

# The New Italian Exclusive Economic Zone and Italy-Montenegro Maritime Boundary Delimitation\*

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**Abstract:** The paper examines the newly proclaimed Italian Exclusive Economic Zone and its impact on the delimitation of the maritime boundaries between Italy and Montenegro. By Law No. 91 of 14 June 2021, published in the Official Journal No. 148 of 23 June 2021, the Italian Parliament proclaimed its Exclusive Economic Zone (EEZ), to allow Italy to fully project its economic rights over an area of the sea extending up to 200 miles from its shores or up to the limit allowed by international law. In line with the trend of progressive extension of the jurisdiction of coastal states in waters beyond their territorial sea in the Mediterranean, this measure is taken in compliance with the United Nations Convention on the Law of the Sea (UNCLOS) to allow the country to protect its economic activities, and biodiversity protection. Anyway, even if the law authorizes the EEZ establishment, a further ad hoc measure is required to this aim. Its delimitation will take place primarily based on agreements: Italy is supposed to negotiate new agreements with the neighboring Countries, including Montenegro, in order to define its boundaries.

**Keywords:** Exclusive Economic Zone, Maritime boundary, Maritime delimitation, Neighborhood relations.

## 1. Introduction

On 14th June 2021, the Italian President of the Republic promulgated the Law No. 91, passed by the Parliament, concerning the establishment of an Exclusive Economic Zone (EEZ) beyond the outer limit of the territorial sea [1].

Recalling the United Nations Convention on the Law of the Sea (hereinafter UNCLOS) done in Montego Bay on 10 December 1982 [2] and

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ratified by Italy by Law No. 689, of 2<sup>nd</sup> December 1994 [3], the Parliament authorizes the establishment of an Exclusive Economic Zone until the outer limits to be determined on the basis of international agreements [4] to be negotiated with the neighbour countries.

The EEZ will be then established by decree of the President of the Republic, as to include all or part of the waters surrounding the outer border of the territorial sea, following a deliberation of the Council of the Ministers upon the proposal the Ministry of Foreign Affairs and International Cooperation, to be notified to all the States whose adjacent to the Italian territory or is facing it [5].

Until the entry of force of the aforementioned agreements, the outer limits of the Italian EEZ are established, so as not to compromise the final agreement.

Articles 2 and 3 of the Law are related respectively to the rights of Italy and third States within the newly established EEZ.

According to Article 2 Italy will exercise all the sovereign rights granted by existing international norms [6].

According to Article 3, the exercise of all the rights of third States arising from general and treaty law are not compromised. So the freedom of navigation and overflight and of the laying of submarine cables and pipelines [7], and all the rights arising from international law norms in force.

## **2. Exclusive Economic Zone (EEZ)**

According to UNCLOS [8], the Exclusive Economic Zone is an area beyond and adjacent to the territorial sea, where the coastal has sovereign rights for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the seabed and of the seabed and its subsoil, and regarding other activities for the economic exploitation and exploration of the zone, such as the production of energy from the water, currents and winds. Marine scientific research, the protection and preservation of the marine environment, the establishment and use of artificial islands, installations and structures also fall within the jurisdiction of the State.

“The Exclusive Economic Zone shall not extend beyond 200 nautical miles from the baselines from which the breadth of the territorial sea is measured” (UNCLOS Article 57).

The EEZ is an area where the coastal State is entitled to exercise a set of specific activities, assuming they have complied with the related UNCLOS procedures.

Once the EEZ is established, the State has the rights for exploiting, exploring, conserving and managing living and non-living resources of the water column and the underlying seabed [9]. So in this case the seabed is subject to legal regime of the EEZ [10].

Looking at the definitions given by UNCLOS, there are some similarities and differences of the EEZ compared to other maritime zones.

In contrast to territorial seas, that are subject to the exclusive jurisdiction of the coastal States, except for the passage rights of other States, including innocent passage through the territorial sea, the EEZ is an area where the State can just exercise a limited set of rights [11]. All the States are entitled to exercise all the other rights, including freedom of navigation. Unlike the territorial sea, the EEZ only allows for the previously mentioned set of rights and the related law enforcement capacity to protect them.

Then, similarly to the Contiguous Zone, EEZ has to be formally proclaimed by the State. In the Contiguous Zone, the State has the right to “prevent infringement of its customs, fiscal, immigration or sanitary laws and regulations within its territory or territorial sea” and “punish infringement of the above laws and regulations committed within its territory or territorial sea” (UNCLOS Article 33).

In general terms, the Italian perspective about the EEZ was set forth in a declaration issued when signing and ratifying UNCLOS. In its view, according to the Convention, the coastal state does not enjoy residual rights in the Exclusive Economic Zone. In particular, the rights and jurisdiction of the coastal state in such zones do not include the right to obtain notification on military exercises or manoeuvres or to authorize them, so that none of the provisions of the Convention, can be regarded as entitling the coastal state to make innocent passage of particular categories of foreign ships dependent on prior consent or notification [12]. Such rule is deemed as correspondent to customary international law [13].

As noticed by some Observers, “the EEZ regime - as affirmed by the ICJ in the 1985 *Libya/Malta Continental Shelf* case- had become part of customary international law in the late 1970s when the UNCLOS was still being negotiated” [14].

The Italian Law No. 91 of 14 June 2021 looks like in line with international law. In its text, several references are made to it. Both treaty law and customary law norms are referred to.

The new Law is related only to the establishment of an EEZ, so it is in line with the general trend of extension of maritime jurisdictional waters in the Mediterranean area, also with the aim of exploiting its resources in an exclusive way [15]. It has been a missed opportunity to approach in a

systematic way the Italian maritime areas and formally establish also an Italian Contiguous Zone. In fact, regarding the latter, there is a certain ambiguity, due to some references occasionally made to it in the framework of the Italian legislation and in the case-law even if it has never been officially proclaimed [16].

The key issue mentioned in the legislative text is the identification of the boundaries. The negotiation of international agreements is required to identify them. This is perfectly in line with the duty of cooperation provided for in the framework of the Montego Bay Convention, especially as regards semi-enclosed seas, such as the Mediterranean or the Adriatic Sea. Such boundaries could be of interest of other states having proclaimed their EEZ or also other states, bearing in mind the increasing trend to take into account a single maritime boundary [17] for the determination of the border.

### **3. The situation in the Mediterranean Sea and the recent extension of maritime jurisdictional areas**

Until the end of last century there were not so many EEZ in the Mediterranean area. For a long time, Italy's approach was that to preserve the freedom of navigation in the Mediterranean and the related maritime mobility of naval forces and refrain from establishing maritime zones of functional jurisdiction [18].

The rationale behind such a position was to avoid the establishment of a legal regime restricting the freedom of navigation in both the territorial waters and the EEZ in various ways, such as the request of prior notification of innocent passage in territorial waters [19].

It has been observed that such a position discouraged other Mediterranean countries from declaring Exclusive Economic Zones for a long time [20].

Nevertheless, some countries lawfully proclaimed in a unilateral way some *sui generis* zones, such as "fishing protection zone" (FPZ) [21], "fishing reserved zone" (FRZ) [22], ecological and fishing protection zone (EFPZ) [23] or ecological protection zone (EPZ) [24].

