CJEU judgement on Slovenia v Croatia: What role for international law in EU-accession dispute settlement?

By: Thomas Bickl

Matter commented on: CJEU judgement on jurisdiction Case Art. 259 TFEU Republic of Slovenia v Republic of Croatia (C-457/18), 31 January 2020

I. Introduction

With regard to the Case under examination here, the Republic of Slovenia brought infringement proceedings against the Republic of Croatia under Article 259 TFEU before the Court of Justice of the European Union (CJEU) on 13 July 2018 (C-457/18). In short, Slovenia claimed that Croatia violates its obligations to respect EU law by refusing to implement the arbitration award on the maritime and land border between Croatia and Slovenia issued on 29 June 2017. To that end, an Arbitration Agreement between the Republic of Croatia and the Republic of Slovenia had been concluded on 04 November 2009 in the course of Croatia's EU accession negotiations following a blockade of the Republic of Slovenia on the grounds that documents submitted by the Republic of Croatia during the negotiations prejudiced the definition of the disputed common State border.

In the course of the arbitral proceedings, a disruption occurred due to media reports (on 22 July 2015) about a leaked intelligence recording of unlawful conversations (*ex-parte* communication) between a Slovenian government representative and the Tribunal member appointed by Slovenia. As a result, the Republic of Croatia withdrew from the arbitral proceedings as of 31 July 2015 invoking a material breach of the Arbitration Agreement on the part of Slovenia pursuant to Art. 65(1) of the Vienna Convention on the Law of the Treaties VCLT. On 30 June 2016, the Tribunal issued a Partial Award to the effect that the arbitration procedure would continue. In particular, the Tribunal noted that, by means of *ex-parte* communication, the Agent of Slovenia and the arbitrator appointed by Slovenia "acted in blatant violation of [the confidentiality] provisions" (PCA Partial Award, 2016: para 175). The Tribunal subsequently explored whether the integrity of the proceedings could be preserved, and, if so, in what way. It recalled that the Tribunal had been recomposed properly with two new and independent Members following the resignation of the two party-appointed arbitrators (*ibid*, paras 183-6). In relation to the two documents the arbitrator appointed by Slovenia had introduced into the proceedings after the *ex-parte* communication with Slovenia's Agent, the Tribunal found that the arbitrator had not presented any new arguments or facts that were not already in the official record of the Tribunal. Besides, the views expressed by both party-appointed arbitrators vis-à-vis the arguments and facts on the Tribunal's record were of no relevance for the work of the current Tribunal as the previous party-appointed Members both had resigned, so procedural imbalance could not be observed, either. In conclusion, the Tribunal noted no obstacles as to the continuation of the arbitral proceedings (*ibid*, paras 187-196). The Republic of Croatia, however, denies the legality of the Tribunal's decision and does not recognise the Partial Award and the Final Award.

The claim of the Republic of Slovenia before the Court consists of six pleas, two on EU primary law: the respect of the rule of law (Art. 2 TEU) and the duty of sincere cooperation (Art. 4(3) TEU), and four on EU secondary legislation: obligations arising from the Fisheries Regulation

1380/2013, the Fisheries Control Regulations 1224/2009 and 404/2011, the Schengen Code (Arts. 4, 13, and 17), and the Maritime Planning Directive 2014/89 (see Judgement C-457/18, para 1). The main argument is that the non-implementation of the arbitration award by Croatia prevents Slovenia from fulfilling its obligations of territorial application of EU law.

The Republic of Croatia submitted a motion of inadmissibility on 21 December 2018 on the grounds that (i) the claims of Slovenia were only ancillary to the settlement of the bilateral dispute about the validity of the arbitration agreement and the arbitration award, (ii) the above dispute had to be settled according to the rules of international law which were not related to the application of EU law, and (iii) the Court had no jurisdiction to rule on the validity or legal effects of either the arbitration agreement or the arbitration award both of which were not an integral part of EU law as the arbitration agreement was the real basis of the infringements of EU law pleaded by the Republic of Slovenia (Judgement C-457/18, paras 75-77).

