

EXAMPLE MEMORIAL, ROADMAP, AND SPEECH

Based on What's Referenced in the Case Opinion, We Know...

Applicable Laws

United Nations Convention on the Law Of the Sea

Article 311

Article 121

Applicable Cases

Award of the Arbitral Tribunal in the Second Stage of the Proceedings between Eritrea and Yemen pp.167-168 paragraphs: 139-146

Continental Shelf(Libyan Arab Jamahiriya/Malta) p.13

Memorial (This will be turned in to Presidents and Opposing Team)

1. Three points which require readjustment of the maritime boundary delimiting territorial seas
 - a. Serpent's Island as a full sized island and near the coast of Ukraine does not represent an extraneous addition to the coast and must be considered as part of the continuous coast of Ukraine
 - b. EEZ and continental shelf didn't exist until UN convention on the law of the sea-anything before hand didn't matter. Romania's claims that the previous treaties between Romania and Ukraine before the EEZ zone and continental shelf existed UNCLOS aren't relevant because those ideas didn't even exist prior to the UNCLOS.
 - c. As the court has previously noted the disproportionality test makes evident the fact the the relevant demarcated area and relevant coastlines disagree to such an extent that an adjustment of the delimitation line must be made. In order to make an equal area for both countries the courts removed part of the Ukrainian coast due to the fact that it was a bay. This bay area needs to be re-added to the Ukrainian coast thus making the coastlines more disproportional.
 - d. Further adjustments of the line must be made under Article 121 of the UNCLOS as islands which are habitable must create their own Exclusive Economic Zone. This would require adjustment of the line which previously goes through Serpent's Island and only gives a 12 mile radius around Serpent's Island for the establishment of an economic zone.
2. Serpent's Island
 - a. Treaties Invoked:
 - i. Treaty on the relations of Good-Neighbourliness and Cooperation between Romania and Ukraine
 - ii. Paris Peace Treaty

1. Romania turns over several territories, including Serpents/Snakes Island to the USSR, and by extension its political successor in this region: Ukraine
- b. Previous Cases
 - i. Case 1: It was determined that islands can indeed form part of a coastline
 1. An island is capable of habitation
 - ii. Case 2: It was determined that islets do not form part of the coast
 1. ISLET: An island/rock incapable of supporting habitation

Roadmap

This case arises from the lack of a concrete delimitation line in the Black Sea between the territorial seas of Ukraine and Romania. We will be arguing on behalf of Ukraine and their views as to why the delimitation line needs to be readjusted. We recognize that the current ration between Ukraine and Romania is 2.8:1, however we believe the court didn't take into consideration some key points while determining the delimitation line between the two State's territorial seas.

We would first like to address the issue of Serpent's Island. Serpent's Island, as a full sized island and near the coast of Ukraine, does not represent an extraneous addition to the coast and must be considered as part of the continuous coast of Ukraine. Further the Exclusive Economic Zone and continental shelf didn't exist until UN Convention on the Law of the Sea and any agreements before hand do not have any bearing on the case at hand. As the court has previously noted the disproportionality test makes evident the fact that the relevant demarcated area and relevant coastlines can disagree to such an extent that an adjustment of the delimitation line may be made. This issue is not obvious because of the court's decision to remove part of the Ukrainian coast due to the fact that it was considered a gulf, but this removal only serves to hide a much larger disproportionality. The treaties governing this procedure, including the Additional Agreement, did not stipulate any removal of coast in the demarcation proceedings, and as such the court needs to reconsider their elimination of Karkinit'ska Gulf as part of the delimitation area. Further adjustments of the line must be made as under Article 121 of the UNCLOS islands that are habitable can create their own Exclusive Economic Zone. This would require adjustment of the line, which previously goes through Serpent's Island and only gives a 12-mile radius around Serpent's Island for the establishment of an economic zone. The UNCLOS states that in these circumstances that the EEZ can be diminished or removed if borders are nearby, but in this case the island deserves at least a diminished EEZ to the Southeast to cover areas which Ukraines contiguous coast do not affect. All of these points serve to highlight the unlawful diminishing of Ukraine's rights to its territorial sea.