By Law No. 61 of 8 February 2006, Italy proclaimed its own ecological protection zone, establishing it only in the Tyrrhenian Sea. A correspondent EPZ has not yet been established in the Adriatic Sea [25]. Slovenia established both a fishing protection zone and an ecological protection zone in the Adriatic [26].

In such areas, the legal regime of EEZ is partially applied, just in relation to the specific activity to which the establishment of the area is related. Some of these zones were converted in EEZs at a later stage [27].

In recent years, several Mediterranean countries established their EEZ [28]. The rationale behind such practice is mainly related to an economic interest and the will of the States to extend their maritime jurisdictional waters to exploit their resources or also for security reasons [29].

Such proliferation of maritime jurisdictional zones has been described as a territorialisation [30] of such a sea basin. The States are extending more and more their rights, taking a large part of sea surface waters out of the legal regime of the high seas.

Such a trend was also encouraged by the European Commission, according to which the establishment of maritime zones in the Mediterranean, and especially Exclusive Economic Zones (EEZs), would promote blue growth in the European Union and contribute to achieving other, more far-reaching objectives in sustainable development [31].

In the view of the EU, the establishment of maritime jurisdictional could be useful also in the fight against illegal, unreported and unregulated (IUU) fishing [32].

In the view of the Commission costs and benefits of establishing maritime zones in the Mediterranean were analysed as well as the impacts of establishing EEZs on different sea-based activities, including a more effective spatial planning policy, which in turn could help attract investments and further economic activities. Even if the proclamation and establishment of maritime zones and namely of EEZs remains the sovereign right of each coastal State on the basis of UNCLOS, the EU takes responsibility to ensure that the right conditions are in place for the blue economy to flourish.

The Commission calls upon the establishment of EEZs in the Mediterranean, bearing in mind that in the sea-basins, coastal states have a responsibility to regulate human activities and to further develop their blue economy in a sustainable manner. So, a proper economic development is better favoured in areas within the jurisdiction or sovereignty of coastal States. On the contrary an uncertain regulatory framework implies that large marine areas remain unprotected as far as living aquatic resources and the marine environment are concerned.

“The coverage of a greater portion of the Mediterranean Sea under the jurisdiction of the EU Member States would ensure that in such areas, EU regulations concerning fisheries, environment and transport would apply and a higher level of protection would follow” [33].

One of the core issues in this context is the delimitation of maritime zones in the Mediterranean, due to its geographical characteristics.

It is not only a narrow area but the presence of hundreds of islands is a factor which constitutes one of the most difficult considerations in the delimitation of maritime areas.

The majority of the delimitation treaties in this region “are based on the criterion of equidistance or a median line, modified to take into consideration the presence of island or the curvature of the coastline” [34].

In the case of Exclusive Economic Zones between states with opposite or adjacent coasts, a delimitation is effected by agreement on the basis of international law in order to achieve an equitable solution, according to UNCLOS Article 74.

Pending such agreement, “the States concerned, in a spirit of understanding and cooperation, shall make every effort to enter into provisional arrangements of a practical nature and, during this transitional period, not to jeopardize or hamper the reaching of the final agreement. Such arrangements shall be without prejudice to the final delimitation” [35].

After the entry into force of the aforementioned agreement, its provisions will determine all the questions relating to the delimitation of the Exclusive Economic Zone between the concerned states. If no agreement is reached within a reasonable period, the States may resort to the procedures provided for in UNCLOS Part XV.

In a semi-enclosed sea as the Mediterranean, it is unavoidable to negotiate such agreements in order to avoid the overlapping of different EEZs, due to the space constraints. The establishment of an EEZ in its maximum extension in the Mediterranean region is prevented by its geographical characteristics, as there is a distance of less than 400 nm from opposite coasts [36].

From a legal point of view, it can be described as a “semi-enclosed sea” that is a sea surrounded by two or more states and connected to another sea by a narrow outlet. According to Article 123 UNCLOS, “its coastal states should cooperate with each other in the exercise of their respective rights and to refrain from unilateral initiatives in various domains” [37].

Furthermore, Mediterranean countries represent an interconnected community as far as political and economic relations are concerned, so that agreed solutions look like preferable to unilateral solution both from a legal and a political point of view [38].

In such a context, cooperating and negotiating the relevant agreements is even necessary in order to determine the extension of any EEZ, without prejudicing the prerogatives of adjacent or opposite coastal states.

The Italian Law made reference to the negotiation of such agreements to establish the EEZ and determine its outer limit accordingly.

### **3.1. “Jurisdictionalisation” of the Mediterranean Sea: the current situation**

Currently, many Mediterranean States have established their EEZs.

Spain first established a fishing protection zone [39] by the royal decree of 10 August 1997. In 1998, France contested such initiative due to the fact that the line delimiting the edge of the Spanish fisheries zone facing the French coasts was not agreed with the French government. So, this was in contrast with international law of the sea, because the delimitation of a boundary should take place by agreement. Moreover, in case of a maritime boundary, such delimitation must result in an equitable solution. Such fishing protection zone was then converted into an EEZ in 2013 by royal decree No. 236 of 5 April 2013. The EEZ outer limit is the same as the fishing protection zone.

France first established an environment protection zone by Law No. 346-2003 in proximity to the coast of the lion gulf and of Corsica. The boundary was initially determined unilaterally in 2004 [40] and was partially overlapping the Spanish fishing protection zone. Then France converted its fishing protection zone into an EEZ by decree No. 2012-1148 of 12 October 2012 [41].

Spain contested the outer limits of the French EEZ in so far as it is overlapping with its own EEZ [42].

According to Spain, the principle of equidistance “would be the most just and equitable solution” for the delimitation [43]. On the contrary, according to France, a solution can be found only through an agreement [44].

In so far as the borders with Italy are concerned, on 21 March 2015, Italy and France signed the Agreement on the delimitation of the territorial waters and the other areas under national jurisdiction such as the continental shelf and the Exclusive Economic Zone, not yet entered into force [45].

The Agreement defines the maritime frontiers of all the maritime spaces of the two countries, endorsing the practice of a “single maritime boundary” [46]. The parties applied the equitable delimitation principle, in respect to both the delimitation of the continental shelf and the waters under their

respective national jurisdiction, encompassing both the French EEZ and the Italian EPZ established with different purposes and regimes on the two sides of the boundary [47].

Greece has not yet established an EEZ. Nevertheless, it seems to be favourable to the establishment of an EEZ [48] in the Ionian Sea, south of Crete, north of Egypt and east of Cyprus. To this aim, Greece promoted an agreement with Italy for the delimitation of their respective EEZ. It was signed on 9th June 2020 [49]. This agreement will be effective when both states have established their respective EEZ. The agreed delimitation is correspondent to that of their continental shelves, based on an agreement of 1977 [50].

The Greek EEZ would need to be delimited also as regards Cyprus, Turkey, Egypt and Libya. For the delimitation of a maritime boundary with Albania, a dispute is pending before the International Criminal Court (ICC)[51].

The Turkish EEZ is enclosed along the Northern Greek coast.

As far as Cyprus is concerned, there is an agreement in force between this State and Egypt about the delimitation of their respective EEZ [52]. The same border has been adopted for both the EEZ and the continental shelf. This agreement was contested by Turkey as it claims to be the neighbouring State of Egypt. The Republic of Cyprus stipulated also another agreement with Lebanon to define the EEZ border in 2007 [53], but Lebanon did not ratify it due to some concern in relation to the triple point [54] with Israel. Lebanon and Israel have recently signed an agreement for the delimitation of the respective EEZ [55].

