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Legal Challenges in Protecting Transboundary Submarine Cables and Pipelines from Intentional Damage in the Exclusive Economic Zone and the Continental Shelf

[Wyzwania prawne związane z ochroną transgranicznych kabli podmorskich i rurociągów przed umyślnym uszkodzeniem w obrębie wyłącznej strefy ekonomicznej oraz szelfu kontynentalnego]

Abstract

Considering the contemporary global importance of transboundary submarine cables and pipelines, particularly from economic and societal perspectives – in contrast to the intentional breaking or injuring of such infrastructure – the aim of this research is to examine the extent to which international law supports the jurisdiction of coastal states over maritime areas where they hold only certain sovereign rights. To that end, the author analyzes the legal regimes of the continental shelf and the exclusive economic zone, as well as the relevant international law governing the protection of submarine cables and pipelines. Two key international treaties are examined: the 1982 United Nations Convention on the Law of the Sea and the 1884 Convention for the Protection of Submarine Telegraph Cables. In line with the research objectives, the author also considers the opinions of legal scholars, state practices, and relevant international jurisprudence. After synthesizing the findings, the author provides a nuanced answer regarding the scope and legal foundations of coastal states' jurisdiction in their continental shelf and exclusive economic zone, in relation to the jurisdiction of states whose vessels or citizens intentionally damage submarine cables or pipelines.

Keywords: submarine cable, submarine pipeline, coastal state, exclusive economic zone, continental shelf, intentional damage, jurisdiction.

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Introduction

The importance of transboundary submarine cables and pipelines, many of which are transoceanic (especially telecommunications cables), is immense in today's world. The economies of numerous coastal and non-coastal states depend on such infrastructure, particularly in the fields of energy and telecommunications. In the broadest sense, the functioning of modern society would be unthinkable without it. This makes it clear that the infrastructure in question is critical.[1] At the same time, it is important to note that such infrastructure is rarely state-owned in the present day. As Burnett observes, 99% of submarine telecommunications cables are owned by non-governmental entities. Moreover, ownership of submarine cables is typically distributed among multiple entities, often involving a consortium of several to dozens of companies. As a result, unlike ships, submarine cables cannot be readily attributed to a specific state.[2] Instead, privately owned companies are increasingly financing such infrastructure, marking a departure from earlier periods when it was predominantly constructed and managed by state-owned enterprises. Despite this shift, states – given their reliance on this infrastructure for essential functions – should, alongside owners and operators, have a vested interest in ensuring its legal and physical protection.

In the world's seas there are significantly fewer submarine pipelines compared to cables. While submarine pipelines are equally susceptible to damage, damage to telecommunications and energy cables occurs more frequently. The causes of damage to submarine infrastructure include underwater earthquakes, landslides, and erosion of cable sheaths due to sea currents, among other factors. As a result, the repair of cables and pipelines remains a continual necessity. In recent years, particularly in the context of hybrid warfare and intensifying geopolitical competition, the need to physically protect these infrastructures from deliberate acts of sabotage has gained increasing significance.[3] Concerns about damage to submarine infrastructure are global in scope and often give rise to allegations of sabotage, with states frequently accusing one another – even when the actual perpetrators may be non-state

[1] The International Cable Protection Committee (ICPC) recommends that states declare submarine cables as critical infrastructure in their own legislation. Such designation would emphasize their importance for the functioning of society and the state, while also highlighting the need to assess vulnerabilities and threats, and to mitigate risks by implementing protective measures. ICPC, Government Best Practices for Protecting and Promoting Resilience of Submarine Telecommunications Cables, Portsmouth, 2024; https://www.iscpc.org/publications/icpc-best-practices/ [accessed: 24.02.2025].

[2] D. R. Burnett, *Submarine Cable Security and International Law*, 'International Law Studies' 2021, vol. 97, p. 1668; https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=2992&context=ils [accessed: 03.02.2025].

[3] A. Cwalina, *Concerns Grow over Possible Russian Sabotage of Undersea Cables*, 'Atlantic Council' 2024, Sept. 12; https://www.atlanticcouncil.org/blogs/ukrainealert/concerns-grow-over-possible-russian-sabotage-of-undersea-cables/ [accessed: 03.02.2025].

actors.[4] It is widely acknowledged that fully securing this infrastructure, particularly at greater depths, is nearly impossible.[5] For instance, unmanned underwater drones can locate and sever submarine cables, while existing submarine sensors are generally incapable of preventing such actions.[6]

There have been numerous instances of damage to submarine infrastructure, involving both accidental and potentially intentional causes. For example, in the Red Sea, a vessel reportedly abandoned by its crew dragged an anchor and severed a submarine cable.[7] Similar incidents have allegedly occurred between Finland and Germany, Sweden and Lithuania, and Lithuania and Estonia, all attributed to anchor dragging.[8] A comparable event took place near Taiwan.[9] In Norway, a section of submarine cable several kilometers long was reported missing, though it was later discovered elsewhere on the seabed.[10] In the Baltic Sea, a gas pipeline was allegedly cut by the anchor of a cargo ship.[11] Additionally, there have been explosions affecting pipelines, some of which have been attributed to the actions of divers.[12] When the cable between Sweden and Latvia was cut, the investigation revealed it was due to "a combination of weather conditions and shortcomings in equipment and seamanship".[13] This example underscores the complexity of establishing factual circumstances and assigning legal responsibility, particularly when distinguishing between unintentional damage and acts potentially carried out by state or non-state actors.

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[4] K. Hoerr, What Lies Beneath: *Undersea Cables and the Laws Protecting Them*, 'Law Society Journal Online' 2024, Dec. 16; https://lsj.com.au/articles/what-lies-beneath-undersea-cables-and-the-laws-protecting-them/ [accessed: 06.02.2025].

[5] T. Coventry, *What Should States Do to Combat the Sabotage of Submarine Cables and Pipelines Beneath the High Seas/EEZs?*, 'EJIL:Talk! – Blog of the European Journal of International Law' 2024, Dec. 13; https://www.ejiltalk.org/what-should-states-do-to-combat-the-sabotage-of-submarine-cables-and-pipelines-beneath-the-high-seas-eezs/ [accessed: 06.02.2025].