The Court has decided to separate the issues of admissibility and, should the necessity arise, the merits of the Case. A hearing on the issue of admissibility and jurisdiction was held before the Grand Chamber on 08 July 2019. The Advocate General presented its Opinion on 11 December 2019 recommending the Court had no jurisdiction. For a critical appraisal of the AG's Opinion see my previous blog.

II. Summary CJEU judgement

The Court has examined whether it has jurisdiction, i.e. whether the arbitration agreement and the arbitration award are a matter of EU law and thus create obligations under EU competence. In its deliberations, the Great Chamber found, *inter alia*, that

- the Court was not competent to interpret an international agreement concluded by the Member States in an area outside EU competence, quoting from existing jurisprudence (C-132/09, *Commission v Belgium*), in particular when the pleaded failure to fulfil obligations is ancillary to the obligations from the very international agreement at issue (Judgement C-457/18, paras 91-92; 104);
- the Final Award handed down by the Arbitral Tribunal was governed by international law which was not within the EU competence, and that the EU was not a party to the subject matter despite its mediating role. Nevertheless, there was a clear link between the arbitration agreement and the arbitral proceedings on the one hand, and the accession of Croatia to the EU on the other hand. However, those circumstances were insufficient to be seen as an integral part of EU law (*ibid*, para 102);
- the provisions in Annex II of the Act of Accession of Croatia to the EU referring to the Fisheries Regulation with regard to mutual access to the territorial waters of Croatia and Slovenia to be determined by the arbitration award did not mean that the commitments from the arbitration agreement were incorporated into EU law (*ibid*, para 103);
- it is within the competence of the Member States to determine the limits of its territories in accordance with international law, quoting C-111/05 (*Aktiebolaget NN*), that this principle was enshrined in Articles 52 TEU and 355 TFEU, and that the Member States have the competence for the geographical demarcation of their borders in accordance with international law (*ibid*, para 105);
- there was a clear obligation for the parties, i.e. the Republic of Croatia and the Republic of Slovenia, in Article 7(3) of the arbitration agreement, to take all necessary steps,

including revising national legislation where necessary, to implement the arbitration award, within six months after its adoption, for the purposes of the mutual access regime provided for in the Fisheries Regulation 1380/2013, and that there was no doubt that implementation is pending (*ibid*, para 106);

- it is beyond the jurisdiction of the Court to examine the respective extent and the limits of the territories of the Republic of Croatia and the Republic of Slovenia by applying directly the border of the arbitration award (*ibid*, para 107);
- nevertheless, both the Republic of Croatia and the Republic of Slovenia have an obligation to "strive sincerely to bring about a definitive legal solution consistent with international law, as suggested in the Act of Accession [of the Republic of Croatia]" that ensures the application of EU law, and that an option to settle their dispute could be a submission "to the Court under a special agreement pursuant to Article 273 TFEU" (ibid, para 109).

III. Analysis

The judgement on *Slovenia v Croatia* has some substantial precedent-setting characteristics since (i) it is the first Art. 259 TFEU Case Member State against Member State on a territorial issue with a focus on the issue of jurisdiction of the CJEU, (ii) the territorial dispute was subject to third-party judicial dispute resolution under international law where the EU played a strong role in the drafting stages for the mandate for the arbitral tribunal, and (iii) the territorial dispute surfaced during EU accession negotiations. The following analysis of the judgement will tackle these issues in turn.

III.1 The issue of jurisdiction and the concept of ancillary

Slovenia v Croatia is a *sui generis* Art. 259 TFEU dispute Member State v Member State. In fact, it is the first Case where the territorial application of EU law is at issue in Art. 259 TFEU infringement proceedings. The Court had to examine whether obligations arise under EU competence from an international agreement, i.e. the arbitration agreement, entered into by two Member States (Croatia was still a third country by the time the arbitration agreement was signed in 2009) under international law, and its subsequent binding settlement through an arbitration award. The deliberations of the Court were governed by the issue of admissibility or jurisdiction.