In 2010, a single maritime boundary for the EEZ and the continental shelf was also agreed between the Republic of Cyprus and Israel [56].

Of course, in the view of the Republic of Cyprus, the EEZ surrounding the Turkish Republic of Northern Cyprus is considered belonging to itself, as the latter is not recognised.

In the middle of the Central Mediterranean area, Malta started the process to declare an Exclusive Economic Zone in the central Mediterranean, to huge its economic potential [57].

Currently its fisheries zone, extends to 25 miles while the EEZ could potentially be much wider [58].

During the debate of the Parliament, it was pointed out that the conflicting claims of other countries should be taken into account in the process of establishing an EEZ. It was stressed the need for Malta to have the



capacity to monitor the areas under its responsibilities, especially as regards to the environmental protection.

Turkey is not a contracting party of UNCLOS. Nevertheless, it established an EEZ along the coast of the Black Sea, based on agreements with Georgia, Russia and Ukraine, claiming that the establishment of an EEZ is also arising from customary international law [59].

As far as the Mediterranean coast is concerned, there is a recent Memorandum for the delimitation of the EEZ between Turkey and Libya of 27 November 2019 [60], according to which, the boundaries of the Continental Shelf and the Exclusive Economic Zone in the Mediterranean between the Republic of Turkey and the Government of National Accord-State of Libya are defined. The departing point of the delimitation is an agreed equidistance line. In this case, too, there is the provision of a single maritime boundary for the EEZ and the continental shelf.

The delimitation between the two States does not take into account the presence of the Greek isles of Kastellorizo and Rodhes nor gives effect to the eastern coast of Crete.

So Greece, Cyprus and Egypt contested such agreement, claiming that it does not take into account their rights so that it is null and void [61].

The Government of National Accord-State of Libya deposited an Explanatory Note at the United Nations, to support the validity of such accord, and Turkey sent a letter to the UN as well clarifying that in its [62]:

- islands cannot have a cut-off effect on the coastal projection of Turkey, the country with the longest continental coastline in Eastern Mediterranean;
- the islands which lie on the wrong side of the median line between two mainlands cannot create maritime jurisdiction areas beyond their territorial waters; and
- the length and direction of the coasts should be taken into account in delineating maritime jurisdiction areas.

As it has been noticed [63], Turkey supports the position according to which it is the neighbouring State of Egypt and Libya due to the Southern Anatolia coast. So in its view the agreement of delimitation of 2003 between Libya and Egypt would be null and void. Furthermore, from the Turkish perspective, the Greek claims concerning its isles in relation to the delimitation of the border among Libya, Egypt and Cyprus would be ill founded. Turkey seems to be keen to find an equitable solution for the delimitation of the borders.

Egypt was one of the first Mediterranean State to declare to be favourable to the establishment of an EEZ in the Mediterranean.

The Arab Republic of Egypt and the Republic of Cyprus signed an agreement on the Delimitation of the Exclusive Economic Zone on 17 February 2003 [64]. According to such agreement the delimitation of the Exclusive Economic Zone between the two Parties “is effected by the median line of which every point is equidistant from the nearest point on the baseline of the two Parties” (Article 1) [65]. It is a single maritime boundary for the EEZ and the continental shelf.

The parties agree that taking into consideration UNCLOS article 74, the geographical coordinates of the median line could be reviewed and/or extended as necessary in the light of future delimitation of the Exclusive Economic Zone with other concerned neighbouring States and in accordance with an agreement to be reached in this matter by the neighbouring States concerned.

As mentioned, the aforementioned median line is not accepted by Turkey, because, due to the Southern Anatolia Coast, it considers itself as a neighbouring country of Egypt [66].

At the same time, Egypt argues that the agreement between Turkey and Libya of 2019 is null and void. It also contests the proclamation of maritime areas of jurisdiction made by Palestine as far as the boundaries mentioned in it are concerned [67].

The border of the EEZ between Egypt and Greece was delimited by an agreement of 4th August 2020 [68]. It is a partial delimitation agreement as it does not regard the triple point with Cyprus [69]. In the delimitation of the maritime boundary the Parties decided to give full effect to the isles of Rodhes, Karpatos and Crete. As a consequence, their EEZ is overlapping the Turkish-Libyan EEZ.

Israel signed a maritime boundary delimitation agreement with Cyprus in 2010, making reference to a single median line, used as a term of reference also for the underlying soil and subsoil of the continental shelf.

The maritime boundary between Israel and Lebanon [70] is still undefined [71]. A dispute arose between the two states in this regard [72], especially in relation to the lateral borders of the respective EEZ. On one side, Israel individuates the border in a line perpendicular to the coast, on the other according to Lebanon the border is a prolongation of the blue line of 2000.

Furthermore, Palestine made a proclamation concerning its own EEZ on 24 September 2019, to compete with them in the exploitation of the natural resources of the area. Israel denies any validity to such proclamation

[73], as it does not recognise the Palestine as a sovereign State, while it recognizes the maritime activity zone (MAZ) established off the coast of Gaza by the Oslo agreements [74].

Lebanon proclaimed an EEZ and unilaterally defined its boundaries by decree 6433-2011 [75]. Such a decree was contested by Syria, that established its own EEZ by law No. 28 of 19 November 2003 [76], that lies beyond the territorial sea and includes the entire Contiguous Zone, extending in the direction of the high seas for a distance of not more than 200 nautical miles measured from the baselines, subject to the provisions of international law [77].

Tunisia established its own EEZ by Act No. 2005-50 of 27 June 2005 [78]. It states that, when necessary, the outer boundaries shall be determined by agreement with the concerned neighbouring States.

As far as Libya is concerned, it proclaimed first a protected fishing zone in 2005 and then an EEZ in 2009 [79] “adjacent to and extending as far beyond its territorial waters as permitted under international law. If necessary, the outer limits of this zone shall be established together with neighbouring States in accordance with instruments concluded on the basis of international law”. As mentioned above, a maritime boundary delimitation agreement was stipulated between Libya and Turkey.

Algeria proclaimed an Exclusive Economic Zone by decree in 2018 [80]. The outer boundary was not negotiated with neighbouring countries and namely with Italy, so it partially overlaps the Italian ecological protection zone (EPZ) established in 2011 [81]. It is also overlapping the Spanish EEZ [82].

Both Spain and Italy contested the Algerian Proclamation of an EEZ [83]. According to Spain, the equidistant line between the baselines from which the breadth of the territorial sea is measured is the most equitable solution for delimiting, by mutual agreement, the Exclusive Economic Zones between States with opposite or adjacent coasts, as established in article 74 of the United Nations Convention on the Law of the Sea. So it “indicates its willingness to enter into negotiations with the Government of Algeria with a view to reaching a mutually acceptable agreement on the outer limits of their respective Exclusive Economic Zones”, in accordance with article 74 of the Convention on the Law of the Sea.

According to Italy, the Algerian EEZ, as indicated by the abovementioned Decree, unduly overlaps on zones of legitimate and exclusive national Italian interest. So the Italian Government expresses its opposition and reiterates that, in accordance with Article 74 of the United Nations Convention on the Law of the Sea, the delimitation of the Exclusive Economic Zone shall be

effected by agreement to achieve an equitable solution. Therefore, the Italian Government expresses its readiness to negotiate on the issue.