[6] *Ibid*.

[7] *Ibid*.

[8] B. Pancevski, *Chinese Ship's Crew Suspected of Deliberately Dragging Anchor for 100 Miles to Cut Baltic Cables*, 'The Wall Street Journal' 2024, Nov. 29; https://www.wsj.com/world/europe/chinese-ship-suspected-of-deliberately-dragging-anchor-for-100-miles-to-cut-baltic-cables-395f65d1 [accessed: 03.02.2025].

[9] H. Davidson, *Taiwan Investigating Chinese Vessel over Damage to Undersea Cable*, 'The Guardian' 2025, Jan. 7; https://www.theguardian.com/world/2025/jan/07/taiwan-investigating-chinese-vessel-over-damage-to-undersea-cable [accessed: 04.02.2025].

[10] T. Newdick, *Norwegian Undersea Surveillance Network Had Its Cables Mysteriously Cut*, 'The War Zone' 2021, Nov. 11; https://www.twz.com/43094/norwegian-undersea-surveillance-network-had-its-cables-mysteriously-cut [accessed: 03.02.2025]. See also: A. Lott, Attacks Against Europe's Offshore Infrastructure Within and Beyond the Territorial Sea Under Jus ad Bellum, 'EJIL:Talk! – Blog of the European Journal of International Law' 2023, Oct. 17; https://www.ejiltalk.org/attacks-against-europes-offshore-infrastructure-within-and-beyond-the-territorial-sea-under-jus-ad-bellum/ [accessed: 21.02.2025].

[11] B. Pancevski, *Chinese*... [accessed: 03.02.2025].

[12] T. Coventry, What... [accessed: 06.02.2025]. See also: K. Jochecová, *Us, Sabotaging Undersea Cables? Ridiculous, says Russia*, 'Politico' 2024, Nov. 20; https://www.politico.eu/article/russia-sabotaging-cables-ridiculous-dmitry-peskov-ukraine-germany-baltic-sea/ [accessed: 03.02.2025].

[13] C. Szumski, *No Sweden-Latvia Underwater Cable Sabotage*, 'Euractiv' 2025, Feb. 4; https://www.euractiv.com/section/politics/news/no-sweden-latvia-underwater-cable-sabotage/ [accessed: 04.02.2025].

In such cases, the primary legal concern is the jurisdiction of states to act, which largely depends on the maritime zone in which the damage occurs. In practice, coast guard or naval vessels often intercept civilian ships suspected of causing damage and escort them to port, where they may be detained. Given the transboundary nature of submarine infrastructure, joint operations involving coast guards, naval forces, and civilian maritime authorities from two or more states are common.[14] Considering the substantial investments required for the construction and deployment of submarine cables and pipelines – as well as their critical role in modern economic and societal functioning – the legal framework governing this infrastructure is essential for maintaining legal certainty, particularly in cases involving intentional damage.

Legal Regime of the Exclusive Economic Zone and Continental Shelf

The coastal state does not have territorial sovereignty over its continental shelf and the EEZ but does hold certain sovereign rights over the natural resources found within those maritime zones.[15] In this context, Prölss describes the EEZ, from a territorial perspective, as a "no man's land" located between the coastal state's territorial sea and the high seas. From a functional standpoint, he refers to it as a *sui generis* maritime zone, which is subject to a specific legal regime.[16] The sovereign rights of the coastal state are functional in nature, whereas its jurisdiction is territorial.[17] Like sovereignty, sovereign rights in a particular area are exclusive to their holder, meaning they exclude such rights of others. While other states do have certain freedoms and rights in another state's EEZ, this is subject to various prerogatives of the coastal state. Furthermore, the freedoms and rights of other states in the coastal state's EEZ cannot be viewed as in the high seas.[18] This is the essence of article 58 paragraph 2 of the UNCLOS, which stipulates that only those provisions of UNCLOS concerning the high seas (articles 88–115) that do not conflict with the legal regime of the EEZ, are applicable within that maritime zone.[19] Given

[14] B. Pancevski, *Chinese…* [accessed: 03.02.2025].
[15] B. Pancevski, *Chinese…*, p. 312 [accessed: 03.02.2025].
[16] A. Prölss, *The Law on the Exclusive Economic Zone in Perspective: Legal Status and Resolution of User Conflicts Revisited*, 'Ocean Yearbook' 2012, vol. 26, p. 89.
[17] The United Nations Convention on the Law of the Sea: A commentary, A. Prölss (ed.), Bloomsbury Publishing, London, 2017, p. 466.
[18] V. Ibler, *Pravo Republike Hrvatske da proglasi svoj isključivi gospodarski pojas* [in:] V. Ibler (ed.), Koliko vrijedi međunarodno pravo, Ministarstvo vanjskih i europskih integracija RH, Zagreb, 2006, p. 437.
[19] E. Papastavridis, *Coastal State's (Criminal) Jurisdiction in the Exclusive Economic Zone: Recent Case-Law and State Practice*, 'Zeitschrift für ausländisches öffentliches Recht und Völkerrecht' 2023, vol. 83, 2, p. 314;

that the EEZ inevitably affects the interests of other coastal and non-coastal states, it has become one of the most significant maritime regimes when UNCLOS was adopted.[20] In this regard, it has been argued that there is no coastal or non-coastal state that would not be interested in other state's EEZ in some way.[21]

The sovereign rights of the coastal state on the continental shelf and the EEZ pertain to the economic interests related to both living and non-living resources. Simultaneously, there is the freedom to lay submarine cables and pipelines, granted to "all states" in those maritime zones (in addition to the freedoms of navigation, overflight, etc.). These freedoms of "all states" are commonly discussed through the lens of freedom of communication as a common denominator, although, in essence, they also involve other types of economic interests. When discussing these freedoms, it is essential to begin with the assumption of the coastal state's entitlements in terms of exploration and exploitation of EEZ resources, which includes renewable energy sources, and the assumption of the advantages of other states and the international community at large regarding the freedom of communication.[22] The intention is to maintain a balance between the coastal state's rights and the interests of other states, or more broadly, the international community. While UNCLOS, in the context of submarine cables and pipelines, refers to the holders of freedoms, rights, and duties, it does not explicitly mention individuals and legal entities, or state-owned companies.[23] However, it is argued that the term "all states" (for example, in article 79) should not be interpreted restrictively. Instead, it should be understood to comprise the role and importance of private companies as discussed earlier, as applicable to both states and their citizens.[24]