Let us look at the judgement's key paragraphs with regard to existing jurisprudence:

> "It should […] be noted that the Court, in the context of an action for failure to fulfil obligations, has already held that it lacks jurisdiction to rule on the *interpretation* [emphasis added] of an international agreement concluded by Member States whose subject matter falls outside the areas of EU competence and on the obligations arising under it for them (see, to that effect […] *Commission* v *Belgium*, C-132/09 […], paragraph 44)." (Judgement C-457/18, para 91)

> "It is clear from that case-law that the Court lacks jurisdiction to rule on an action for failure to fulfil obligations, whether it is brought under Article 258 TFEU or under Article 259 TFEU, where the infringement of provisions of EU law that is pleaded in support of the action is *ancillary* to the alleged failure to comply with obligations arising from such an agreement." (Judgement C-457/18, para 92; emphasis added)

With reference to a previous judgement, the Court draws on the concept of *ancillary*, i.e. a legal argument used in an auxiliary or subordinate manner to seek the fulfilment of obligations stemming from a different area of law (international law, in this instance) than the one an Art. 258/259 TFEU claim is based on (EU law). The Court notes that, if infringement proceedings for failure to fulfil obligations relate to an international agreement which is outside EU competence, it has no jurisdiction on the interpretation of that agreement.

The concept of ancillary the Court subsequently employs with regard to the pleas of the Republic of Slovenia when stating that

> "the infringements of EU law pleaded are ancillary to the alleged failure by the Republic of Croatia to comply with the obligations arising from a bilateral international agreement to which the European Union is not a party and whose subject matter falls outside the areas of EU competence. Since the subject matter of an action for failure to fulfil obligations brought under Article 259 TFEU can only be non-compliance with obligations arising from EU law, the Court, in accordance with what has been stated in paragraphs 91 and 92 of the present judgment, lacks jurisdiction to rule in the present action on an alleged failure to comply with the obligations arising from the arbitration agreement and the arbitration award, which are the source of the Republic of Slovenia's complaints regarding alleged infringements of EU law." (Judgement C-457/18, para 104)

III.2 Third-party judicial dispute settlement: international law and the role of the EU

The Court, by examining the relationship between the arbitration agreement and the arbitration award on the one hand, and the issue of the level of incorporation into EU law on the other hand, noted that

> "it must be stated that the arbitration award was made by an international tribunal established under a bilateral arbitration agreement governed by international law, the subject matter of which does not fall within the areas of EU competence referred to in Articles 3 to 6 TFEU and to which the European Union is not a party. It is true that the *European Union offered its good offices to both parties* to the border dispute with a view to its resolution and that the *Presidency of the Council signed the arbitration agreement on behalf of the European Union, as a witness*. Furthermore, there are links between, on the one hand, the conclusion of the arbitration agreement, and the arbitration proceedings conducted on the basis of that agreement, and on the other, the process of negotiation and accession by the Republic of Croatia to the European Union. Such circumstances are not, however, sufficient for the arbitration agreement and the arbitration award to be considered an integral part of EU law." (Judgement C-457/18, para 102; emphases added)

The Court rightly acknowledges the (political and legal) link between the conclusion of the arbitration agreement and the accession of Croatia to the EU and also the role of the EU in the settlement of the border dispute. Nevertheless, the Grand Chamber falls short of recognising the true performance of the EU institutions in that process. Regrettably, "good offices" inadequately and insufficiently describes the undertakings of the European Commission and the Council Presidency. In established third-party conflict resolution theory, *good offices* equals allowing for the parties to communicate directly with one another, but with almost zero intrusion by the third party, with little active control over the process and the substantive issues, and without the third party making any proposals (see Tanaka, 2018: 29; Bercovitch and Houston, 1996: 28-30; Burton, 1990: 188-192).