It recalls that pending agreement, the concerned States will act in good faith.

In turn, Algeria contested the Spanish EEZ [84], claiming that “the unilateral delimitation effected by Spain is not in conformity with the text of the United Nations Convention on the Law of the Sea and did not take into account the geography, the particularities and the special circumstances of the Mediterranean Sea, particularly as they concern our two countries, whose coasts face each other” [85]. It also contests that it did not “take into account the objective rules and relevant principles of international law that must govern the equitable delimitation of maritime spaces between Algeria and Spain, in accordance with article 74 of the United Nations Convention on the Law of the Sea. The Algerian Government expresses its opposition to the delineation of the outer limits of the Exclusive Economic Zone of Spain as certain parts of these limits are excessively broad and create an area of overlap with the Exclusive Economic Zone off the Algerian coast established by Presidential Decree No. 18-96 of 2 Rajab A.H. 1439 (20 March 2018)” [86].

So even if several EEZ have been recently proclaimed in the Mediterranean, the situation looks like quite confused due the lack of clear and agreed delimitations.

### **3.2. The Adriatic Sea**

As far as the Adriatic Sea is concerned, it can be qualified as a semi-enclosed sea under Art. 122 UNCLOS [87]. Its only access is the Strait of Otranto and there are seven coastal States: Italy, Slovenia, Croatia Montenegro, Albania, Greece and Bosnia and Herzegovina, which has a portion of territorial sea surrounded by the waters of Croatia.

A semi-enclosed sea may consist “entirely or primarily” of the territorial seas and Exclusive Economic Zones of two or more states [88]. Adriatic Sea is rich in resources of economic interest and mainly oil and gas fields, whose exploration and exploitation has been a matter of confrontation. In fact, due to geological and geomorphologic configuration of seabed and subsoil in the Adriatic Sea they are shared among the coastal States.

Such resources are located in the seabed, so they could be affected in case of establishment of an EEZ [89]. According to UNCLOS Article 56, when an EEZ is established, its legal regime regards also the underlying seabed resources.

Such issue is primarily related to the lateral delimitation of continental shelves of Croatia and Montenegro as the delimitation follows the existing temporary line of demarcation [90].

Currently, there are some ongoing disputes regarding the maritime boundary delimitation. For instance, the decision of the Government of Croatia to give to some foreign leaseholders the right to explore and exploit resources located in whole or in part in the maritime area claimed by Montenegro, provoked a reaction of the latter.

The Government of Montenegro produced two diplomatic notes in 2014 [91] and asserted that the unilateral action of Croatia was in violation of the *Protocol establishing an interim regime along the southern border between the two States* in 2002. Montenegro stressed that the Republic of Croatia was not entitled to dispose of such resources “in disputed territory before the definitive delimitation and demarcation of the joint state border with Montenegro, or before two states reach a mutually acceptable agreement” [92].

The delimitation of the maritime boundary between Croatia and Slovenia also gave rise to a dispute, submitted to arbitration in accordance with an Arbitration Agreement signed by the parties on 4 November 2009 in Stockholm [93].

An arbitral tribunal issued its final award in the *Croatia vs. Slovenia* case on 29 June 2017, establishing the legal regime applicable to the connection area between them [94].

However, the implementation of the 2017 final award is pending, as Croatia does not recognise it due to illegal communication between the Slovenian government and the arbitrator nominated by Slovenia which according to Croatia’s position compromised the arbitration agreement and the entire arbitration proceedings. Furthermore, it has to be noticed that the EU Court of Justice in the Case *Slovenia vs. Croatia* determined that the arbitration award cannot be enforced through EU law [95].

Regarding Croatia, the Croatian national boundary commission held that the issue of an Exclusive Economic Zone “was in accord with the 1982 Law of the Sea, but the act would come in force only following consultation with Italy” [96].

In 2003, Croatia created a *sui generis* ecological and fishing protection zone (EFPZ) rather than an EEZ [97].

The Government of Montenegro protested against the decision of the Croatian Parliament on the unilateral extension of jurisdiction in the above area of the Adriatic Sea and against activities that Croatia has commenced with certain private companies in that area since September 2013 [98].

Both Slovenia and Italy contested it, stating that it had to be shared between the three countries and accused Croatia of breaking European Union regulations [99]. In response to such protest, supported by the European Commission, “the Republic of Croatia in 2008 suspended the application of the EFPZ vis-à-vis EU Member States, while Montenegro and Croatia have agreed since 2008 to negotiate the text of a special agreement to submit their land and maritime boundary dispute to the International Court of Justice” [100].

So it was determined that the ecological and fishing protection zone would not apply to EU member states until a joint agreement in a European spirit was reached [101].

After Croatia joined the EU in 2013, its ecological and fishing protection zone became part of “EU waters” in which the Common Fisheries Policy applies and EU member states cooperate.

The Croatian government decided to declare an Exclusive Economic Zone, in the Adriatic Sea in December 2020 [102] and the Croatian Parliament approved it on 18 December 2020 [103].

The Croatian Foreign Minister Gordan Grlic Radman told that after “talks with his Slovenian and Italian counterparts, an understanding was reached” that Croatia and Italy would declare an EEZ after a trilateral meeting in January next year [104].

It was then officially proclaimed on 5 February 2021 [105]. As communicated to the United Nations by the State, the EEZ of the Republic of Croatia will be established beyond the limit of its territorial sea in accordance with UNCLOS. It comprises “the maritime area from the outer limit of the territorial sea seaward up to the maximum limit allowed under general international law” [106], to be determined “by international agreements on delimitation with the States whose coasts lie opposite or adjacent to the Republic of Croatia” [107].

Pending the conclusion of such agreements, the EEZ outer limit “shall temporarily follow the delimitation line of the continental shelf established under the 1968 Agreement between the Socialist Federal Republic of Yugoslavia(SFRY) and the Italian Republic on the Delimitation of the Continental Shelf between the two countries in the Adriatic Sea” [108] and the following 2005 Agreement between the Republic of Croatia and the Italian Republic on the precise determination of the delimitation line of their continental shelves, “and in adjacent delimitation with Montenegro, the line following the direction and continuing along the provisional delimitation line of the territorial seas, as defined in the 2002 Protocol between the Republic of Croatia and the Federal Government of the Republic of

Yugoslavia on the Interim Regime along the Southern Border between the two States” [109].

Then a treaty on the delimitation of the EEZs between Croatia and Italy was signed during the *Meeting of the Coordinating Committee of Croatian and Italian Ministers* held in Rome on May 24<sup>th</sup> 2022 [110].

Regarding the proclamation of Croatian and Italian EEZ, Slovenia declared that they should be without any prejudice to Slovenia's rights under international and EU law [111].

As far as Montenegro is concerned, it has not yet proclaimed an EEZ. Nevertheless, as mentioned above, it contested the extension of jurisdiction of Croatia beyond territorial waters and the establishment of the EFPZ. According to Montenegro “the Protocol on the Interim Regime along the Southern Border, which was signed in 2002 by the Federal Republic of Yugoslavia and the Republic of Croatia and is guaranteed by the UN Security Council, defines the extent of jurisdiction of Montenegro and Croatia in a twelve nautical mile territorial sea only, on a provisional basis and without prejudice to a final delimitation. The 2002 Protocol does not apply to the continental shelf, the Exclusive Economic Zone, or similar zones of functional jurisdiction (such as Croatia’s ecological and fisheries protection zone (EFPZ). Accordingly, the Republic of Croatia is not entitled unilaterally to define the outer limit of its jurisdiction beyond the territorial sea by extending the 2002 Protocol line that delimits only the territorial sea and only on a provisional basis” [112].

