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Abstract

International Court of Justice (ICJ)

"Unsettled Border Disputes in the Arctic: The Hans Island - Case"

The International Court of Justice

The International Court of Justice (ICJ) is the principal judicial organ of the United Nations (UN). It was established in June 1945 by the Charter of the United Nations and began work in April 1946.

The seat of the Court is at the Peace Palace in The Hague (Netherlands). Of the six principal organs of the United Nations, it is the only one not located in New York (United States of America).

The Court's role is to settle, in accordance with international law, legal disputes submitted to it by states and to give advisory opinions on legal questions referred to it by authorized United Nations organs and specialized agencies.

The Court is composed of 15 judges, who are elected for terms of office of nine years by the United Nations General Assembly and the Security Council. It is assisted by a Registry, its administrative organ. Its official languages are English and French.

The Hans Island Dispute

The Arctic sea region has long been a subject of disputes. In this respect, Canada, Denmark, Russia and Norway share common interests because they regard parts of the Arctic seas as "national waters". In contrary, the United States and most EU countries, officially regard the region as international waters. A specific scenario can be found with regard to the Hans Island.

Hans Island, a 1.3 square-kilometer uninhabited island, lies about 1,100 kilometres south of the North Pole and can only be reached during summer because of pack ice. It has been claimed by both Denmark and Canada since Arctic borders were drawn in 1973. The border lies through Nares Strait, halfway between Greenland, a semi-autonomous Danish territory and Canada's Ellesmere Island. However neither country could agree which one would have sovereignty over Hans Island and several other islands in the area, so a decision was made to sort out the question of ownership at a later stage.

The border between Greenland and Canada itself is established in the delimitation treaty about the Continental Shelf between Greenland and Canada, ratified by the United Nations on 17 December 1973, and in force since 13 March 1974. Both, Denmark and Canada, have ratified the United Nations Convention on the Law of the Sea of 1982 giving them the right to make claims beyond 200 nautical miles of new land and under water resources in that area (art. 57 of the Convention).

The dispute became popular when Danish flags were planted on Hans Island in 1984, 1988 and 2004. Furthermore, the issue gained importance in media and both, Canadian and Danish journalists, stated that the island would be part of their respective territory

On 31 March 2004, the Danish and Canadian governments stated that the dispute was a long-standing issue, and that nothing had changed in the matter.

A new development came to light after Canadian Defence Minister Bill Graham visited the island on 20 July 2005 and posted a Canadian flag there. In response, an official statement was released by Denmark in which Hans Island was considered as being part of Greenland, because it has traditionally been used by hunters from the former Danish colony. Although Greenland's Home Rule government administers domestic affairs, Denmark continues to represent Greenland in its foreign affairs.

This was the first time that the Danish government has officially claimed that the island is solely Danish territory and that it is not in dispute. The Danish government has also said that it would plan to return to Hans Island in the near future to re-erect its flag. Finally, in July 2007, Canadian authorities admitted that the island is not solely in Canadian territory, but recognized that the international border lies roughly in the middle of the island.

On closer examination it is obvious that Hans Island itself is not the focus of the dispute itself. Oil reservoirs and the possibility of shipping of the northern route between the Atlantic and Pacific Oceans are on the agenda behind this dispute. Due to global warming and the melting of the Arctic ice cap, this scenario seems to be rather realistic. Therefore the tiny Hans Island is more a symbolic issue with a, nevertheless, severe impact on the border regime within the Arctic.