As a matter of fact, however, the European Commission did play an active role as a *mediator/facilitator* in the *travaux préparatoires* of the Arbitration Agreement. This was not least expressly acknowledged in the Agreement's Preamble ("Welcoming the facilitation offered by the European Commission"). Precisely, as this author has demonstrated, the Commission prepared two drafts of the Arbitration Agreement ("Rehn I" and "Rehn II") - following an initial draft for a mandate for a "Senior Experts Group" - and discussed them with the parties in various meetings and through written correspondence including amendments to the drafts by the parties. That phase, where the European Commission brokered the lion share of the later Agreement, lasted from January to June 2009 (Bickl, 2019: 149-161; see also Grbec, 2015: 183-4; Cataldi, 2013: 260-1).

In addition, from July to November 2009, the Swedish EU Presidency assisted the parties in their bilateral finalising of the Arbitration Agreement. The Swedish Presidency's positive facilitating role which included the country's Foreign Minister and State Secretary has been expressly acknowledged to this author by both parties (Bickl, 2019: 165-166). During the Swedish Presidency, a remaining obstacle ahead of concluding the Agreement was removed: the issue of the potentially prejudging Croatian documents from the accession negotiations with reference to the common State border. An exchange of letters between the Croatian Prime Minister and the Swedish Prime Minister in his role as EU Council President defused the issue. The drafting of that letter had taken several weeks and involved members of the bilateral Croatian-Slovenian "Silent Diplomacy Group", the Swedish State Secretary and the Swedish Prime Minister (Bickl, 2019: 163-164). The role of the Swedish Presidency was officially recognised by signing the Arbitration Agreement as a witness together with the parties on 04 November 2009, as the Court correctly finds.

III.3 The arbitration procedure, Croatia's Act of Accession, and issues of competence

As the Court observed in para 102 (see III.2), the resolution of the border dispute (by means of the arbitration agreement) is linked to the accession of the Republic of Croatia to the European Union. This link materializes in EU law in the Act of Accession of the Republic of Croatia and subsequently in pertinent EU legislation. As the Court notes,

> "Point 5 of Annex III to the Act of Accession, headed 'Fisheries', adapted Council Regulation (EC) No 2371/2002 of 20 December 2002 on the conservation and sustainable exploitation of fisheries resources under the Common Fisheries Policy (OJ 2002 L 358, p. 59) by adding points 11 and 12, respectively headed 'Coastal waters of Croatia' and 'Coastal waters of Slovenia', to Annex I to that regulation. The footnotes to points 11 and 12 state, in identical terms, that *'[the] regime [governing access to the coastal waters of Croatia and Slovenia under neighbourhood relations] shall apply from the full implementation of the arbitration award resulting from the [arbitration agreement]'*. Those points and footnotes were, in essence, reproduced in Regulation No 1380/2013, which repealed Regulation No 2371/2002." (Judgement C-457/18, para 14; emphasis added)

With regard to the obligations under international law arising from the arbitration agreement and the arbitration award in the context of EU legislation, the Court further observes that

> "[i]n the case in point, Article 7(3) of the arbitration agreement provides that the parties are to take all necessary steps to implement the arbitration award, including by revising national legislation, as necessary, within six months after the adoption of that award. Furthermore, the footnotes relating to points 8 and 10 of Annex I to Regulation No 1380/2013 state that, as

> regards the Republic of Croatia and the Republic of Slovenia, the regime, laid down in that annex, governing access to the coastal waters of those Member States under neighbourhood relations 'shall apply from the *full implementation* of the arbitration award'. It is not in dispute, as the Advocate General has also observed in essence in point 164 of his Opinion, that effect has not been given to the arbitration award." (Judgement C-457/18, para 106; emphasis added)

Whilst the Court expressly states the implementation obligations of the parties arising from the arbitration agreement, it also observes that the application of the fisheries regime for the territorial waters of Slovenia and Croatia respectively is subject to the full *implementation* of the arbitration award. What the Court appears to have avoided, however, is to interpret the *Act of Accession* of the Republic of Croatia. Such interpretation would have had to include a boader taking into account of the arbitration award as part of the link between Croatia's accession to the EU and the resolution of the border dispute. A true interpretation of the Act of Accession could have gone beyond a mechanistic reading of the footnotes in the Act of Accession and the Fisheries regulation.