Montenegro also recalls that from the period when the two States were constituent republics of the Socialist Federal Republic of Yugoslavia, the line delimiting the jurisdiction of Montenegro and Croatia, followed the line of azimuth of 231°. Accordingly, in its view, the “spatial extent of the jurisdiction of each constituent Yugoslav republic of course remains applicable absent subsequent contrary agreement between the two States” [113].

Therefore in the view of Montenegro, Croatia’s unilateral declaration of its EFPZ “amounts to a breach of international law, which prohibits unilateral appropriation of areas of the continental shelf, the Exclusive Economic Zone, or other zones of functional jurisdiction without agreement with neighbouring states or third-party adjudication in accordance with international law” [114].

So, when Croatia authorized a Norwegian company, Spectrum, to conduct seismic surveys in the area around the line of azimuth of 231° in 2013 and, subsequently, granted a licence for hydrocarbon exploration and

exploitation, such State proceeded unilaterally failing to seek Montenegro's consent prior to taking these decisions.

Pending an agreement on the principle of a submission regarding the delimitation issue to the Court, such activities were performed in breach of the obligation to act in good faith throughout the negotiations, according to Montenegro.

Consequently, Montenegro expresses its dissent regarding the following points: the Croatian unilateral Decision to extend its EFPZ, to areas in the Adriatic Sea allegedly appertaining to Montenegro; the Croatian exercise of jurisdiction in the EFPZ pursuant to Articles 33, 34(1), 35, 41 and 42 of Chapter IV (Economic Zone) of the Maritime Code of Croatia [115]. Montenegro also protests against the outer limit of Croatia's EFPZ nor does Montenegro accept any official or unofficial depiction of the EFPZ extending beyond the line of azimuth of 231° [116].

It has also to be mentioned that Montenegro issued a decision on determining blocks for research and production of hydrocarbons [117]. The Republic of Croatia reacted to such decision issuing a note of protest sent on 15 December 2011 to the Embassy of Montenegro in Zagreb, warning about the incorrectly depicted maritime border between the Republic of Croatia and Montenegro, and about an improper display of the direction of the lateral maritime delimitation, in breach of the provisional demarcation line as determined by the Protocol of 2002 [118].

Then, both countries withdrew from their intentions to proceed with offshore exploration and exploitation projects in the Adriatic. The parties look like willing to solving this issue by bilateral agreement or to entrust the Court of Justice (ICJ) with the task of a final delimitation of the maritime (and land) border between them [119].

### **3.3. Maritime boundary delimitation in the Adriatic Sea**

The maritime boundary delimitation regards Montenegro and Croatia as they adjacent states, but also Italy as an opposite State.

Italy and Yugoslavia signed a boundary delimitation agreement [120] regarding their continental shelf in the Adriatic on 8 January 1968 [121], which subsequently entered into force on 21 January 1970. Then an agreement between Italy and Greece was finalized in 1977 [122], and Italy and Albania negotiated an agreement in 1992 [123].

The 1968 agreement represents "the first continental shelf boundary to be concluded and put into effect in the Mediterranean" [124]. The boundary



extended for 353 nautical miles, based upon an equidistance boundary for a considerable proportion of the line.

Some correctives were adopted in relation to the strict equidistance criterion, in order to avoid the possible disadvantages related to the presence of several small Yugoslav islands significantly far offshore in the central Adriatic. So a reduced effect [125] was given to the Yugoslav islands of Jabuka, Palagruža, and Galijula and the Italian island of Pianosa. Yugoslavia's numerous islands close to its coast were accorded full effect.

As far as the baseline are concerned, the Yugoslavia's straight baseline system does not seem to have played a part, because the basepoint used for the delimitation was either on the mainland coast or on an island coast rather than on a straight baseline [126]. As, the Italian straight baseline system in the Adriatic introduced by DPR No. 816 of 1973, post-dated this agreement, it was not taken into account and the basepoint was represented by the coast in this case too [127].

Bearing in mind that following the disintegration of the former Federal Socialist Republic of Yugoslavia a succession of states took place [128], it is a generally accepted rule of customary international law that treaty provisions related to boundary and territorial regimes follow the territory. So successor states inherit the treaty obligations pertaining to their territory [129]. Accepting such a principle, the 1968 Italy-FSRY continental shelf agreement remains in force and is binding on Croatia, Slovenia, and Montenegro [130].

In relation to newly established EEZ, one of the core is that of delimitation which is also functional to the individuation of the outer borders of each EEZ, due to the narrowness of the Mediterranean basin that does not allow any State to expend its EEZ up to 200 nautical miles.

UNCLOS Articles 74 and 83 related respectively to the delimitation of the EEZ and the CS provide for effecting the delimitation by agreement, in accordance with international law and in order to achieve an *equitable* result [131].

As set forth by the International Court of Justice, equity can be considered an aim that should be borne in mind in effecting the delimitation, more than a method of delimitation [132].

The Court further stated that "it is not a question of applying equity simply as a meter of abstract justice, but of applying a rule of law" during the 1969 North Sea case [133], and later, during the 1985 Libya/Malta case, it reiterated that "the Justice of which equity is an emanation, is not abstract justice but justice according to the rule of law" [134].

According to UNCLOS, for each maritime zone, there are specific indications concerning the delimitation and different boundaries can be envisaged in relation to each and any single maritime zone.

Nevertheless, in the recent years there is an emerging practice among the States in favour of the adoption of a single maritime boundary, common to more maritime zones, "in the interest of simplicity, certainty and convenience" [135].

In particular, there is an increasing trend in favour of the use of the method of single maritime boundary to delimit the two different zones of continental shelf and EEZ, as it looks like more convenient and simple [136]. Such recourse of the single maritime boundary is also supported by the similarities between the EEZ and the continental shelf, both extended up to 200 nautical miles [137].

Landmark Cases for the single maritime boundary were that of the Maritime Delimitation and Territorial Questions between Qatar and Bahrain [138] and that related to Land and Maritime Boundary between Cameroon and Nigeria of 2002. The Court determined a single boundary for the continental shelf and the EEZ between the Parties and highlighted that "the concept of a single maritime boundary does not stem from multilateral treaty law but from State practice" [139].

In order to draw such a single line, the Court relied on the equitable principles/relevant circumstances method, which is very similar to the equidistance/special circumstances method, arising from UNCLOS. In some cases, a single maritime "multi-purpose" line was chosen by the States in the framework of the negotiation of a maritime boundary delimitation agreement. For instance, Turkey and the Soviet Union agreed by an exchange of notes of 6 February 1987, that the boundary line of their continental shelf, as indicated in a previous agreement, should also be valid with respect to their respective EEZ. Georgia and the Republic of Turkey concluded an agreement on 14 July 1997 establishing a single maritime boundary for all purposes [140]. The Republic of Bulgaria and the Republic of Turkey also concluded an agreement in 1997 establishing a single maritime line for the territorial sea, EEZ and Continental shelf between them [141].

The single maritime boundary was recently employed by Cyprus, Egypt and Israel in delimiting their EEZs in the Eastern Mediterranean [142].

