

The legal effects of the lack of recognition of a state from the point of view of international law

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The thesis attempts to analyze the consequences of the absence of international recognition of a state from the point of view of international law. Its objectives are threefold. First, it argues that the lack of recognition may prevent an entity whose aim is to create a state from reaching that goal and from attaining full international legal personality. Second, it tries to demonstrate that the scope of rights and obligations of such an entity depends on the degree of its acceptance by the international community, which is manifested through recognition. Finally, it aims to show that as regards the status in international law the main dividing line is between entities universally recognized as states and those which have not managed to receive universal recognition (“regimes”), and not between those created in compliance with or violation of international law.

The study has been divided into six parts: an introduction, four chapters and conclusions. The introduction outlines the structure, research design and methods used, explains the importance of the topic and sets the objectives. The first two chapters introduce basic concepts of the study such as “state” or “recognition”. They contain the analysis of various criteria for statehood proposed in the literature and highlight the inadequacies of the latter in the light of international practice. Also, they discuss the importance of recognition and its absence for the acquisition of legal personality and statehood, and provide general guidelines on how to distinguish states from regimes in practice. The third and the largest chapter presents various consequences of the lack of recognition for states and regimes, placing particular emphasis on activities most often associated with statehood or international personality. It evaluates issues such as application of different kinds of non-treaty and treaty norms, modalities of conclusion of or accession to treaties, the right of legation, including both diplomats and consuls, participation in international conferences and other bilateral and multilateral meetings, and general principles of international responsibility. The last and fourth chapter examines whether the absence of international recognition produces any legal effects in domestic laws of non-recognizing states. Under consideration are, among others, the legal personality of an unrecognized state or regime in the non-recognizing state, the immunity of the state or regime itself, its missions and representatives, as well as the recognition of various acts of an unrecognized state, such as laws, administrative decisions or judgments. Conclusions consist of a comprehensive summary of earlier findings and an assessment of the attainment of the objectives of the study.