaluations taken from the correspondence between Bogdan Aurescu and each of the two advisers, immediately after the Court's ruling.

More details in Bogdan Aurescu, *Avanscena și Culisele Procesului de la Haga*. Memoriile unui tânăr diplomat, Ed. Monitorul Oficial R.A, Bucharest 2009, p. 248.