As far as the boundaries in the Adriatic Sea are concerned, they are mainly agreed boundaries.

Beside the aforementioned agreements related to the continental shelf, Italy and FSRY concluded also an agreement concerning their territorial sea boundary, usually referred to as the Treaty of Osimo, on 10 November 1975

which entered into force on 3 April 1977. Its primary aim was to settle the disputed land boundary between the parties about the central Gulf of Trieste and complete their maritime delimitations.

No agreement was negotiated between Italy and Croatia in relation to the boundaries of the 2003 EFPZ. A new agreement has instead been negotiated to define the boundaries of the EEZs [143].

#### **4. Neighborhood relations Italy-Montenegro and proposals for future delimitations**

In 1968, an agreement between Italy and the Federal Socialist Republic of Yugoslavia was signed [144] for the delimitation of the continental Shelf and later Croatia, Montenegro and Slovenia became successor states of the latter in this agreement [145].

The Italian approach in delimiting the continental shelf with neighbouring states was a cooperative one [146]. Italy negotiated and concluded agreements with its neighbouring countries on the delimitation of the continental shelf also with Tunisia (1971), Greece (1974), Spain (1977) and Albania (1992) [147], in compliance with the obligation to cooperate of the states surrounding a closed or semi-enclosed sea, arising from UNCLOS Article 123. When Italy established its EPZ also negotiated an agreement with France concerning the boundary delimitation [148].

This reflects also the Italian “policy aimed at economic growth through the exploration and exploitation of the natural resources of the seabed and subsoil of the Mediterranean Sea” [149]. Nowadays, a similar policy has been adopted by the European Union, in both its Blue Growth and Energy Security strategies [150].

Thus, the EU Member States were encouraged to establish jurisdictional maritime zones and delimit them by agreement to be able to exploit the natural resources therein.

As it has been noticed, UNCLOS duty of cooperation “can be interpreted broadly, as applicable to coastal states even when they establish their maritime zones, even if not expressly provided for by Article 123 [151].

The new Italian Law concerning the EEZ expressly recalls the need to negotiate agreements with neighbouring States in order to define the outer border of the EEZ and find an agreed solution.

As of now, a treaty between Italy and Croatia on delimitation of their EEZs [152] is already existing. According to it, the boundary line of the EEZs coincides with the continental shelf boundary between the parties in

accordance with the Agreement of 1968 and the technical adjustment agreement of 2005.

It seems that the parties relied on the already existing boundary of the continental shelf in light of the single maritime boundary trend. It is questionable whether the same approach will be followed also for other delimitation agreements or an autonomous boundary for the EEZ will be preferred.

In general, according to some Observers [153], it would be suitable to adhere to the previous continental shelf boundary, as it would ensure more clarity and would also speed up the negotiation process to find a solution [154]. Being that boundary is already agreed, it would be a reasonably good solution also for the EEZ.

Differently arguing, the 1968 agreement could be deemed as the output of a different historical situation, so outdated, also bearing in mind that the baseline system based on straight baselines was introduced afterwards. So, a new delimitation could also be taken into account [155].

In any case, the corrective special circumstances taken into account in 1968 and the agreed effect given to the isles would reasonably be almost the same, due to the geographical and societal features of the area. During the negotiations, the parties could eventually check whether there are new circumstances to be considered as correctives. For instance, they could be related to fishing rights or the current coastal development. If the Parties consider that such circumstances are very significant on a case-by-case basis, they could evaluate different maritime boundaries for each zone, otherwise it would be preferable to give weight to the interest of simplicity, certainty and convenience and prefer a single maritime boundary.

## **5. Concluding remarks**

Following the Law No. 91 of 14 June 2021, an Italian Exclusive Economic Zone was proclaimed. The paper analyzed it in the framework of the recent proliferation of EEZs in the Mediterranean.

On the one hand, the coastal States are willing to extend their jurisdiction as far as possible, on the other hand there is an increasing need for international cooperation to delimit the related boundaries.

From the analysis of the practice related to the EEZ delimitation, some observations can be made. The States mainly rely upon the traditional legal instrument of the agreement to delimit the boundaries or to solve the related disputes. In other cases, they entrust a judicial organ to solve the dispute in a peaceful manner.

Turning to the content of the agreement, generally speaking there are two possible options to delimit the EEZs between the neighboring States: either referring to a specific boundary for such zone or relying to the notion of single maritime boundary, as emerging from the most recent practice.

The latter option could speed up the process, as suggested by some observers. Nevertheless, it could lead to neglect some relevant specific circumstances, such as the current coastal development.

In relation to the Adriatic Sea, the delimitation is even more complex than in other areas of the Mediterranean basin, due to its nature of Epicontinental Sea and the consequent relevance of the continental shelf.

Bearing in mind such geographical conformation, in our view, the preferable solution could be a delimitation based on the single maritime boundary system. Nevertheless, it could be suitable to avoid to use the former continental shelf (CS) boundaries as such, because they were delimited based on circumstances which can be now obsolete. The CS boundaries could be used as a point of departure, to be corrected by taking into account the current circumstances, including the coastal development.

Up to now, Montenegro has not yet proclaimed its own EEZ. Nevertheless, even if there is already an agreement on the delimitation of the EEZs between Italy and Croatia, in order for Italy to implement its EEZ there is a need to agree the related boundaries also with all the other neighboring States.

It would be suitable to negotiate an agreement also with Montenegro to this aim, in our view, to prevent eventual future disputes, based on the aforementioned criterion.

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3. Italy ratified it by Law No. 689 of 2nd December 1994, "Ratifica ed esecuzione della convenzione delle Nazioni Unite sul diritto del mare, con allegati e atto

finale, fatta a Montego Bay il 10 dicembre 1982, nonché dell'accordo di applicazione della parte XI della convenzione stessa, con allegati, fatto a New York il 29 luglio 1994", published in (GU Serie Generale No.295 del 19-12-1994 - Suppl. Ordinario No. 16). The text is available at <https://www.gazzettaufficiale.it/eli/id/1994/12/19/094G0717/sg>