According to article 55 of UNCLOS, the coastal state has "rights and jurisdiction" in its EEZ, while other states possess "rights and freedoms" there. Although this article does not explicitly mention the jurisdiction of other states, international law – as previously discussed – always respects a jurisdiction based on the flag and citizenship criteria. In addition to the rights and jurisdiction of the coastal state, article 56 also addresses its "duties", including the

https://www.nomos-elibrary.de/de/10.17104/0044-2348-2023-2-307/coastal-state-s-criminal-jurisdiction-in-the-exclusive-economic-zone-recent-case-law-and-state-practice-jahrgang-83-2023-heft-2?page=1 [accessed: 28.02.2025].

[20] J. Harrison, Making the Law of the Sea: A Study in the Development of International Law, Cambridge University Press, Cambridge, 2011, p. 49.

[21] V. Ibler, *Što dokazuju nacionalna zakonodavstva o međunarodnopravnom institutu isključiva gospodarska zona?* [in:] V. Ibler (ed.), Koliko vrijedi međunarodno pravo, Ministarstvo vanjskih poslova i europskih integracija RH, Zagreb, 2006, p. 400.

[22] E. Papastavridis, *Coastal*..., ibid. [accessed: 28.02.2025].

[23] International Law Association, Submarine Cables and Pipelines under International Law Committee, Interim Report 2020, p. 3; https://www.ila-hq.org/en_GB/committees/submarine-cables-and-pipelines-under-international-law [accessed: 21.09.2024].

[24] United Nations Convention on the Law of the Sea 1982: A Commentary, M. H. Nordquist (ed.), 6th edition, Martinus Nijhoff Publishers, Leiden, 2003, p. 264.

obligation to "have due regard" to the rights and duties of other states. Article 56 further clarifies that the coastal state's sovereign rights in the EEZ encompass the exploration and exploitation, conservation and management of both living and non-living natural resources found in the waters above the seabed, as well as those of the seabed and its subsoil. These rights also extend to other activities related to economic exploration and exploitation, such as energy production from water, currents, and winds. Given that these are sovereign rights of the coastal state, other states are required to take them into account when exercising their own rights and freedoms.[25] It is important to note, however, that the "rights and freedoms" of other states – such as freedom of navigation, freedom to lay submarine cables and pipelines, and "other internationally lawful uses of the sea related to these freedoms" – are not labeled as "sovereign".

The jurisdiction of the coastal state in its EEZ extends to the establishment and use of artificial islands, installations, and structures, as well as to marine scientific research and the protection and preservation of the marine environment (article 56 paragraph 1[b] of UNCLOS). Concerning installations and structures in the EEZ, article 60 stipulates that they must serve an economic purpose.[26] The coastal state holds exclusive jurisdiction over these installations and structures, as well as over artificial islands, including jurisdiction regarding customs, fiscal, health, safety and immigration laws and regulations. Artificial islands, installations and structures, and their safety zones may not be in areas where they would interfere with recognized shipping lanes crucial for international navigation (article 60 paragraph 7 of UNCLOS). When necessary, the coastal state may establish reasonable safety zones around these artificial islands, installations or structures which "shall not exceeded a distance of 500 metres around them" (article 60 paragraph 5 of UNCLOS, with exceptions as envisaged in that provision). Within these zones, the coastal state is authorized to take measures to ensure the safety of navigation and the protection of the artificial islands, installations, and structures (article 60 paragraph 4 of UNCLOS). All vessels are required to respect such safety zones and comply with internationally accepted standards for navigation in the vicinity of artificial islands, installations, structures, and safety zones (article 60 paragraph 6 of UNCLOS). According to the 2015 International Tribunal for the Law of the Sea (ITLOS) Arctic Sunrise judgment, article 60 paragraph 4 of UNCLOS "does not automatically create a 500-metre safety zone around every artificial island, installation, and structure in the EEZ of every State".[27] Rather, "for a safety zone to exist, a coastal State must

[25] In the European Union law, the only exception is fisheries.

[26] See: UNCLOS, article 60(1)(b), referring to "purposes provided for in article 56 and other economic purposes".

[27] International Tribunal for the Law of the Sea, The 'Arctic Sunrise' Case (Kingdom of the Netherlands v Russian Federation), Order of 22 November 2013, para. 248; https://pcacases.com/web/sendAttach/1438 [accessed: 21.02.2025].

take steps, in accordance with the applicable procedures under its domestic law, to establish the safety zone and give due notice of its establishment".[28]

In the international legal framework outlined above, the question of whether the coastal state has jurisdiction over a ship in its EEZ and whether the flag state holds its jurisdiction is crucial. Article 92 paragraph 1 of UNCLOS states that "ships shall sail under the flag of one State only and, save in exceptional cases expressly provided for in international treaties or in this Convention, shall be subject to its exclusive jurisdiction on the high seas." This provision must be understood in conjunction with article 58 paragraph 2 of UNCLOS. In this context, it can be stated that UNCLOS clearly defines the rights and obligations of both coastal and other states in the EEZ, while also providing mechanisms for resolving disputes.[29] Given that both the coastal state and other states possess certain rights and freedoms within the EEZ, the potential for conflicts between them is ever-present. For instance, coastal states sometimes exhibit a tendency to extend their jurisdiction beyond the scope permitted by UNCLOS and other international legal rules, particularly concerning the activities of other states within their EEZ. This, for instance, may occur through the enactment of national regulations and their enforcement by relevant domestic authorities.[30] Conversely, flag states may, within the EEZ of a coastal state, seek to apply jurisdictional rules typically associated with the high seas.