Oral Argument Speech Full

This case arises from the lack of a concrete delimitation line in the Black Sea between the territorial seas of Ukraine and Romania. We recognize that the current ratio between Ukraine and Romania is 2.8:1, however we believe the court didn't take into consideration some key points while determining the delimitation line between the two State's territorial seas.

Ukraine and Romania stated in the 1997 Additional Agreement that a delimitation line would be created through bilateral negotiations at a later time. The treaty stipulates that the ICJ would take over the declaration of a specific delimitation line if an agreement could not be reached. In the court's previous judgment the delimitation line stretched from point 1 to point 5, heading in a southeasterly direction through the Black Sea. The court stated that Serpent's Island was not suitable as a base point for the delimitation line. Ukraine recognizes that Serpent's Island is, according to UNCLOS Article 121, recognized as an island, and pursuant to this requires full recognition of an Exclusive Economic Zone and Continental Shelf. It therefore should not be considered an extraneous aspect of Ukraine's coast. Further adjustments of the line must be made under Article 121 of the UNCLOS as islands which are habitable must create their own Exclusive Economic Zone. This would require adjustment of the line which previously goes through Serpent's Island and only gives a 12 mile radius around Serpent's Island for the establishment of an economic zone. Romania makes claims about the delimitation line that were stated in treaties between the USSR and Romania. These treaties were created before the advent of the Exclusive Economic Zone and continental shelf in the UNCLOS, thus making the Romanian claims void. As the court has previously noted the disproportionality test makes evident the fact the the relevant demarcated area and relevant coastlines disagree to such an extent that an adjustment of the delimitation line must be made. In order to make an equitable area for both countries the courts removed part of the Ukrainian coast due to the fact that it was a bay. The court needs to reconsider their elimination of Karkinits'ka Gulf, thus resulting in a larger relevant coast and delimitation area for Ukraine.

*****Serpent's Island has been the territory of the USSR and its political successor in the region: Ukraine, since the Paris Peace Treaty in 1947. Before this the island held a lighthouse which has been continuously utilized for more than a century.

Romania uses previous treaties, such as the Paris Peace Treaty and the previous *procé verbal* between the USSR and Romania, to provide evidence that the delimitation line should be adjusted based on the agreements. The court has previously noted that Romania's claims to use these previous treaties has one major flaw, the treaty doesn't align with the theses of the Romanian claims. This establishes the fact that those claims made by Romania are void. The EEZ and continental shelf were established in the creation of UNCLOS III in 1994. This establishment of the EEZ and continental shelf override the Paris Peace Treaty and the *procé verbal* Romania was trying to make claims from. Since UNCLOS overrides those treaties no

agreements made can be used to establish the delimitation line in the territorial seas between Ukraine and Romania.

As the court has previously noted the disproportionality test makes evident the fact the the relevant demarcated area and relevant coastlines disagree to such an extent that an adjustment of the delimitation line must be made. Ukraine divides its coast up into three distinct section: the border of Romania to a point located just north of Odessa, the south-facing littoral along the north-western part of the Black Sea and Karkinits'ka Gulf. These three distinct sections "generate 200-nautical-mile entitlements which extend over the entire area to be delimited with Romania." The relevant coast that Ukraine states is 1,058 km in total. The court previously didn't accept Ukraine's contention that the coasts of Karkinits'ka Gulf were relevant to the area of delimitation. In reference to sketch map number 2, Romania completely disregards portions of the Ukrainian coast that are relevant to the delimitation area. The court recognizes part of that coast, however they disregard Karkinits'ka Gulf. This gulf is relevant because the coasts of the gulf do extend into an area that overlaps the extension of the Romanian coast.

In order to make an equitable area for both countries the courts removed Karkinits'ka Gulf from Ukraine's relevant coast. The court needs to reconsider their elimination of Karkinits'ka Gulf, thus resulting in a larger relevant coast and delimitation area for Ukraine.

Helpful Hint: This team created their memorial and argument by first identifying their main arguments. They then built from there.

Main argument: Serpent's island needs to be included in Ukraine's coastline

Attack Romania's claim that Sulia dyke is a relevant part of their coast

Claim that the court is simply trying to follow through with the treaty the parties originally established and that the parties really do need to include serpents island as part of the coast.