

Valentin Bou-Franch*

The Exclusive Economic Zone

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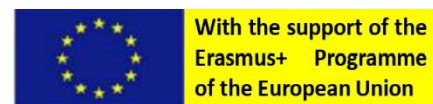
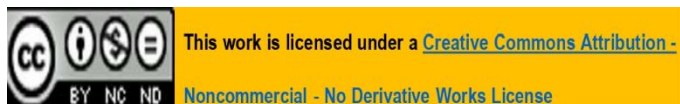
Hello, welcome. My name is Valentin Bou, and in this publication I am going to talk to you about the Exclusive Economic Zone.

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The Exclusive Economic Zone is a marine space that emerged during the negotiations of the Third United Nations Conference on the Law of the Sea.

Initially, developing coastal States claimed it unilaterally for their exclusive enjoyment. Subsequently, however, all coastal States did the same. Therefore, it has always been established by an act of express proclamation.

In the case of Spain, Law 15 of 1978 created the Spanish Exclusive Economic Zone only in the Atlantic Ocean, including the Cantabrian Sea. Subsequently, however, Royal Decree 236 of 2013 established the Exclusive Economic Zone in the Mediterranean Sea.



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Internationally, the Exclusive Economic Zone is regulated in Part Five of the 1982 Convention on the Law of the Sea.

The Exclusive Economic Zone is defined as “an area beyond and adjacent to the territorial sea.” It is a complete marine area, encompassing both the water column and the seabed and subsoil. It should be noted, however, that the rights of the coastal State over the natural resources of the seabed and subsoil are exercised in accordance with the continental shelf regime.

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The Exclusive Economic Zone is the marine space included between two limits: the inner and the outer limits. On the one hand, the inner limit, where the Exclusive Economic Zone begins, coincides with the outer limit of the territorial sea. It should be remembered that the maximum extent of the territorial sea is up to twelve nautical miles from the baselines. But there are States that have set the outer limit of the territorial sea at three, four or six nautical miles, so they will have a wider Exclusive Economic Zone.

On the other hand, the outer limit is fixed up to two hundred nautical miles from the baselines. But there are also States that have set the outer limit of their Exclusive Economic Zone at lower distances. This is particularly the case where there is another

coastal State off its coast at a distance of less than four hundred nautical miles. In such cases, a “delimitation” of the respective Exclusive Economic Zones opposite each other is necessary.

Regarding the delimitation of Exclusive Economic Zones between States with adjacent or opposite coasts, the Montego Bay Convention indicates that an “equitable solution” must be reached. To this end, an attempt should be made, firstly, to reach an agreement between the States concerned. If this is not possible, then, secondly, recourse should be had to the various peaceful means of dispute settlement.

It should be noted that there is a wealth of international jurisprudence on what are the relevant circumstances for a border delimitation that represents an “equitable solution.”

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The Montego Bay Convention implements a distribution of competences in the Exclusive Economic Zone, in which the interests of the coastal State prevail.

The coastal State has sovereignty rights, jurisdiction and other duties and obligations in its Exclusive Economic Zone, but the differences between these three types of competences are not clearly defined. Thus, firstly, the coastal State has

“sovereign rights” over any economic activity. Secondly, it has “jurisdiction” over: a) artificial islands and fixed structures; b) marine scientific research; and c) the protection and preservation of the marine environment. Finally, it enjoys “other rights and duties” provided for in the Montego Bay Convention.

The other States have: (1) freedom of navigation and overflight; (2) freedom to lay submarine cables and pipelines; and (3) other legitimate uses of the sea related to these freedoms.

Finally, the Montego Bay Convention contains a residual clause, which states that when a conflict of interest arises in unallocated competences, “the conflict shall be resolved on a basis of equity and in the light of all relevant circumstances,” which no one is quite sure what this means in concrete terms.

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That is all I had to say to you. Thank you very much for your attention.