In relation to the competence for territorial issues including the delimitation and demarcation of borders, the Court notes that

> "it is for each Member State to determine the extent and limits of its own territory, in accordance with the rules of public international law (see, to that effect, judgment of 29 March 2007, *Aktiebolaget NN*, C-111/05 […], paragraph 54). Indeed, it is by reference to national territories that the territorial scope of the Treaties is established, for the purposes of Article 52 TEU and Article 355 TFEU. Moreover, Article 77(4) TFEU points out that the Member States have competence concerning the geographical demarcation of their borders, in accordance with international law." (Judgement C-457/18, para 105)

As a result, it appears that the fact that (i) the arbitration award has not yet been implemented, (ii) there nevertheless is an implementation obligation from international law, however not from EU law, and (iii) the Member State competence for territorial issues, has led the Court to the finding that

> "[i]n those circumstances, it is not for the Court — if it is not to step beyond the powers conferred upon it by the Treaties and encroach upon the powers reserved for the Member States regarding geographical determination of their borders — to examine, in the present action brought under Article 259 TFEU, the question of the extent and limits of the respective territories of the Republic of Croatia and the Republic of Slovenia, by applying directly the border determined by the arbitration award in order to verify the existence of the infringements of EU law at issue" (Judgement C-457/18, para 107),

and that therefore

> "it must be held that the Court lacks jurisdiction to rule on the present action for failure to fulfil obligations." (Judgement C-457/18, para 108)

It must be noted, that, in conclusion, the Court nevertheless explicitly states that Art. 4(3) TEU, enshrining the principle of "sincere cooperation", creates an obligation to bring about a definite settlement of the dispute in practice:

> "This conclusion is without prejudice to any obligation arising — for both of the Member States concerned, in their reciprocal relations but also vis-à-vis the European Union and the other Member States — from Article 4(3) TEU to strive sincerely to bring about a definitive legal solution consistent with international law, as suggested in the Act of Accession, that ensures the effective and unhindered application of EU law in the areas concerned, and to bring their dispute to an end by using one or other means of settling it, including, as the case may be, by submitting it to the Court under a special agreement pursuant to Article 273 TFEU." (Judgement C-457/18, para 109)

The above concluding paragraph, however, leaves the observer somewhat puzzled. First, the Court refers to the Art. 4(3) TEU principle of sincere cooperation implying a real effort from both parties to bring about a definitive legal solution, as stipulated in Croatia's Act of Accession to ensure the territorial application of EU law. This appears to be a clear reference to the fact that implementation of the arbitration award is indeed pending. Second, the Court calls on the parties "to bring their dispute to an end". Here, the Court appears to refer not to the initial dispute over the common State border which is *res judicata,* but to the fact that one party, the Republic of Slovenia, insists on the implementation of the arbitration award, a binding settlement under international law, whereas the other party, the Republic of Croatia, does not recognise the arbitration award.

Third, as for the settlement of that dispute, the Court suggests "using one or other means of settling it" including a joint submission to the Court under Art. 273 TFEU. Yet, it is difficult to see the motivation of either party to settle their difference of opinion about the obligations arising from the Final Award. Slovenia can rely on the well-established fact that the award is a binding settlement under international law (see Art. 7(3) arbitration agreement which the Court quoted in para 106; see also e.g. Bantekas, 2015: 109-112; Tanaka, 2018: 106; 109; Degan, 2019). Croatia, on its part, may be expected to want to avoid its position of non-recognition of the award being repudiated by a judicial body. Nevertheless and in theory, the two parties could bring the matter before the ICJ (under Article 36(1) of the Model Rules on Arbitral Procedure) or indeed before the CJEU under Art. 273 TFEU. In practice, though, it would appear unlikely for obvious reasons that the two parties could reach agreement on a joint submission under the present circumstances.