4. They will need to be authorised by the parliament according to Article 80 of the Constitution: "Art. 80 Parliament shall authorise by law the ratification of such international treaties as have a political nature, require arbitration or a legal settlement, entail change of borders, spending or new legislation".
5. Article 1 alinea 2.
6. For more details, see below.
7. In this part the provision reflects the content of UNCLOS Article 58 "Rights and duties of other States in the Exclusive Economic Zone".
8. Art. 55 ff.
9. The legal regime of the seabed is usually different from that of the water column. The continental shelf and the deep Seabed are both regulated in the framework of the UNCLOS. While the former is under the State's jurisdiction, the latter is subject to the legal regime of "the common heritage of all mankind" (Article 7 UNCLOS). See F. Caffio, in *Glossario del diritto del mare*, Supplemento della *Rivista Marittima*, 2020.
10. UNCLOS, Article 56.
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13. *Ibidem*. Furthermore "Italy does not accept any of the procedures provided for in section 2 of Part XV with respect to disputes concerning the interpretation of articles 15, 74 and 83 relating to sea boundary delimitations as well as those involving historic bays or titles".
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17. See below.
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20. See B. Vukas, "The extension of jurisdiction of the coastal State in the Adriatic Sea" in N. Ronzitti (ed), *I rapporti di vicinato dell'Italia con Croazia, Serbia-Montenegro e Slovenia*, Luiss University Press 2005, p. 251.
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25. Legge 8 febbraio 2006, No. 61 "Istituzione di zone di protezione ecologica oltre il limite esterno del mare territoriale" pubblicata nella Gazzetta Ufficiale No. 52 del 3 marzo 2006, <https://web.camera.it/parlam/leggi/060611.htm>
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89. See *supra*.
90. See [https://www.esteri.it/it/sala\\_stampa/archivionotizie/approfondimenti/2022/05/il-ministro-dimaio-co-presiede-la-quinta-riunione-del-comitato-di-coordinamento-dei-ministri-italia-croazia/](https://www.esteri.it/it/sala_stampa/archivionotizie/approfondimenti/2022/05/il-ministro-dimaio-co-presiede-la-quinta-riunione-del-comitato-di-coordinamento-dei-ministri-italia-croazia/)
91. Communication from the Government of Montenegro, dated 2 July 2014, concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia; Communication from the Government of Montenegro, dated 1 December 2014, concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia. Both documents are available on [http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/MN\\_G.htm](http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/STATEFILES/MN_G.htm)
92. See Communication from the Government of Montenegro, dated 2 July 2014, concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia, quoted above.
93. Arbitration Agreement between the Government of the Republic of Croatia and the Government of the Republic of Slovenia, Stockholm, 4 November 2009, Annex HRLA-75, Final Award, available at <https://pcacases.com/web/sendAttach/2165>
94. A. Solomou, “A Commentary on the Maritime Delimitation Issues in the Croatia v. Slovenia Final Award”, *EJIL Talk*, September 15, 2017, <https://www.ejiltalk.org/a-commentary-on-the-maritime-delimitation-issues-in-the-croatia-v-slovenia-final-award/>
95. EU Court of Justice, Judgment of the Court (Grand Chamber) in the Case “Slovenia vs. Croatia” C-457/18, 31 January 2020, available at <https://curia.europa.eu/juris/document/document.jsf?mode=lst&pageIndex=0&docid=223863&part=1&doclang=EN&text=&dir=&occ=first&cid=311819>
96. *Slobodna Dalmacija* 16/4/1994, reported by G. Blake and D. Topalović, “The Maritime Boundaries of the Adriatic Sea”, *Maritime Briefing*, Volume 1, Number 8, 1996, p. 15.

97. The proclamation and establishment of maritime zones is a sovereign right of each coastal State, based on UNCLOS, but also based on the rules of customary international law. See Croatia 'To Choose EU Or Fishing Zone', Balkan Insight, February 26, 2008, <https://balkaninsight.com/2008/02/26/croatia-to-choose-eu-or-fishing-zone/>
98. Communication from the Government of Montenegro, dated 18 May 2015 concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia, [https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/MNG\\_note20150619en.pdf](https://www.un.org/Depts/los/LEGISLATIONANDTREATIES/PDFFILES/communications/MNG_note20150619en.pdf).
99. *Ibidem*.
100. Communication from the Government of Montenegro, dated 18 May 2015 concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia, quoted above, p. 2.
101. *Ibidem*.
102. A. Vladisavljevic, "Croatia to Declare Exclusive Economic Zone in Adriatic", Balkan Insight, December 14, 2020, <https://balkaninsight.com/2020/12/14/croatia-to-declare-exclusive-economic-zone-in-adriatic/>
103. [https://www.ansa.it/nuova\\_europa/en/news/countries/croatia/2020/12/18/croatia-approved-the-exclusive-economic-zone-in-the-adriatic\\_cb7fd3aeb76f-47da-beb4-ef1962ab98a1.html](https://www.ansa.it/nuova_europa/en/news/countries/croatia/2020/12/18/croatia-approved-the-exclusive-economic-zone-in-the-adriatic_cb7fd3aeb76f-47da-beb4-ef1962ab98a1.html)
104. *Ibidem*.
105. See Communication dated 11 February 2021 from the Permanent Mission of the Republic of Croatia to the United Nations addressed to the Secretary-General of the United Nations, No. 34/2021, at <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/PDFFILES/Note%2034-2021.pdf>
106. Communication dated 11 February 2021 from the Permanent Mission of the Republic of Croatia to the United Nations addressed to the Secretary-General of the United Nations, quoted above, p. 1.
107. *Ibidem*.
108. *Ibidem*.
109. *Ibidem*.
110. Agreement between the Italian Republic and the Republic of Croatia on the delimitation of the exclusive economic zones, Rome, 24<sup>th</sup> May 2022, available at <https://www.unimc.it/maremap/it/EEZagreementItalyCroatia.pdf>. See Croatia, Italy sign agreement on exclusive economic zone demarcation, 24 May 2022, <https://vlada.gov.hr/news/croatia-italy-sign-agreement-on-exclusive-economic-zone-demarcation/35469>.
111. Slovenia insists declaring EEZ in Adriatic should not affect its rights, 29 January 2021, <https://english.sta.si/2861482/slovenia-insists-declaring-eez-in-adriatic-should-not-affect-its-rights>
112. Communication from the Government of Montenegro, dated 18 May 2015 concerning exploration and exploitation of resources in the Adriatic Sea by the Republic of Croatia, quoted above, p. 2.

113. *Ibidem*.
114. *Ibidem*.
115. The text is available at <http://csamarenostrum.hr/userfiles/files/Nacion%20zakon%20engl/MARITIME%20CODE.pdf>
116. *Ibidem*.
117. Official Gazette of Montenegro, No. 17/11 of 28 March 2011.
118. See V. Degan, 'Delimitation and Demarcation of the External Boundaries of the Republic of Croatia'. *Comparative Maritime Law* (2015), 54 (169), 57-71.
119. See <https://mvcp.gov.hr/press-22794/minister-grlic-radman-pays-working-visit-to-montenegro/247886>
120. G.P. Francalanci e P.Presciuttini, *Storia dei trattati e dei negoziati per la delimitazione della piattaforma continentale e del mare territoriale tra l'Italia e i Paesi del Mediterraneo 1966-1992*, IIM, Genova, 2000.
121. Agreement between Italy and Yugoslavia concerning the Delimitation of the Continental Shelf between the two Countries in the Adriatic Sea, 8 January 1968, <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/ITA.htm>.
122. Accord entre la République Italienne et la République de Grèce sur la Délimitation des zones du plateau continental propres a chacun des deux états, 24 May 1977, <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/ITA.htm>.
123. Agreement between Albania and Italy for the determination of the continental shelf of each of the two countries, 18 December 1992, <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/ITA.htm>
124. G. Blake and D. Topalović, "The Maritime Boundaries of the Adriatic Sea", quoted above.
125. Isles can be given full, partial or no effect in the maritime boundary delimitation. See S.D. Murphy, "Effects of islands on maritime boundary delimitation", *International Law relating to Islands*. Leiden, Brill Nijhoff, 2017, p. 221-276.
126. G. Blake and D. Topalović, "The Maritime Boundaries of the Adriatic Sea", quoted above, p. 15.
127. G. Blake and D. Topalović, "The Maritime Boundaries of the Adriatic Sea", quoted above.
128. V. Enver Hasani, *The Evolution of the Succession Process in Former Yugoslavia*, in *Miskolc journal of international law*, 2007, Vol. 4, No. 2, p. 12-37; Vladimir-Đuro Degan, *Legal Position of Serbia and Montenegro following the Break-up of the SFRY*, in *Guerra y paz: 1945-2009: obra homenaje al Dr. Santiago Torres Bernárdez*, Bilbao: Universidad del País Vasco, Servicio Editoral, 2010, p. 121-165.
129. See A. Zimmermann, J. Devaney, *State Succession in Treaties*, MPEPIL, 2019.
130. See N. Ronzitti (ed), *I rapporti di vicinato dell'Italia con Croazia, Serbia-Montenegro e Slovenia*, quoted above.