In terms of criminal jurisdiction, a coastal state is justified in prescribing criminal offenses related to activities such as the establishment and use of artificial islands, installations, and structures, as well as the protection and preservation of the marine environment. With respect to the exercise of criminal jurisdiction, a coastal state may also initiate prosecutions in such cases.[31] The coastal state's exclusive criminal jurisdiction over artificial islands, installations, and structures extends to offenses committed on these structures, as well as to those resulting in damage to them.[32] Although UNCLOS does not explicitly confer criminal jurisdiction on a coastal state over its continental shelf, it is reasonable to infer that such jurisdiction extends to permanent or temporary facilities and floating structures located on the continental shelf, including offenses committed on these facilities or within their designated security zones.[33] However, while some argue that a coastal state may exercise jurisdiction over its EEZ and continental shelf for purposes related to economic

[28] *Ibid.*
[29] E. Papastavridis, *Coastal*..., p. 308 [accessed: 28.02.2025].
[30] *Ibid.*
[31] E. Papastavridis, *Coastal*..., pp. 316 and 317 [accessed: 28.02.2025].
[32] T. Korontzis, *Exceptions to the Criminal Jurisdiction of the Coastal State on Merchant and on Naval Vessels in the Hellenic Legal Order*, 'European Scientific Journal' 2014, Special Edition vol. 1, Feb., p. 321; https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4894783 [accessed: 28.02.2025].
[33] *Ibid.*

exploitation and environmental protection, others contend that such jurisdiction does not extend to criminal matters.[34] According to article 73 paragraph 1 of UNCLOS, "the coastal State may, in the exercise of its sovereign rights to explore, exploit, conserve and manage the living resources in the exclusive economic zone, take such measures, including boarding, inspection, arrest and judicial proceedings, as may be necessary to ensure compliance with the laws and regulations adopted by it in conformity with this Convention". In addition, under article 220 of UNCLOS, and as part of its obligations and powers concerning the protection of the marine environment, the coastal state "may undertake physical inspection of the vessel relating to the violation and may, where the evidence so warrants, institute proceedings, including detention of the vessel, in accordance with its laws".

Legal Framework for the Protection of Submarine Cables and Pipelines Outside of the Territorial Sea

As early as 1880, in connection with the first transoceanic submarine telegraph cables, the renowned British lawyer Travers Twiss asserted that the previous question of international importance is whether the maintenance of such cables is an interest of the highest order to states, comparable in importance to public health, state finances, etc., which they may protect beyond the borders of their territorial sea.[35] Citing several examples of how the functioning of states at the time depended on the then-novel undersea infrastructure, Twiss argued that the answer to this question should be affirmative.[36] This line of reasoning led to the adoption of the 1884 Convention for the Protection of Submarine Telegraph Cables, which is still in force from a formal and legal point of view.[37] Furthermore, Burnett notes that Twiss's insights remain highly relevant in the modern era of fiber-optic cables, email, SMS, and other forms of communication that have replaced telegraph cables and telegrams due to technological advancements.[38] While the present author generally agrees with this perspective, the author's view is that from an international law standpoint, it is necessary to clearly define the legal status of private com-

[34] E.g., M. Sobhani, *Study on the Criminal Jurisdiction on the Exclusive Economic Zone with Emphasis on Enrica Lexie Case*, 'International Journal of Maritime Policy' 2021, vol. 3, 3, p. 84; https://www.noormags.ir/view/ar/articlepage/1785372/study-on-the-criminal-jurisdiction-on-the-exclusive-economic-zone-with-emphasis-on-enrica-lexie-case [accessed: 01.03.2025].

[35] Cit. after D. R. Burnett, *Submarine*..., p. 1670.

[36] D. R. Burnett, *Submarine*..., p. 1671.

[37] Convention for the Protection of Submarine Telegraph Cables, 1884; https://www.iscpc.org/information/government-and-law/ [accessed: 24.05.2025].

[38] D. R. Burnett, *Submarine*..., *ibid*.

panies, including their owners and operators, in relation to the freedoms, rights, and duties of states.

The 1884 Convention was adopted just eighteen years after the laying of the first transoceanic submarine telegraph cable, at a time when neither continental shelf nor EEZ existed in international law of the sea, nor was the outer limit of the territorial sea generally defined or accepted. It resulted from negotiations that involved a diverse group of participants, including diplomats, naval officers, fishermen, electrical engineers, and others, to adopt a comprehensive approach.[39] The key provisions of this Convention were later incorporated into the UNCLOS (article 113), as well as into the Convention on the International Regulations for Preventing Collisions at Sea (COLREGs), adopted under the auspices of the International Maritime Organization (IMO).[40] Although most of the fundamental principles of the 1884 Convention are reflected in modern international law, there are two exceptions. The first concerns the authority to stop and inspect a ship suspected of damaging a submarine telegraph cable (article X), and the second addresses the provision that the Convention does not affect the freedom of action of belligerents (article XV).[41] In the view of the present author, the provision on the authority to stop and inspect was quite logical in the context of the Convention's primary purpose – the protection of submarine telegraph cables beyond territorial seas.

First, the Convention established that breaking or injuring a submarine telegraph cable, whether willfully or by culpable negligence, is punishable (article II). The states parties to the Convention committed to ensuring the prosecution of such acts under their domestic laws, and jurisdiction was granted to the flag state. If this provision was not applicable, each state party to the Convention would have jurisdiction, but only over its "subjects and citizens", in accordance with the criminal jurisdiction regulations it had adopted or as outlined in international treaties (article VIII). Regarding the interception of ships suspected of breaking or injuring cables, article X applies not only to warships but also to "ships specially commissioned" by states parties to the Convention with the protection of cables.[42] The captain or master of a ship referenced in article X has the authority to act against all ships, except warships, regardless of their flag state. It is his responsibility to determine whether a ship has violated the provisions of the Convention. If a violation is suspected, he may request the ship's documentation to verify its nationality. Regardless of the ship's affiliation, a formal statement of the facts must be drawn up in the form and language of state to which the officer making the

