Principality of Sealand

www.principality-of-Sealand.de
www.principality-of-Sealand.org

Contact:
info@principality-of-sealand.org

The PRINCIPALITY OF SEALAND

Its historical and political development

[October 1989]

The way of a construction at sea used by the military
from extraterritoriality
– supported by international law –
to the MICROSTATE with interesting perspectives

seen and to a large extent co-created by

Dr A. L. Chr. M. OOMEN,

lawyer at International Court of Justice
THE HAGUE/Netherlands,

written in October 1989

Outline

Preliminary Remarks

Fundamentals about Recognition: de facto and de jure Recognition

In view of the problems involved in the subject treated here it might prove helpful to clarify the difference between the two forms of recognition mentioned above, because thus much of what will be presented below about the evaluation of the position of SEALAND may be better defined and judged.

Thus a de facto recognition may already be deduced from actions and contacts between (for instance) two states, if these take up relations on a political level. Among many other actions of this kind may be the following diplomatic activities by representatives of the states concerned connected with intergovernmental tasks, relations etc. comments by one state about politically relevant questions and problems of the other state, for instance statements about mutual demarcation, and further recognition of and granting of visas in the passports of the other state as travel documents.

Opinions by globally recognised experts on international law are viewed – at least as fundamental statements – for the substantiation of a claim to existence as a state, even if opinions are conceivable that would reach differing conclusions. A claim for recognition as a state – based on such opinions – may at first be unilateral; actions in the vein of the examples above, however, will finally lead to a de facto recognition over and above such a claim.

A de jure recognition on the other hand is a mutual agreement say between two states (a kind of supplementary treaty to the internationally generaliter existing ones that are thus in force

anyway and will, as already mentioned, automatically set in motion consequences deriving from international law).

Besides regulating special agreements between contractors (states) this formal act (that is not a prerequisite for interactions between states) offers several amenities that on the whole also serve the self-portrayal of certain personalities and naturally cost money (tax money, as is well known). But special agreements also require the acceptance of additional liabilities that may rather limit the freedom of action of a partner.

Here we can now proceed to the special aspects of our subject SEALAND. That is …

The View of Today's Government of SEALAND

The present government of the PRINCIPALITY OF SEALAND views itself in the light of the remarks above, and even when critical of the context, as de facto recognised – at least by some states. On this basis it has been quite active, especially in the economic sector. These activities take place on government level, whereby partner states enter in direct contact with the SEALAND government and prepare the economic cooperation at hand.

Thus SEALAND is for example about to set up an official trade mission in such a cooperative state. There are further contacts with other states with very positive perspectives.

Given negotiations of this quality on a diplomatic level one may – in view of the criteria mentioned above – clearly speak of a de facto recognition. Further statements in this treatise will give ample chance for inference; even actions by other states further back in time must objectively be judged as de facto recognitions.

Here I would like to include a short excerpt from papers containing the self-portrayal of SEALAND. There it says:

SEALAND recognises international law, it has vowed that all its activities will be or may be checked as to their compliance with international law.

It became clear that SEALAND exists and has to be viewed as de facto recognised not only due to the opinions by renowned international lawyers, but also through *a number of legal acts performed by other states* of which international law makes an example.

Thus it becomes necessary to say a few words about my connection to the «enterprise» SEALAND. Part of this were and are endeavours on my part to help develop the project SEALAND from its beginnings to today’s status.

The Syndic of SEALAND

In my function as syndic of the PRINCIPALITY OF SEALAND I accompany all activities of the MICRO STATE and coordinate them according to the requirements of international law.

Here I would like to state that I have been authorised by the government of the PRINCIPALITY OF SEALAND – for completeness and in order to supplement the abstract questions of law with their resulting consequences – to state in this treatise also contents that are largely based upon information and interpretations by the responsible government representatives and that exceed purely legal questions. Only this way a clear picture may emerge for an observer not intimately acquainted with the matter at hand.

So much for the introductory facts. The way of the PRINCIPALITY OF SEALAND leading to the present status is not only of importance, but also of special interest. Thus I arrive at the term …

The History, the ‹Thread› in the Synopsis

During the Second World War the UNITED KINGDOM had decided to erect along the east coast of England, on the edge of the English territorial waters, some military bases as a line of defence against German air attacks.