IV. Conclusion and way forward

With the CJEU's decision of non-jurisdiction of 31 January 2020, the Case *Slovenia v Croatia* is formally closed. What remains pending, however, is the issue of non-implementation of the arbitration award and its delimitation decision on the course of the terrestrial and maritime State border between the two countries.

IV.1 How to proceed with implementation of the arbitration award

As discussed above, it is unlikely that the two parties will reach agreement to submit the issue of the validity of the arbitration award to either the ICJ or the CJEU. After all, the award is a binding settlement under international law and the CJEU has confirmed that in various paragraphs of its judgement. So it may be said with some accuracy that, irrespective of the non-existence of any enforcement means through EU law, there is no doubt that an obligation to implement exists under international law.

It would appear that it is now for the parties to sit down bilaterally to negotiate on implementation and demarcation. There is a long-standing bilateral joint Commission of the Republic of Croatia and the Republic of Slovenia on the identification and marking of the common State border which could be entrusted with that task. However, this would require the political will of *both* parties to do so. For the moment, it could be a fine hour for silent diplomacy by a third-party State actor or an individual commanding the respect of both parties. In the medium term, Croatia's ambitions to join the Euro and the Schengen Area may indirectly open the door for a package-deal solution. It is useful to note in that context, that accession to both clubs requires the unanimous consent of the Euro and Schengen Area members Slovenia and others being a member of both clubs.

Whereas a decision on Schengen membership may still be a considerable way ahead (notwithstanding the positive recommendation of the European Commission on the *technical* readiness of Croatia from 22 October 2019; the Commission issued a positive recommendation for Bulgaria and Rumania, too, as early as 2011; a decision by the Member States is still pending, however), a first decision on membership of Croatia in the pre-Euro Exchange Rate Mechanism (ERM II) is more imminent. Croatia officially expressed its intent to join the ERM II in July 2019 and a decision may be due by mid-2020 which gives Slovenia and all other Eurogroup ministers some leverage to address other open issues not least with regard to the rule of law.

IV.2 Future dispute resolution in the context of EU enlargement

There are certainly a number of lessons to be learnt from the Slovenia-Croatia border dispute many of which are beyond the scope of this blog. In the EU context, it is not difficult to agree with the proposition that bilateral issues between a Member State and a Candidate Country must be resolved *before* the start of accession negotiations. Although there is a general notion that "all parties must abstain from misusing outstanding issues in the EU accession process" (European Commission Communication, 5 February 2020: 2), it would not be wise to rely on the good will of State actors during the operational stage of the accession negotiations where governments may be tempted to use the veto at any time, not least for domestic purposes. As a golden rule, open bilateral issues should be cleared *ahead of* accession negotiations, either by bilateral diplomacy potentially including third-party mediation, or by judicial third-party settlement.

In the event of unforeseen issues surfacing *during* accession negotiations, dispute resolution must be "bullet-proof" in a legal sense. Dispute resolution in an emergency situation must still be reliable, robust and provide legal certainty. This may be achieved in the following ways:

(i) Enforcement should not be an issue with decisions of the ICJ (any dispute) or ITLOS (maritime disputes only). If, however, the need for a tailor-made mandate for judicial third-party resolution, i.e. arbitration, arises (as with Slovenia and Croatia, where, as for the applicable law, *equity* and *good-neighbourly relations* had to be employed as additional criteria to international law to create the junction between the territorial sea of Slovenia and the High Seas in the Adriatic; see Art. 4 Arbitration Agreement), any subsequent reference in an EU legal act should draw *directly* on the (upcoming) decision of the arbitral tribunal. In order to avoid destructive leverage for the parties, there should *not* be any reference to implementation, let alone its completion, as was the case with the footnotes in the Act of Accession of Croatia and the related Fisheries Regulation (see III.3). It would appear that this is one crucial way to

create a sufficiently strong link to EU law and thus provide jurisdiction of the CJEU in the event of infringement proceedings.