[39] *Ibid.*
[40] Convention on the International Regulations for Preventing Collisions at Sea, 1972 (COLREGs); https://www.imo.org/en/About/Conventions/Pages/COLREG.aspx [accessed: 26.02.2025].
[41] Convention for the Protection... [accessed: 24.05.2025].
[42] *Ibid.*

statement belongs. This statement can be used as evidence in accordance with the regulations of the state to which it is presented. During this process, the accused and the witnesses have the right to provide additions or explanations in their own language and to sign the document.[43] While the Convention does not explicitly detail the powers related to stops, searches, seizures, etc., the parties have committed to adopting their own regulations to fulfill the purpose of the Convention and to inform other parties of their contents (article XIII).[44]

Given that UNCLOS, building on the 1958 Convention on the High Seas[45] and the Convention on the Continental Shelf,[46] incorporates most of the provisions from the 1884 Convention for the Protection of Submarine Telegraph Cables, along with the subsequently adopted provisions related to submarine pipelines, the legal protection still relies on the principles outlined above. Therefore, the states parties to UNCLOS primarily bear the obligation to enact their own laws and regulations concerning the breaking or injury of submarine cables or pipelines beneath the high seas (article 113). They are required to designate such acts as punishable offenses when committed by ships flying their flag or by individuals under their jurisdiction. For the crime to be constituted, either willful or culpably negligent conduct by the perpetrator is required, and the consequence must be the interruption or disruption of "telegraphic or telephonic communications" (article 113), or "the breaking or injury of a submarine pipeline or high-voltage power cable" (article 113). Actions that are planned with the intent to cause breaking or injury, or actions likely to result in such outcomes, should also be punishable. Breaking or injury caused with the "legitimate object" (article 113) of saving one's own life or ship are exempt from liability, provided that all necessary precautions were taken beforehand to prevent such breaking or injury.

States Parties to UNCLOS are also required to ensure that owners of submarine cables or pipelines on the high seas, as persons subject to their jurisdiction, bear the costs of repairing any submarine cable or pipeline they damage during the laying or repair of their own cable or pipeline (article 114). Additionally, states parties to UNCLOS must require that the owner of a submarine cable or pipeline compensate any shipowner who can prove that, to avoid damage to that cable or pipeline, they were forced to sacrifice their anchor, net, or other fishing gear, even if they had previously taken "all reasonable precautionary measures" (article 115). Since the high seas are area where no state exercises sovereignty or sovereign rights, UNCLOS grants each state the

[43] *Ibid.*
[44] *Ibid.*
[45] United Nations, Treaty Series 1963, vol. 450, pp. 11–167; https://treaties.un.org/doc/Publication/UNTS/Volume%20450/v450.pdf [accessed: 24.05.2025].
[46] United Nations, Treaty Series 1964, vol. 499, pp. 311–354; https://treaties.un.org/doc/Publication/UNTS/Volume%20499/v499.pdf [accessed: 24.05.2025].

authority to enact laws and regulations that apply only to ships flying its flag and to "persons subject to its jurisdiction". This extends the criminal jurisdiction of states beyond their national territory.[47] The UN General Assembly regularly calls on states to adopt measures to protect submarine cables and to enact laws and regulations in line with UNCLOS, ensuring that ships flying their flag and persons under their jurisdiction are held accountable for actions concerning submarine cables on the high seas.[48]

In this article, the question of whether a coastal state can establish as a punishable offence the intentional breaking or injury of submarine cables or pipelines, and to prosecute such acts even when committed within its EEZ or continental shelf, regardless of the nationality of the perpetrator, is analyzed. First, article 113 of UNCLOS must be considered in conjunction with article 58 paragraph 2, which stipulates that article 113 applies in EEZ *insofar as it does not conflict with the EEZ regime*.[49] This applies equally to both submarine telecommunications and energy cables, as well as pipelines. However, under article 113, states may impose liability within the EEZ only in relation to ships flying their flag and persons subject to their jurisdiction, as is the case on the high seas.[50] Therefore, jurisdiction under article 113 does not belong to states that suffer direct damage from intentional acts of damage to submarine cables or pipelines.[51] Based on the preceding discussion of sovereignty, sovereign rights, jurisdiction, the legal regimes of EEZ and continental shelf, and the international legal framework for the protection of submarine cables and pipelines, the present author concludes that a coastal state has legal jurisdiction only over cables and pipelines that are laid or used in direct connection with the exploration of its EEZ or the exploitation of its resources, or in direct connection with the use of artificial islands, installations, and structures under its jurisdiction (article 79 paragraph 4 of UNCLOS), as well as in connection with the prevention of marine environmental pollution resulting from the intentional damage to a submarine cable or pipeline. The aforementioned case of damage to a submarine cable in Norway aligns with this framework, as the cable was "part of an extensive network of high-tech cables and sensors used for scientific research and maritime surveillance".[52]

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[47] T. Davenport, *Submarine Communications Cables and Law of the Sea: Problems in Law and Practice*, 'Ocean Development and International Law' 2012, vol. 43, 3, p. 218; https://www.tandfonline.com/doi/full/10.1080/00908320.2012.698922?scroll=top&needAccess=true [accessed: 03.02.2025].

[48] A/RES/78/69 of 11 Dec. 2023, paras. 175 and 177; https://documents.un.org/doc/undoc/gen/n23/397/33/pdf/n2339733.pdf [accessed: 10.02.2025].

[49] See also: T. Davenport, *Submarine*..., p. 220 [accessed: 03.02.2025].

[50] T. Davenport, *Submarine*..., p. 219 [accessed: 03.02.2025].

[51] S. Besch, E. Brown, The Geopolitics of Subsea Data Cables: Securing Europe's Subsea Data Cables, Washington, DC, 2024, p. 6; https://carnegie-production-assets.s3.amazonaws.com/static/files/Besch%20Brown-Europe%20Subsea%20Cables.pdf [accessed: 04.03.2025].

[52] T. Coventry, *What*... [accessed: 06.02.2025].