One of these concrete and steel bases was the well-known royal fort ROUGHS TOWER – set like the others on the seabed – somewhat north of the Thames estuary. Despite the intention to establish it within the sovereign territory of England, it stood almost seven nautical miles off the coast, more than twice the then valid three-mile zone; in short, this fort stood in the international waters of the North Sea.

Thus the British admiralty had contravened the old mare liberum principle of GROTIUS.

At the end of the war the admiralty withdrew its troops from all bases, also from fort ROUGHS TOWER. They all were never again used by the UNITED KINGDOM, they were thus abandoned. Later all the bases with the exception of ROUGHS TOWER were razed, which led to a momentous uniqueness. The fort ROUGHS TOWER was situated on the ‹high› seas, was abandoned, was ‹res derelicta› and ‹nullius›. Thus it could be legally occupied, it was an exterritorial domain.

The way was cleared for occupation. This a former English major, Paddy ROY BATES, proceeded to do on September 2, 1967. He literally took over ROUGHS TOWER and settled there with his family. This remains unchanged to this day.

After intensive consultations with knowledgeable English lawyers ROY BATES – according to the provisions of international law – proclaimed the island a state, bestowed upon himself the title of Prince, on his wife that of Princess and called his state THE PRINCIPALITY OF SEALAND. He, ROY BATES, henceforth ROY OF SEALAND, was the only authority on the island and thus the absolute ruler.

The three essentials in making a state, namely STATE TERRITORY, STATE POPULATION and STATE AUTHORITY, were thus fulfilled. Another state was added to the list of MICRO STATES of this world.

Now a few thoughts concerning the legal situation that basically can be described by the results of international conferences on maritime law.

The first conference on maritime law of 1930 did not yet deal with artificial facilities on the ‹high› seas. Only at such a conference in 1958 international agreements concerning the continental shelves and their intended economic utilisation outside of territorial waters had been reached, albeit not signed by all participating nations.

A ruling by the International Court of February 20, 1969, following a lawsuit about the exploitation of the North Sea, i.e. part of the European shelf, the usage rights were handed to the bordering states. As SEALAND at that time did not engage in maritime research or exploitation, it is in this respect not touched by this decision.

The possibility established then of extending the territorial zone to twelve nautical miles is not detrimental to SEALAND because the proclamation of the state had already happened two years before.

Further the former fort ROUGHS TOWER was not built in connection with customs matters, but only and exclusively for military concerns. Thus the rights that SEALAND acquired by the proclamation of the state in 1967 are to be respected; they are undisputable as new law cannot retrospectively revise established facts.

The territorial sovereignty of THE PRINCIPALITY OF SEALAND is thus established, it has exterritoriality.

The subsequent declamatory extension of the English territorial waters from three to twelve nautical miles – only two years ago, on October 1, 1987 – can in my view not lead to legal problems between England and SEALAND, for – as already stated – secured rights cannot be rescinded by new laws. It remains to be seen what stance the UNITED KINGDOM will adopt versus SEALAND. If need be it will become a case for the International Court at THE HAGUE.

The state was and remained for some time without recognition by other states. But a state like this has no relevance for the relations between nations. This, however, had to be remedied if one aimed at incorporation in the community of states. In order to advance – albeit in small steps – a group of people of different nationalities interested in SEALAND and its possibilities got together. The members of this first "study group" all acquired SEALAND nationality and started out towards the established goal.

On September 25, 1975, the constitution they had worked out was proclaimed by ROY OF SEALAND and thus was executed. Later several regulations concerning the future ambitions of SEALAND were set down and also proclaimed by the Prince. Later came the flag of THE PRINCIPALITY OF SEALAND, its national anthem, SEALAND stamps as well as gold and silver coins issued as SEALAND

dollars. Finally, based on passport regulations, SEALAND standard and diplomatic passports were issued.

After the occupation by ROY OF SEALAND other occurrences continued. The British Navy got interested in the new situation off the coast of England, and they wanted to observe the on goings as well as try to end the situation caused by mistakes high up in the military echelons, if possible on the quiet. Marine units plied the SEALAND territorial waters claimed by ROY OF SEALAND and provoked the nation by several actions the intent of which was clearly apparent. Civil ferry boats serving the routes between England and the continent also crossed through SEALAND territorial waters and ignored warnings by the princely sentries.

ROY OF SEALAND then, aware of his sovereignty, threatened with defensive measures and when all peaceful measures had no effect, fired warning shots with the canons and grenades left behind by the British military, which caused the Navy – certainly not afraid of the maritime power SEALAND – to withdraw.

