

Evolution Of International Governmental Organisations Concerning Danube River

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Abstract: The international rivers are water courses that separate or cross the territories of several states and which are navigable up to discharging in the sea. The Congress of Vienna (1815) sets forth certain principles of the regime of navigation on European international rivers and the notion of international rivers. The Conference of Berlin (1885) institutes the freedom of navigation on the rivers Congo and Niger. During the Conference of Barcelona (1921) a convention and a by-law were elaborated concerning the regime of navigable ways of international interest.

Key words: Danube; Danube Commission; European Commission of Danube; Belgrade Convention; Sofia Convention

1. Introduction

The international rivers are water courses that separate or cross the territories of several states and which are navigable up to discharging in the sea (Popescu & Năstase, 1997, p. 160). There are several kinds of river, for instance:

- *successive rivers* that cross the territory of several states: Danube for Germany, Austria, Hungary, Yugoslavia, Romania.
- *contiguous rivers* that separate the territories of two states: Danube between Slovakia and Hungary, Danube between Yugoslavia and Romania, Bulgaria and Romania, Rhine between Germany, Switzerland and France. (Năstase; Aurescu & Jora, 2009, p. 253)

2. First Rulings Concerning the International Rivers

- a) The Congress of Vienna (1815) sets forth certain principles of the regime of navigation on European international rivers and the notion of international river;

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- b) The Conference of Berlin (1885) institutes the freedom of navigation on the rivers Congo and Niger. In November 1884, Otto von Bismarck organised at Berlin a conference inviting 14 states, to encounter a peaceful solution on Congolese crisis. After three months of negotiations, on 5 February 1885, the Conference was closed.
- c) During the Conference of Barcelona (1921) a convention and a by-law were elaborated concerning the regime of navigable ways of international interest.

Between 10 March - 20 April 1920 one carried out, under the patronage of the Society of Nations, the works of the Conference of Barcelona, dedicated to concluding international agreements related to permanent organisation of communication and transit, of railways, of navigation and ports. The delegations of the 41 states on the five continents participated to discussions on the same level, without discriminations between the Great Powers and the other states, between the defeated and winners. Among the states directly interested in the elaboration of a new regime of Danube, Hungary and Germany did not send any representative, as riparian states, whereas Soviet Union (descendent of tsarist Russia) was not invited, although it was part of the prior legal frame.

In terms of the principles related to navigation, trade and ports, among the resolutions adopted in Barcelona, extremely important were the following decisions: “Convention and By-Law over the regime of navigable ways of international interest” and “Convention and By-Law on transit freedom”. The two agreements determined the norms generally applicable to all international rivers, following that, in particular, from case to case, to be introduced other specific elements as well.

The “Convention and By-Law over the regime of navigable ways of international interest” defined the relations that should have been instituted between the international character of a water course – *“all parts, naturally navigable to and from the Sea, of a water course that, on its natural navigable course, to and from the Sea, separate or cross different states, as well as any other part of another natural navigable water course, to and from the Sea, connecting to the sea a navigable natural water course that separates or crosses different states”* – and observance of suzerainty of state over its own territory. Every contractual state, signatory of such Convention, must assure its own sector of such water course, included in the above characteristics and defined by the term of international navigable way, free exercise of navigation for any other contracting state. Simultaneously, every riparian state may rule without restrictions of navigable ways, under its authority, in the issue of cabotage: it reserves the right to carry out goods and individuals between its ports; to elaborate and enforce laws, rules of police, customs, public health, emigration and immigration, forbids certain goods from export or import.

The Convention set forth the right of riparian states to rule their navigation and to supervise the enforcement thereof. However, there is also a derogation from such rule, derogation which made special reference to the navigable ways of international interest, managed by an international board, to which could participate the non-riparian states as well (art. 2 point a.). This clause was used during the Conference of Paris dedicated to elaborating a by-law for Danube (2 august 1920 – 23 July 1921) in order to explain the presence of France, Great Britain and Italy, as non-riparian states, in the inter-war structure of Danube Commissions.

The second resolution – “Convention and By-law over the transit freedom” – imposed to territorial power to observe the freedom of individuals, luggage, merchandise, vessels, ships or any other means of transport the traffic of which on the territory of such authority does not represent but a part of overall traffic, started and which must end beyond the borders of the territory of transit.