Since the coastal state exercises its rights over the seabed and subsoil in the EEZ in accordance with Part VI of UNCLOS (which relates to continental shelf), the view mentioned above also encompasses jurisdiction over submarine cables and pipelines laid within the EEZ. Accordingly, coastal states may establish criminal jurisdiction for damage to submarine cables and pipelines that pass through their EEZ or continental shelf – whether or not connected to their mainland. Regarding submarine cables and pipelines connected to offshore infrastructure located within the jurisdiction of the coastal state, that state "has the authority to undertake monitoring measures, enforcement and prevention measures, prosecution of offences and invoke State responsibility".[53] The basis for this lies in the violation of the coastal state's sovereign rights or jurisdiction, as recognized under UNCLOS, including jurisdiction over the protection of the marine environment.[54] Although the flag state never loses its jurisdiction over its ships, such jurisdiction would be subordinated in the cases described above to the jurisdiction of the coastal state. In all other cases, however, only the flag state holds jurisdiction over intentional damage to submarine cables or pipelines in the EEZ or continental shelf of the coastal state.[55] To illustrate this point, the present author references the following quote from the judgment in the Arctic Sunrise case: "The protection of a coastal State's sovereign rights is a legitimate aim that allows it to take appropriate measures for that purpose. Such measures must fulfil the tests of reasonableness, necessity, and proportionality".[56] However, the ITLOS made this assertion exclusively in connection with the sovereign rights of the coastal state over its EEZ and continental shelf „for the exploration and exploitation of the non-living resources of its EEZ".[57] In this context, Schaller notes that any broader interpretation would go beyond the „liberal position traditionally held by Western States".[58]

However, the possibility that another state, such as the state whose citizen owns the submarine cable (or pipeline), might also assert a claim to jurisdiction cannot be ruled out in advance.[59] Article 59 of UNCLOS foresees the pos-

[53] International Law Association, Submarine Cables and Pipelines under International Law Committee, [Third] Interim Report 2024, para. 183i, available at https://www.ila-hq.org/en/documents/ilathi-1-1 [accessed: 12.02.2025]. In the aforementioned case of the cutting of the Norwegian submarine cable (footnote 10), it was a cable that connects submarine sensors to control stations on mainland, as described at https://www.twz.com/43094/norwegian-undersea-surveillance-network-had-its-cables-mysteriously-cut [accessed: 03.02.2025].

[54] *Ibid.*, para. 183e–f.

[55] J. Halog, P. Margat, M. Stadermann, *Submarine Infrastructures and the International Legal Framework*, 'Transactions on Maritime Science' 2024, vol. 13, 1, p. 7; https://hrcak.srce.hr/en/file/457744 [accessed: 12.02.2025].

[56] International Tribunal for the Law of the Sea, The 'Arctic Sunrise' Case..., para. 326.

[57] *Ibid.*, para. 324.

[58] C. Schaller, Critical Maritime Infrastructure and the Regime of the EEZ: A Blank Cheque for Saboteurs?, 2024; https://www.ejiltalk.org/critical-maritime-infrastructure-and-the-regime-of-the-eez-a-blank-cheque-for-saboteurs/ [accessed: 21.02.2025].

[59] J. Halog, P. Margat, M. Stadermann, *Submarine*..., p. 8 [accessed: 12.02.2025].

sibility of a conflict of interests between the coastal state and another state: "In cases where this Convention does not attribute rights or jurisdiction to the coastal State or to other States within the exclusive economic zone, and a conflict arises between the interests of the coastal State and any other State or States, the conflict should be resolved on the basis of equity and in the light of all the relevant circumstances, taking into account the respective importance of the interests involved to the parties as well as to the international community as a whole." It is also possible that the flag state may not be interested in prosecuting the intentional damage to a submarine cable or pipeline, for example, if it secretly instigated the act as part of a hybrid operation. Similarly, the coastal state may not have an interest in protecting "someone else's" submarine cable or pipeline. In such cases, the injured party – often private companies – must "find" a state willing to protect the submarine infrastructure based on its freedoms, rights and jurisdiction. However, when discussing the protection of submarine infrastructure, it is also essential to consider the need for adequate capabilities of states to effectively undertake such protection.[60]

Regarding jurisdiction, it should generally be noted that jurisdiction based on the principle of passive personality (the criterion of the nationality of the victim of a criminal offense) is not widely recognized in international law. Very few states have enacted such provisions, and even fewer exercise such jurisdiction. Criminal prosecution is typically left to the state where the offense was committed. The ILA Submarine Cables and Pipelines Under International Law Committee points out that it is unclear whether a state, whose citizen owns an intentionally damaged cable or pipeline, could claim criminal jurisdiction over the perpetrators of the damage caused outside its territory.[61] The main criticism of jurisdiction based on passive personality is that it is viewed as an infringement on the sovereignty of other states, particularly the state where the offense occurred and the state whose citizen is the perpetrator. These two states are generally considered to have a more direct connection to the offense than the state whose citizen is the victim. However, if these states lack a legal interest in action, the present author considers they should not oppose the jurisdiction of the state with which the private company or its owner have legal ties, or the jurisdiction of the state that directly suffers damage from intentional harm to the submarine cable or pipeline.

According to Davenport, existing international law does not adequately support the protection of submarine cables outside the territorial sea of coastal states, particularly against intentional damage.[62] Coventry shares this

[60] C. Schaller, Critical... [accessed: 21.02.2025].
[61] International Law Association, Submarine Cables and Pipelines under International Law Committee, [Third] Interim Report 2024, para. 183e.
[62] T. Davenport, *Submarine*..., p. 219 [accessed: 03.02.2025].

view.[63] Regarding the gaps in international law concerning the protection of submarine cables and pipelines from intentional damage, Halog, Margat and Stadermann also emphasize that these gaps are most evident in the EEZ and the continental shelf.[64] To illustrate this, they present a hypothetical case study of a peacetime attack on a submarine cable in the EEZ of a coastal State, or even on the high seas. In this scenario, the state maliciously engages an individual or group to carry out sabotage by using a civilian ship to drag its anchor across the seabed to cut another state's submarine cable.[65] In Davenport's view, part of the problem lies in national legal frameworks, as many states have not yet passed regulations under article 113 to extend their criminal jurisdiction to the high seas and EEZ, even if only for their own ships and citizens.[66] On the other hand, when such regulations are enacted, the penalties are often quite mild, leading to a lack of interest from authorities in prosecuting offenders. As a result, ships make less effort to avoid submarine cables (or pipelines).[67]