The consequence of this action was however that ROY OF SEALAND, still an English national, was charged with a plethora of international crimes and during one of his regular visits to England was apprehended and put before a British court. The outcome of this process at Chelmsfort/Essex was as spectacular as the previous actions in defence of his state.

The court in its ruling of November 25, 1968, declared that it was not competent in the case of ROY OF SEALAND as it had no jurisdiction over the state territory on the high seas.

Here I recognize the first de facto recognition of the PRINCIPALITY OF SEALAND, as its sovereignty has been legally established by a court.

After this other and increasingly more important de facto recognitions followed. Among them are the following:

On February 3, 1971, President Pompidou of France confirmed to the government of SEALAND in writing that he had received the SEALAND stamps sent to him.

On July 3, 1973, the Embassy of the UNITED KINGDOM at Bonn confirmed to a German stamp dealer that SEALAND had its own stamps and coins.

On March 15, 1976, the North Rhine-Westphalia Ministry of Finance in an answer to a SEALAND query explained the procedures concerning taxation of persons who are subject to taxation both in Germany and in SEALAND.

The Luxemburg Story

In 1976 three subjects of SEALAND, by the way all ministers and diplomats, established an information place in the town of Luxemburg. On March 17, 1976, these three were arrested and charged with having minted counterfeit money, meaning the SEALAND currency called SEALAND dollars that they carried with them. At the arrest all the state-owned material they had with them – apart from the sterling silver coins also stamps – with a total value of several million US$ was confiscated.

It is well worth elaborating on this occurrence. I will do this now before continuing with the chronology. So …

After the arrest of the three, the Luxemburg police was informed by their colleagues at Scotland Yard that the UNITED KINGDOM had no jurisdiction over SEALAND, that SEALAND was a sovereign state. Thus an embarrassing mistake in law was revealed. After three weeks of research the three SEALAND citizen were released on bail. To avoid a public scandal, the Luxemburg judiciary wanted to cease the initiated proceedings. The aggrieved diplomats however successfully forced a provocation hearing that took place in the summer of 1978. In the ruling of July 1, 1978, by the district court of Luxemburg-Town all charges against the three accused – victims of miscarriage of justice – were dropped. The error was admitted and – shamefacedly – explained with missing information about the existence and sovereignty of SEALAND.

For what reason the thus totally rehabilitated SEALAND diplomats were then declared "personae non gratae" remains a mystery of the Luxemburg judiciary. The bail was returned, however, the confiscated coins and stamps were retained. In this sovereign action, too, one may – considering the clear-cut history – discern an extraordinary, even arbitrary behaviour. The only explanation could be that the unique rarities had soon after confiscation been handed around in police circles, as no-one had foreseen such an outcome.

Due to the from the outset discrediting behaviour by the Luxemburg state SEALAND wanted to bring its first spectacular case before the International Court at The Hague. Added to the damages suffered by the persons involved were also high financial damages to SEALAND property, this altercation will probably – and from the

point of view of the present government of SEALAND necessarily – have to be fought out. For this, at the time – and still today – certain conditions had to be met that shall be outlined briefly here.

The International Court

Actions of this kind are only heard by the International Court when the parties submit to its jurisdiction. For Luxemburg this has long been the case, since September 15, 1930, to be exact. In 1976/77 already the government of the PRINCIPALITY OF SEALAND had tried to register with the statute of the International Court as party to be able to file a suit against the Grand Duchy of Luxemburg. These attempts led to those irrational, even questionable actions in connection with the criminal proceedings at Luxemburg, they also caused considerable nervousness among the juristic authorities at THE HAGUE.

Thus the government of SEALAND had produce a declaration that refers to § 94 of the statute of the UNITED NATIONS (recognition of the obligations of member states) and further to § 36.of said statute (consent to the jurisdiction of the International Court). This documentation arises from Decision No. 9 of the Security Council of October 15, 1946. According to § 3 of this decision the Court shall make available to all member states of the statute a notarised copy of the documents it received (in our case the claim by SEALAND). Thus the general assembly called by the Security Council may not unilaterally issue rulings concerning the state quality of an entity. Based on § 35.2 of its statute the Court may decide about the state quality of an entity that according to §§ 3.4 and 93.2 of the UNITED NATIONS' constitution has not yet been recognised as a state, but has petitioned the Court to be accepted to join it and asked for its assistance.