3. Rules about the Navigation on International Rivers (Popescu & Năstase, 1997, p. 160).

- a) every state is suzerain on the part of such rivers encountered on its territory (Niciu, 1997, p. 282);
- b) as for the navigation, it is applied the principle of navigation freedom;
- c) only riparian states may rule the navigation on international rivers, based on suzerainty;
- d) the commercial vessels, during peace periods, enjoyed full freedom of navigation; the military, customs and police vessels of non-riparian states do not have access to international rivers; the riparian state vessels may navigate only in their sector, for the sectors of other states being necessary an authorisation;
- e) the riparian states have the obligation to maintain the river navigable, they may charge taxes, they have right of customs and sanitary control;
- f) in principle, for international rivers one constitutes boards including the representatives of the riparian states in order to coordinate the activity of such states¹.

¹ For considerations concerning the development of a branch of Public International Law, fluvial International Law, see (Moca, 1999, p. 284).

4. Use of International Rivers in Other Scopes than Navigation (Năstase; Aurescu & Jora, 2009, p. 253)

Since 1974, the Commission of International Law of ONU has initiated works of codification on the law applicable to international rivers in other scopes than navigation. It was considered the concept of natural shared resources, mentioned as well in the Charta of economic rights and obligations of states. From this concept derive the following principles, developed in a project of 33 articles of the Commission of International Law (Diaconu, 2003, p. 305):

- fair use and share of water course;
- obligation of not causing important damages to other states;
- general obligation to cooperate;
- need of protecting ecosystems, prevention, reduction and control of pollution.

5. Evolution of Legal Regime of Danube (Popescu & Năstase, 1997, p. 161).

Danube is a navigable river on a length of 2588 km¹:

a) The Peace Treaty of Paris (1856) on the general legal regime of navigation on Danube

The Peace Treaty from Paris (1856), that ended the Russian-Turkish war, set forth the general legal regime of navigation on Danube, which stipulates the free navigation of all riparian and non-riparian states and the division of river in two sectors: fluvial Danube and maritime Danube. For the maritime Danube, one has constituted the **European Commission of Danube** including: England, France, Prussia, Sardinia, Austria, Turkey, Russia. The commission did not include the Romanian Principalities. (Diaconu, 2003, p. 318)

The European Commission of Danube – CED (1856-1938) was an international body incorporated after the Crimea War and pursuant to signing the Peace Treaty of Paris on 18/30 March 1856, and which determined the neutralisation of Black Sea and free circulation on Danube. The European Commission of Danube started the activity on 4 November 1856, in Galați. The powers represented by this international body were: Austro-Hungarian Empire, the Second French Empire, the United Kingdom, Prussia, the Russian Empire, the Kingdom of Sardinia and Ottoman Empire. The Moldova Principality had at the beginning only a consulting role. After the war of independency and the incorporation of Dobrogea, the Kingdom of Romania became member with full rights of the European Commission of Danube.

¹ For issues related to the international regime of navigation on Danube, see (Niciu, 1997, p. 286).

For a good development of the activity of commission, it was decided based on a mutual agreement the executive power to be held by a British representative, whereas the administrative one by a French representative. During its entire period of existence, CED benefited from several exemptions of taxes and duties and the right to approach its own flag (five horizontal lanes, two red, two white and one blue, with CED initials in white). During the eight decades of existence, CED has contributed to the arrangement of the lower course of Danube as well as to the socio-economic development of the area. Despite all regional or European conflicts (Balkan wars, First World War), the Commission managed to maintain the neutral position based on consulting act).

b) Danube Convention adopted during the Conference of peace from Paris of 1921

The Peace Conference of Paris (2 August 1920 - 23 July 1921) reflects the new report of forces between the European states at the end of the First World War. Then, it is adopted the Danube Convention which institutes an international regime on the entire navigable part of Danube, from Ulm to the discharge in the sea. The **International Commission of Danube** operates for the upper course, from Ulm to Brăila, including England, France, Italy and riparian states and **European Commission of Danube** for maritime Danube, from Brăila up to the discharge in the sea, with navigation on Sulina branch including England, France, Italy and Romania.

The completion of Danube regime was subject of a special conference attended by the states designated by the Allied and Associated Powers: France, Great Britain, Italy, Belgium, Romania, Serbian-Croatian-Slovenian Kingdom, Czechoslovakia and Greece. The conference, with works lasting one year, was organised in Paris during two sessions: 2 August – 16 November 1920 and 5 April – 21 July 1921.

