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## BOOK REVIEW

Anna WYROZUMSKA. Ewolucja statusu prawnego Antarktyki a państwa trzecie (*The evolution of the legal status of Antarctica and the third states*). In Polish with English summary. Wydawnictwo Uniwersytetu Łódzkiego (The Łódź University Press), Łódź, 1995, 215 pp. Price 9,00 zł (90.000,-).

This is a valuable addition to the growing literature on the legal status of Antarctica, mainly due to the unusual approach to the subject adopted by the author. Unlike most of the writers, she does not consider it from inside of the exclusive "Antarctic club", but from the outside of the Antarctic Treaty System (ATS), presenting extensively the position, interests and arguments of the third parties, which do not belong to that system.

The author is a lecturer of international law at the University of Łódź. The book represents an updated version of her Ph.D. thesis at that university, covering up to the end of 1994. For many years the author has displayed interest in international law of polar regions, demonstrated by a number of interesting articles published on that subject.

The book's six chapters cover such topics like *The Question of Antarctica* in the United Nations, the recapitulation of the present status of sovereignty in Antarctica, the claim to the common heritage of mankind, a comparative presentation of the League of Nations and the United Nations legal instruments for the protection of interests of third states, "the opposability" of the 1959 Antarctic Treaty and finally the evolution of the Antarctic Treaty System with particular impact on the accommodation of interests of the various groups of parties and of the international community.

The first interest of third states in Antarctica was displayed in the early 1950s, preceding the signing of the 1959 Antarctic Treaty. "The second" involvement of those states in that part of the world resulted in their submission in 1983 to the UN agenda of *The Question of Antarctica*. These developments have opened a debate on controversial political and legal issues concerning the legitimacy of the third parties to interfere into matters regulated by the Antarctic Treaty System instruments (among other the conflict between *pacta servanda sunt rule*, *res inter alios acta and rebus sic stantibus*) and the availability in international law of any legal instrument to vindicate claims of third states. In the subsequent chapters, the author discusses in details the nature of legal effects of the Treaty towards third states and its opposability.

The third states claim that Antarctica is by no means *res nullius* and that the legal regime established by the Antarctic Treaty has many facets of *res communis* and of the international management of the area, giving them the right to participate in it. But the common heritage of mankind, referred by the third parties, is not yet an universally accepted legal principle that could oppose the present status of Antarctica. At the same time, the Antarctic Treaty is "protected" by international law against third states by the *pacta servanda sunt rule*. Moreover, it not only obliges the parties to perform its mandates, but also implies the "opposability" of a valid treaty towards third states, qualifying it as an objective regime, binding both the parties and non-parties to it (*erga omnes*). And at this juncture, the author poses the crucial question: are there any means and procedures in contemporary international law through which third states can protect their rights

against the parties to the treaty? Seeking answer to it, she has presented in the subsequent chapters a wide spectrum of instruments and mechanisms provided by international law, both favouring and opposing the position of third states towards Antarctica.

In conclusion, the author considers that "at the present stage of the evolution of international law, a fundamental change of circumstances can empower third states acting for the benefit of the whole community to initiate discussion in the UN, which could result in a recommendation to the parties to the dispute to negotiate. To give the third states more rights without any institutional safeguards could be dangerous to the stability of international law." (p. 213)

In the late 80s the parties to the Antarctic Treaty were forced to modify their position and reconsider the ATS by changed circumstances and under the strong pressure of third states. The direct cause, which provoked such development was the signing in 1988 of the Convention on the Regulation of Antarctic Mineral Resource Activities. That instrument, which never entered into force, provided for the extension of the rights of the Antarctic Treaty parties to the Antarctic mineral resources. That move was recognized by the third states as a substantial change in the Antarctic legal regime and an attempt on their own rights. That impression was not mitigated neither by the moratorium of 50 years on exploitation of Antarctic mineral resources, nor by the entry into force of the 1991 Protocol to the Antarctic Treaty on Environmental Protection.

The analysis of these recent legal instruments and of the events accompanying their negotiations, has brought the author of the reviewed book to the conclusion that "changes within the Treaty System are in accord with some of the 'interests of mankind' to which the United Nations General Assembly resolutions on the Antarctic question refer. They are the great success of the Antarctic Treaty parties, promising the Treaty further effectiveness and opposability *erga omnes*, affirming huge potential ability of adaptation possessed by the Treaty System, revealed earlier as well in precedential legal regulations" (p. 213).

Finally, the author presents the reader with an impressive bibliography of the subject, containing 299 items and a very useful extensive summary in English.

If this review is long, it is because the excellent works well merit being read, discussed and quoted. The author of the reviewed book is to be highly commended and congratulated for her formidable achievement which deserves translation into languages more universal than Polish, to enable the widest possible distribution among readers interested in polar regions.

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