131. N. Dundua, Delimitation of maritime boundaries between adjacent States, United Nations, The Nippon Foundation Fellow, 2006-07, [https://www.un.org/depts/los/nippon/unnff\\_programme\\_home/fellows\\_page\\_s/fellows\\_papers/dundua\\_0607\\_georgia.pdf](https://www.un.org/depts/los/nippon/unnff_programme_home/fellows_page_s/fellows_papers/dundua_0607_georgia.pdf)
132. International Court of Justice (ICJ), Land and Maritime Boundary between Cameroon and Nigeria (Cameroon vs. Nigeria: Equatorial Guinea intervening), judgement of 10 October 2002, <https://www.icj-cij.org/public/files/case-related/94/094-20021010-JUD-01-00-EN.pdf>, Par. 294
133. International Court of Justice (ICJ), North Sea Continental Shelf (Federal Republic of Germany/Denmark) Judgement of 20 February 1969, <https://www.icj-cij.org/public/files/case-related/52/052-19690220-JUD-01-00-EN.pdf>, Par. 85.
134. International Court of Justice (ICJ), Continental Shelf (Libyan Arab Jamahiriya/Malta), Judgement of 3 June 1985 <https://www.icj-cij.org/public/files/case-related/68/068-19850603-JUD-01-00-EN.pdf>, Par. 45. See also N. Dundua, Delimitation of maritime boundaries between adjacent States, quoted above, p. 38 ff.
135. N. Dundua, Delimitation of maritime boundaries between adjacent States, quoted above, p. 38.
136. Jonathan I. Charney and Robert W. Smith. International Maritime Boundaries. 2002. Vol. II, p. 1701.
137. The International Court of Justice mentioned the single maritime boundary for the first time in the Delimitation of the Maritime Boundary in the Gulf of Maine Area Case. In this case the Chamber of the Court was requested to delimit a single maritime boundary between adjacent States. So a single maritime boundary was drawn to divide the continental shelf and fisheries zones of Canada and the United States in the Gulf of Maine. The Chamber stated "that there is certainly no rule in international law to the contrary, and, in the present case there is no material impossibility in drawing the boundary of this kind." International Court of Justice (ICJ), Delimitation of the Maritime Boundary in the Gulf of Maine Area (Canada/United States of America), Judgement of 12 October 1984, <https://www.icj-cij.org/public/files/case-related/67/067-19841012-JUD-01-00-EN.pdf>, Par. 27. Then, in the framework of an arbitral award related to a case between Guinea and Guinea-Bissau, the Tribunal did not see it impossible to draw a single line for different zones and drew a single maritime boundary to delimit the territorial sea, EEZ and continental shelf. As in the Gulf of Maine case without raising any of the problems connected with this. The Tribunal delimited a single line without any reference to the separate nature of the regimes of the continental shelf or EEZ, or any fusion of them. Arbitral Award, Delimitation of the maritime boundary between Guinea and Guinea-Bissau, 14 February 1985, [https://legal.un.org/riaa/cases/vol\\_XIX/149-196.pdf](https://legal.un.org/riaa/cases/vol_XIX/149-196.pdf), Par. 42.
138. International Court of Justice, Maritime Delimitation and Territorial Questions between Qatar and Bahrain (Qatar v Bahrain) (Merits) [2001] ICJ Rep 40.
139. International Court of Justice (ICJ), Land and Maritime Boundary between Cameroon and Nigeria (Cameroon v. Nigeria: Equatorial Guinea intervening), judgement of 10 October 2002, quoted above, Par. 286-287.

140. Jonathan I. Charney and Robert W. Smith. *International Maritime Boundaries*. 2002. Vol. IV. P. 2865.
141. Jonathan I. Charney and Robert W. Smith. *International Maritime Boundaries*. 2002. Vol. IV. P. 2871.
142. See the agreements quoted above.
143. See note 111.
144. Agreement between Italy and Yugoslavia concerning the Delimitation of the Continental Shelf between the two Countries in the Adriatic Sea, 8 January 1968, <https://www.un.org/depts/los/LEGISLATIONANDTREATIES/STATEFILES/ITA.htm>.
145. See above.
146. See F. Caffio, “The Maritime Frontier between Italy and France: A Paradigm for the Delimitation of Mediterranean Maritime Spaces”, quoted above.
147. See F. Caffio, “The Maritime Frontier between Italy and France: A Paradigm for the Delimitation of Mediterranean Maritime Spaces”, quoted above, p. 95.
148. Agreement of Caen (2015). See above. See F. Caffio, “The Maritime Frontier between Italy and France: A Paradigm for the Delimitation of Mediterranean Maritime Spaces”, quoted above, p. 90 ff.
149. See F. Caffio, “The Maritime Frontier between Italy and France: A Paradigm for the Delimitation of Mediterranean Maritime Spaces”, quoted above.
150. See above.
151. See F. Caffio, “The Maritime Frontier between Italy and France: A Paradigm for the Delimitation of Mediterranean Maritime Spaces”, quoted above.
152. See above note [111].
153. F. Caffio, “Una Zee per l’Italia. Una proposta cartografata in vista dell’avvio del processo che ci porterà a disegnare i limiti della nostra speciale area di responsabilità nel Mediterraneo. Ma siamo in ritardo. Le invasive delimitazioni altrui. La decisiva questione insulare e le dispute con Algeria, Libia, Turchia”, in *L’Italia al fronte del caos*, Limes, No. 2, 2021.
154. *Ibidem*.
155. In the Verbal Note No. 1050 of 15 March 2006, Italy, contested the Croatian EFPZ and the related outer borders, stressing that any maritime boundary delimitation has to be agreed by the Parties according to UNCLOS Article 74, so that it is unacceptable an automatic extension of the continental shelf boundary to the superjacent waters. “The constant jurisprudence of the International Court of Justice has consistently recognized that the delimitation of sea areas invokes special circumstances that differ by continental shelf and by superjacent waters— such as, for example, historic fishing rights—which lead to different delimitation methods. Consequently, in this specific case, there is no legal foundation for the automatic extension, however provisional, of the seabed line of delimitation agreed upon in 1968 to superjacent waters, since any delimitation must be considered in close relation to the circumstances of the case that produce it and that change over time. Therefore, international jurisprudence has always considered necessary the consent of the concerned States to the automatic extension of the seabed line of delimitation to superjacent waters. This principle holds especially true in this specific case when one considers that the

line of the 1968 Agreement was set during a period in which the notion of the exclusive economic zone was not yet well defined in international law of the sea". "Law of the Sea Bulletin", No 60, 2006 [www.un.org/Depts/los/doalos\\_publications/LOSBulletins/bulletinpdf/bulletin60e.pdf](http://www.un.org/Depts/los/doalos_publications/LOSBulletins/bulletinpdf/bulletin60e.pdf).

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