The Convention of Final By-Law of Danube was signed, on 23 July 1921, by Belgium, France, Great Britain, Greece, Romania, Czechoslovakia, states that participated to the Conference with right of deliberative vote, and by Bulgaria, Hungary and Austria, defeated states that had the obligation, based on the peace treaties concluded, to adhere to the new regime. the Serbian-Croatian-Slovenian Kingdom and Italy having some reserves, signed subsequently.

According to the Convention of 23 July 1921, the freedom of navigation and equality between the pavilions on the international course of Danube from Ulm to the Black Sea (art. 1), including on the navigable feeders of the river (art. 2), were provided by two international bodies: European Commission of Danube, managing the maritime Danube; International Commission of Danube, on the fluvial sector and on the feeders' network (art. 3).

On 18 August 1938 it was concluded the “Agreement of Sinaia”, being annulled the international body of the European Commission of Danube and it was incorporated, in exchange, “the Administration of Lower Danube”, body under the control of Romanian government.

The “Administration of Lower Danube” was annulled in 1940 by the so-called “Agreement of Viena”.

c) Convention of Belgrade dated 1948 concerning the regime of navigation on Danube

The Convention of Belgrade (1948) rules the current regime of navigation on Danube (Moca, 1999, p. 290). The Convention was concluded exclusively by the riparian states. It is acknowledged to riparian states the full suzerainty over the parts of river within their borders, they are excluded from the management of navigation of non-riparian states, it is secured the freedom of navigation for commercial ships. The Convention of Belgrade incorporated the Danube Commission which has only attributions of coordination and consulting related to the rules of navigation and control. The Commission has the seat in Budapest.

Therefore, pursuant to the end of the second worldwide conflagration, it was incorporated the intergovernmental organisation Danube Commission¹ with the seat in Budapest (in 1954), which carries out the activity based on the disposals of the “Convention concerning the regime of navigation on Danube”, signed on 18 August 1948, in Belgrade. The Danube Commission includes 11 riparian states: Austria, Bulgaria, Croatia, Russian Federation, Germany, Moldova, Romania, Serbia, Slovakia, Ukraine and Hungary. Eight states obtained the status of observatory: France, Turkey, Netherlands, Czech, Belgium, Montenegro, Greece and Cyprus.

d) Convention concerning the cooperation for protection and sustainable use of Danube river adopted in Sofia, Bulgaria in 1994

In 1994 it is signed in Sofia, Bulgaria, the Convention concerning the cooperation for protection and sustainable use of Danube river. The Convention come into force in 1998. Based on this convention, it was incorporated the International Commission for Danube River Protection² with the seat in Vienna, Austria.

In order to use the water of Danube for producing electricity, Romania and Yugoslavia concluded two bilateral treaties: Agreements on the Hydroenergetic and Navigation System “Iron Gates I” (1963) and “Iron Gates II” (1976).

¹ Official website of Danube Commission is <http://www.danubecommission.org/>.

² Official website of the Commission is <http://www.icpdr.org/icpdr-pages/home.htm>.

The Danube-Black Sea Channel is a navigable water course, completely situated on the territory of Romania, therefore under the exclusive suzerainty and jurisdiction of Romanian state. It is characteristic the freedom of navigation for commercial and passenger vessels¹.

6. Conclusions

From 1920 till now, the legal status of the Danube River was determined by various conventions. At the moment, there are two conventions concerning the regime of the Danube River: the Convention of Belgrade from 1948 and Convention concerning the cooperation for protection and sustainable use of Danube river adopted in Sofia, Bulgaria in 1994.

Also European Union showed a high interest on the Danube River and developed a unique strategy. The EU Strategy for Danube Area is a communitarian mechanism of collaboration between the states from Danube basin, for economic and social development of Danube macro-region, by reinforcing the implementation in the area of EU politics and legislation. The EU Strategy for Danube Area is the second EU macro-regional strategy, taking over the manner of collaboration developed by the EU Strategy for the Baltic Sea (adopted in 2009) adjusted to the specificity of Danube area.

The Danube area can not be spited form Black Sea Region. So, European Union developed a genuine strategy for this region also. The importance of the Black Sea area was outlined by several EU politics and instruments for the eastern neighbourhood, among which and most recently the Eastern Partnership launched (2009).

7. References

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¹ See *F. Coman, A. Bărăscu, N. Purdă, R.O. Coman*, Public international law, 2nd edition, Ed. Pro Universalis, Bucharest, 2005, p. 139.

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