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THE INFLUENCE OF THE ARBITRAL TRIBUNAL FINAL AWARD ON THE RELATIONSHIP BETWEEN CROATIA AND SLOVENIA, WITH PARTICULAR REGARD TO THE MARITIME DISPUTE

Abstract:

After the Arbitration Agreement between Croatia and Slovenia had been signed in late 2009, the Arbitral Tribunal was established and it seemed that the longstanding border dispute between these two states had reached the final phase of its resolution. The Arbitral Tribunal was given the task to determine the course of the maritime and land boundary between the two states, Slovenia's junction to the High Seas and the regime for the use of the relevant maritime areas. The Tribunal was performing its function until a telephone conversation between a Slovenian agent and the arbitrator appointed by Slovenia was intercepted and exposed to the public. Croatia responded with a request to the Tribunal to suspend the proceeding, while Slovenia opposed this. The Tribunal nevertheless decided to continue with proceeding despite Croatia's request, its decision to withdraw from the proceeding, and the Tribunal's decision that Slovenia had indeed violated the provisions of the Arbitration Agreement. It rendered its Final Award in June 2017 and a new dispute arose, which is still ongoing. While Slovenia insists on the Award's implementation, Croatia opposes it by recalling that the process has been totally and irreversibly compromised by Slovenia, which makes the Final Award non-binding and will therefore not be implemented by Croatia. In March 2018 Slovenia initiated the procedure before the European Commission giving the allegation that - by failing to implement the Final Award - Croatia violates the EU law. At the time of the presentation of this proposal the two states had already participated in the oral hearing before the European Commission and its decision is now being expected. However, Slovenia can nevertheless initiate a procedure before the EU Court of Justice and the direction of this dispute still remains to be seen. Therefore, the Arbitral Tribunal's Final Award undoubtedly determines the relationship between Croatia and Slovenia. With regards to the current (and future) positions of the two states, this presentation will focus on the Final Award's findings in respect of the maritime delimitations and Slovenia's junction to the High Seas.

Keywords:

Croatia, Slovenia, arbitration, maritime dispute

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