Considerations for Enhancing the Legal Protection of Submarine Cables and Pipelines in the Exclusive Economic Zone

How to act more effectively, both preventively and repressively, in accordance with international and domestic law? First, it should be noted that there is no unified opinion among legal scholars regarding the applicability of the 1884 Convention. On one hand, some argue that the Convention is no longer relevant today because it pertains to submarine telegraph cables that are no longer in use.[68] Additionally, it is emphasized that the number of states parties to the Convention is very modest (only 37) compared to the number of states that utilize modern submarine telecommunications cables of the fiber-optic type.[69] On the other hand, there is an argument that no distinction should be made between data and other communication cables.[70] Indeed, article 113 of the UNCLOS also refers to "telegraphic or telephonic communications" (sic!), and no one disputes its applicability to modern telecommunications cables on this basis. Therefore, opinions regarding the inapplicability of the 1884

[63] T. Coventry, *What*... [accessed: 06.02.2025].
[64] J. Halog, P. Margat, M. Stadermann, *Submarine*..., p. 7 [accessed: 12.02.2025].
[65] J. Halog, P. Margat, M. Stadermann, *Submarine*..., pp. 1 and 2 [accessed: 12.02.2025].
[66] T. Davenport, *Submarine*..., p. 219 [accessed: 03.02.2025].
[67] *Ibid.*
[68] J. Halog, P. Margat, M. Stadermann, *Submarine*..., p. 7 [accessed: 12.02.2025].
[69] *Ibid.*
[70] *Ibid.*

Convention should be approached with caution. For instance, there is a recommendation that EU member states which are not parties to the Convention but are connected by submarine cables should accede to it as soon as possible (Cyprus, Ireland, Croatia, Estonia, Finland, Bulgaria, Latvia, and Lithuania).[71] The primary reason for this recommendation is the powers granted to warships under article X of the Convention.[72] As we have seen above, these powers are of a "police" kind, and jurisdiction to punish offenders still resides with the flag state. However, since the 1884 Convention does not refer to the EEZ or continental shelf legal regimes, this recommendation warrants a separate, more in-depth legal analysis.

Davenport notes that states rarely practice the detention of foreign ships in their EEZ and outside of their territorial sovereignty in general.[73] Regarding the protection of submarine cables and pipelines beyond the area of territorial sovereignty, Davenport proposes regional cooperation among States through joint or coordinated patrols to prevent intentional damaging.[74] Basically, it is about the gathering of states on the basis of common interests, and the pooling of resources for the purpose of deterring intentional damage to submarine cables and pipelines. Coventry also argues that due to insufficient enforcement powers to prevent or address sabotage of submarine cables and pipelines, concerned states can only focus on monitoring and deterrence patrolling of critical submarine infrastructure beyond their territorial seas.[75] To fill this "legal gap", Coventry advocates for the adoption of the International Convention for the Suppression of Unlawful Acts against Submarine Cables and Pipelines.[76] Meanwhile, Escolano suggests that international treaties between states on the laying of submarine cables and pipelines, in which they can also agree on protection measures for such infrastructure, can be very useful.[77]

Submarine Cables and Pipelines Under International Law Committee, operating under the auspices of the International Law Association (ILA), considers that states have various measures at their disposal to respond to intentional damage to submarine cables and pipelines. However, the legal scope of some of these measures remains questionable. The Committee cites several examples of such measures, "consisting of monitoring measures, enforcement and other prevention measures, prosecution of offences and the

[71] S. Besch, E. Brown, The Geopolitics..., p. 19 [accessed: 04.03.2025].
[72] *Ibid.*
[73] T. Davenport, *Submarine*..., p. 220 [accessed: 03.02.2025].
[74] *Ibid.*
[75] T. Coventry, *What*... [accessed: 06.02.2025].
[76] *Ibid.*
[77] M. L. Escolano, *The Legal Status and Applicable Regime of International Submarine Cables*, 'Submarine Telecoms Forum' 2022, May 18; https://subtelforum.com/legal-status-of-submarine-cables/ [accessed: 21.02.2025]. For example, the 2009 agreement between Estonia, Latvia, Lithuania and Sweden, to lay an energy high-voltage submarine cable in the Baltic Sea.

establishment of State responsibility".[78] Monitoring "involves different technology and equipment, including vessels, underwater vehicles, and submarine cables and pipelines themselves". The Committee considers that in areas beyond the sovereignty of states, but still within their national jurisdiction, the right to monitor arises from the freedom of navigation and the freedom to lay submarine cables and pipelines.[79] However, depending on the technical means used, a coastal state may view monitoring as military activity, intelligence collection, surveying, or scientific research at sea. As a result, it may challenge the implementation of such activities within its EEZ or continental shelf.[80] From this, it can be concluded that it would be advisable to leave the implementation of the aforementioned measures primarily to the coastal state itself, or to carry them out in coordination with that state, or with its knowledge.

However, regarding enforcement and preventive measures, the Committee considers that states may only take such actions against ships of their own nationality that are involved in damaging submarine cables or pipelines.[81] Other states, including those physically connected to submarine cables or pipelines or whose citizens own or operate them, have a very limited legal basis under UNCLOS for taking enforcing measures, regardless of the maritime zone.[82] For example, if states were to accept the interpretation of intentional damage to submarine cables and pipelines as an act of piracy, boarding a ship could be justified under the provisions of combating piracy, specifically articles 101 and 105 of UNCLOS.[83] In this context, Davenport argues that states would likely be reluctant to adopt such a broad interpretation.[84] If intentional damage to a submarine cable were to be classified as an act of terrorism – especially given the potential wide-ranging consequences for international telecommunications networks – Davenport believes that a new, additional international treaty should be negotiated for this purpose. This would include extending the right to board a ship that has damaged a submarine cable, or the right to seize such a ship.[85] On the other hand, the ILA Committee considers that some of the existing conventions on combating terrorism, of which there are 19 at present, could be applicable.[86] Therefore, regarding UN initiatives aimed at protecting critical infrastructure from terrorist attacks, the Committee con-