The International Court and all member states that had never received their copy of the SEALAND documentation mentioned above that statutorily should have been sent to them by the Court did not then – and until today – deem it necessary to respond in any way. A decision by the Court regarding the status of SEALAND and the possibility of its joining is still outstanding. SEALAND had early on recognised this formal error by the Court and tried to mend it by itself sending the documentation to all member states of the International Court. But to this activity, too, there was no response. Even to usual practise of answering proceeding not carried out by the Court with a standard letter to inform the applicant at least this way remained undone in the case of SEALAND.

It seems obvious that the Court did not want to be responsible neither for the rejection of the SEALAND application nor – at least in the light of the status of the SEALAND matter at the time – issue such clearly positive rulings at such an early time and in such an exposed position. Today this is seen differently, and through the endeavours by the SEALAND government one will be able to act more consistently and with good prospects of success.

Now back to further intergovernmental contacts that lend support to the present and for SEALAND optimistic assessment.

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On December 16, 1976, for instance, a German institution under public law, namely the «Saarländische Rundfunk» (Saarland Broadcasting Company), applied for entry clearance and visas to SEALAND to do some filming there.

On February 20, 1977, the then Prime Minister of SEALAND, German by birth, crossed the German-Belgian border and proved his identity with his SEALAND diplomatic passport. The offhanded confiscation of the passport by the German customs officials finally ended in an apology by the authorities for the mistake made and – following a formal complaint by the SEALAND government – the return of the passport on March 27, 1977. The proceedings against the passport owner started after the confiscation were finally ceased on December 9, 1977. Other SEALAND citizens have travelled in 1977 and later with their SEALAND passports. The airport of Barcelona especially has on such occasions repeatedly applied entry and exit stamps.

Dated June 14, 1977, the Ministry of Finance of the Federal Republic of Germany replied to the government of SEALAND that SEALAND did not fall under the ambit of the double-tax agreement between the UNITED KINGDOM and the Federal Republic of Germany. The Ministry of Finance of the Belgian Kingdom stated the same in a letter of May 22, 1980. This letter says that the double-tax agreement between Belgium and England was not applicable to SEALAND as the latter's sovereign territory was not part of Great Britain.

1977 the then Foreign Minister of SEALAND also travelled to Athens to participate in our A.A.A. Congress (A.A.A. = Alumni Association of the Hague Academy). At the entrance point he showed his SEALAND passport. Even if due to an error of interpretation as to what SEALAND was, the passport was stamped and thus accepted.

Here one should also mention that the then Foreign Minister of SEALAND had tried to end his German citizenship through different

administrative proceedings in order to retain only the SEALAND citizenship. As he had handed in his German passport to the authorities to underline his intentions, he of necessity had to use his SEALAND passport.

To explore the possibilities of economic cooperation between Cyprus and SEALAND the government of Cyprus had invited a governmental delegation of SEALAND and allowed the entry of the delegation members with diplomatic passports of the PRINCIPALITY OF SEALAND. This visit occurred in May 1978. Due to the incidents that will now be reported there was no opportunity any more to test the agreements of the Cyprus negotiations as to their operability.

The «Civil War» of 1978

After 1978 there were important differences among the SEALANDERS on and about SEALAND that in August led to a "civil war" that was prominently documented in the press of the Netherlands and England. One front page of the Dutch TELEGRAAF was dominated by the fat headline "Battle in the North Sea", and this surely had shocked many readers.

Citing the content of this news item a SEALAND diplomat approached the alien's police at The Hague to claim political asylum in The Netherlands, as he could not return to his country, meaning to SEALAND. The police however did not understand the background of the situation and extradited the diplomat, as he was a German national, to Germany. In this way his actual intent, namely to file in case of rejection a provocation case with the State Council of The Netherlands, was dashed.

During the ‹civil war› that only lasted a few days ROY OF SEALAND had incarcerated some diplomats on the island. The government of SEALAND – since then in exile – had asked for help from England, The Netherlands and even the Red Cross in order to free the prisoners.

A judiciary consultant at the Foreign Ministry of The Netherlands had – as one says – surged ahead and prepared a written answer to the request for help by SEALAND. His minister, however, forbade him to send this or any other answer. This consultant was one of our previous presidents of the A.A.A.