(ii) Another crucial element in strengthening the EU's role in a legal sense would be to appropriately highlight the role of EU bodies in bilateral dispute resolution. In retrospect, the very strong mediating role in the Slovenia-Croatia instance, where the European Commission drafted the arbitration agreement and discussed it with the parties and the Council Presidency skilfully assisted the parties in the finalising stage (see III.2), could or should have been reflected somewhat more prominently. On the one hand, the role of the Council Presidency could have been added to the one of the European Commission in the arbitration agreement's preamble. Second, The European Commission who undoubtedly drafted the lion share of the arbitration agreement could have signed the agreement as a witness together with the Council Presidency.

References

Bantekas, Ilias. 2015. *An introduction to international arbitration*. Cambridge: Cambridge University Press.

Bercovitch, Jacob/Houston, Allison. 1996. The Study of International Mediation, in: Bercovitch, Jacob (ed): *Resolving International Conflicts*. Boulder and London: Lynne Rienner Publishers. 11-35.

Bickl, Thomas. 07 January 2020. *The Advocate General's Opinion on Slovenia v Croatia: A proper reflection of international law and the EU's role in the Arbitration Agreement?* NCLOS Blog. Available at: https://site.uit.no/nclos/2020/01/07/the-advocate-generals-opinion-on-slovenia-v-croatia-a-proper-reflection-of-international-law-and-the-eus-role-in-the-arbitration-agreement/#more-714

Bickl, Thomas. 2019. *The border dispute between Croatia and Slovenia. The stages of a protracted conflict and its implications for EU enlargement.* Doctoral thesis. Duisburg-Essen University. Available at: https://duepublico2.uni-due.de/receive/duepublico_mods_00070297.

Burton, John. 1990. *Conflict: Human Needs Theory*. Houndmills and London: Macmillan Press.

Cataldi, Giuseppe. 2013. Prospects for the judicial settlement of the dispute between Croatia and Slovenia over Piran Bay, in: Boschiero, Nerina/Scovazzi, Tullio/Pitea, Cesare/Ragni, Chiara (eds): *International Courts and the development of International Law*. The Hague: T.M.C. Asser Press. 257-268.

Court of Justice of the European Union. Judgement of the Court (Grand Chamber). 31 January 2020. *Case C-457/18 Republic of Slovenia v Republic of Croatia*. Available at: http://curia.europa.eu/juris/document/document.jsf?text=&docid=223409&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=5920113.

Court of Justice of the European Union. Opinion Advocate General. 11 December 2019. *Case C-457/18 Republic of Slovenia v Republic of Croatia*. Available at: http://curia.europa.eu/juris/documents.jsf?num=C-457/18#.

Degan, Vladimir-Đuro. 2019. Spor o granicama između Hrvatske i Slovenije. in: Poredbeno Pomorsko Pravo, Vol. 58 (173), 11-66. Available at:

https://www.google.de/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=2ahUKEwjA1oaSocTmAhXIOcAKHUDODF0QFjAAegQIBRAC&url=https%3A%2F%2Fhrcak.srce.hr%2Ffile%2F324286&usg=AOvVaw17pkhg_uyyw2gYDgRevBt0.

European Commission. 05 February 2020. Enhancing the accession process - A credible EU perspective for the Western Balkans. Available at: https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/enlargement-methodology_en.pdf.

Grbec, Mitja. 2015. *Extension of coastal state jurisdiction in enclosed and semi-enclosed seas – a Mediterranean and Adriatic perspective*. London and New York: Routledge.

Permanent Court of Arbitration. *Croatia/Slovenia*. Partial Award of 30 June 2016. Available at: https://pcacases.com/web/sendAttach/1787.

Permanent Court of Arbitration. *Croatia/Slovenia*. Final Award of 29 June 2017. Available at: https://pcacases.com/web/sendAttach/2172.

Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy. Available at: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32013R1380.

Tanaka, Yoshifumi. 2018. *The Peaceful Settlement of International Disputes*. Cambridge: Cambridge University Press.