Among the prisoners on SEALAND was a German lawyer who, as is normal in such cases, requested a visit by the German consul. The German consul general from London proceeded by helicopter to the island but, after being able to assess the self assurance and demonstration of power by ROY OF SEALAND based on the sovereignty of SEALAND and to avoid an escalation, he retreated hastily, after which the prisoner after his release – the circumstances of which shall not be revealed here – was presented with a bill of DEM 3.000 for the "legal assistance" granted him that he finally also had to pay.

* * *

In those first ten to fifteen years after the appearance of THE PRINCIPALITY OF SEALAND upon the world stage, the experience made in the Luxemburg happenings continued in all attempts at contact with foreign states. In the cases just mentioned there was no help, and beginnings of a will to react were nipped in the bud. The question of recognition seemed to be looming large in any context of any reaction, and everyone seemed – at least at the time – to shirk answering this question.

These occurrences have not only weighed heavily on the SEALAND team, they had also caused considerable irritation in public and led to negative speculations, all of which caused the project to be laid low for several years, only to be taken up again and further developed with renewed vigour and if possible new collaborators.

Before I will – as mentioned at the beginning of this treatise – come back in the last chapter of my implementations to today's

situation as seen by the SEALAND government, I would like to add some fundamental observations with a juristic background regarding the handling of similar entities wanting to become sovereign states.

The founding of a state like SEALAND today is no longer possible. After the Third Conference on Maritime Law – the documentation of which has now been completed – the Maritime Law Convention by the UNITED NATIONS at Montego Bay of December 10, 1982, any construction of an artificial island requires the approval of the bordering state. Further § 60 of this convention requires that the bordering state will remove or cause to be removed the artificial constructions immediately after their use is ended. Legal regulations like § 60 are apparently a reaction to experiences made with SEALAND. After the convention of 1982 there is no longer any transient law or any possibility for approval to ensure to continuation of such an installation, such an island, that was previously approved by the bordering state or constructed by it. A case like SEALAND is therefore no longer possible – no artificial island can claim the status of a sovereign state, whether it was built with or without the consent of the bordering state.

Now, as already indicated …

Perspectives for the Future of SEALAND

For several months now, the government of THE PRINCIPALITY OF SEALAND is again active and – so it is said – much more successful than before. This is due on the one hand to the new government crew, on the other hand to the political and economic programme defined and implemented by this crew. To be correctly appraised and understood by prospective partners, any action by the SEALAND government and the organisations working under its supervision is tuned and geared to this approved programme mentioned above. I would like to quote here from the STATEMENT about economic activities:

In politics THE PRINCIPALITY OF SEALAND observes absolute neutrality; its interests lay exclusively in the economic field. This means economic cooperation with partner states in world trade and with companies in these countries working within the respective country's specific laws.

For the interests outlined here neither the physical size nor a de jure recognition are of importance, only the existence in international law is of relevance. These criteria enable THE PRINCIPALITY OF SEALAND to say:

SEALAND is a Corporation with State Qualities.

Final Remarks

To end I may remain a bit indifferent and say:

SEALAND is founded, it exists. After this founding there were attempts and provocations to achieve on an international level a de jure recognition, be it by states and governments or by international institutions like the UNITED NATIONS or the International Court. The problem remained unsolved in the first phase of development; as can stated in a short formula – as had already been argued at Cyprus in 1978:

«A formal recognition, the de jure recognition, is the result of effective cooperation between two states that begin their relationship first in mutual agreement on the basis of a virtual recognition, the de facto recognition.»

SEALAND will continue. Its new crew quickly achieved some noteworthy progress. That also has its reasons.

The present government of THE PRINCIPALITY OF SEALAND has decided against the highly political course, the indispensable de jure recognition as the state's number one goal. The new crew rather places emphasis on economic cooperation with all states that recognise THE PRINCIPALITY OF SEALAND as a political factor and by their actions recognise it de facto, because they see what opportunities a MICROSTATE is able to offer. This more pragmatic approach seems to be the better one, as the successes show.

This does not mean though that SEALAND will not encounter problems with other political entities. The aspects delineating the political stage are multi-layered and often change without further

ado. I do hope that this entity, unloved perhaps, that grew from the conflict of nations, may assert itself through its politics aiming at peaceful cooperation and will in time become a respected – and also de jure recognised – partner in the circle of all states of the world.

As a man of the first hour who has committed himself and how is above all interested in the juristic questions in the context of SEALAND, I may – also as self-affirmation – take up the cause for SEALAND and the legitimacy of its claim as a subject in international law.