[78] International Law Association, Submarine Cables and Pipelines under International Law Committee, [Third] Interim Report 2024, paras. 182 and 183.
[79] *Ibid.*, para. 183.
[80] *Ibid.*, para. 183a.
[81] *Ibid.*, para. 183b.
[82] *Ibid.*
[83] *Ibid.*
[84] T. Davenport, *Submarine*..., p. 220 [accessed: 03.02.2025].
[85] *Ibid.*
[86] International Law Association, Submarine Cables and Pipelines under International Law Committee, [Third] Interim Report 2024, para. 185.

siders these initiatives relevant to submarine cables and pipelines as well.[87] In its ruling in the Arctic Sunrise case, ITLOS stated, among others: „One of the rights of a coastal State in its EEZ that may justify some form of preventive action against a vessel would derive from circumstances that give rise to a reasonable belief that the vessel may be involved in a terrorist attack on an installation or structure of the coastal State. The Committee sees an advantage in applying the aforementioned conventions due to the obligations they impose on states parties to prescribe criminal offenses, cooperate with one another, provide mutual legal assistance, and prosecute or extradite perpetrators.[88]

It could also be interpreted that the freedom to lay submarine cables and pipelines justifies taking reasonable preventive measures against ships suspected of threatening or damaging submarine cables and pipelines, in order to prevent their interference with this freedom of the sea.[89] However, the Committee points out that the legal scope of such preventive measures remains unclear, and that other states could challenge them.[90] In addition, the Committee suggests that states could invoke the principle of necessity based on customary international law. Such measures would need to be taken in exceptional situations where states, fully aware that they are violating an international obligation, protect their "fundamental interest" in the only available way from a "serious and imminent danger" to which they have not contributed.[91] According to the Committee, a coastal state has a legal basis under UNCLOS to take both preventive and enforcement measures when the intentional damage to submarine cables and pipelines constitutes a violation of its domestic laws related to its sovereign rights over resources, or a violation of its jurisdiction in the EEZ and continental shelf under UNCLOS.[92] A coastal state may also take such measures to prevent violations of its sovereign rights or its jurisdiction over the marine environment, especially when these actions involve "reasonable measures" to prevent, reduce, or control pollution of the marine environment resulting from pipelines.[93] However, the Committee stresses that in these situations, the coastal State must have evidence, i.e., a factual basis, to justify its actions.[94]

When it comes to the practice of establishing protection zones for submarine cables and pipelines in the EEZ or the continental shelf of a coastal state – usually monitored by naval and air forces – Coventry considers this is

[87] *Ibid.*
[88] International Law Association, Submarine Cables and Pipelines under International Law Committee, [Third] Interim Report 2024, para. 185.
[89] *Ibid.*, para. 183b.
[90] *Ibid.*
[91] *Ibid.*
[92] *Ibid.*, para. 183c.
[93] *Ibid.*
[94] *Ibid.*

in accordance with UNCLOS.[95] However, Davenport considers that the legal basis for declaring such zones is highly questionable.[96] The International Law Commission (ILC), in its discussions on submarine cable protection zones, rejected the idea, viewing it as incompatible with freedom of navigation. At the same time, the ILC concluded that such a zone could only be legally established based on the jurisdiction that UNCLOS recognizes for a state in the EEZ and the continental shelf.[97] In particular, the ILC emphasized that anchoring is a part of the freedom of navigation, and therefore, its restriction – even within a submarine cable protection zone – would not be permitted under international law.[98] Davenport, therefore, recommends that coastal states coordinate with the International Maritime Organization (IMO) on this issue. However, when it comes to prohibiting or restricting activities such as fishing, resource exploitation, or scientific research, Davenport believes this would align with the rights of a coastal state within the EEZ and the continental shelf. She acknowledges that cable protection zones in these maritime areas are a useful tool for safeguarding particularly important cables, but also notes that in activities like fishing, resource exploitation, and scientific research, damage would occur because of permitted activities, which by nature of things, cannot imply intention.[99]

Conclusion

Given the enormous importance of transboundary submarine cables and pipelines to the global economy and the functioning of modern society, intentional damage to this infrastructure often results in significant harm. In addition to the economic impact, such actions can also pose serious risks to the marine environment. These harmful activities present an additional challenge in maritime zones where states possess certain sovereign rights only, meaning they do not have full legal authority to protect the infrastructure. Specifically, on the continental shelf and in the EEZ, where a coastal state's sovereign rights are precisely defined and primarily aimed at advancing its economic interests, the legal framework seeks to balance those rights with the freedoms and rights of other states. In this context, the international legal framework for the protection of submarine cables and pipelines is significantly more modest than for their laying and maintenance. This is largely

[95] T. Coventry, *What*... [accessed: 06.02.2025].
[96] T. Davenport, *Submarine*..., p. 219 [accessed: 03.02.2025].
[97] *Ibid.*
[98] *Ibid.*
[99] *Ibid.*

due to the authority vested in the flag state or the state of nationality of the individual perpetrator. Nonetheless, affected states and private companies have a strong interest in safeguarding their rights and protecting their legitimate national or business interests from those who deliberately damage submarine cables and pipelines and refuse to take responsibility.

Generally, a state's response to a harmful event typically involves actions taken by its competent authorities, based on the state's internal legislation and supported by appropriate funding from the state's budget. Depending on how much coastal states as holders of sovereign rights (or other states as holders of the freedom to lay submarine cables and pipelines on the continental shelf or in the EEZ of the coastal state) can protect their interests, they will likely seek to address intentional damage to submarine cables and pipelines. Since a single harmful event can affect the interests of multiple states, the response may involve the actions of two or more states. In such cases, cooperation and coordinated efforts between these states in relation to the perpetrator, as well as in prevention efforts, would be both understandable and desirable. This cooperation would be significantly enhanced if states collaborated from the earliest stages of planning and preparation for laying cables or pipelines, including determining the route while considering the economic interests of states and the business interests of private companies, the protection of the marine environment, and the need for spatial planning of the coastal state's maritime areas, among other factors.

However, when international law refers to a submarine cable or pipeline belonging to "other state" (as opposed to a coastal state), this is becoming increasingly less accurate today, as states are less and less likely to own such submarine infrastructure. For this reason, from the perspective of states holding rights and obligations under UNCLOS, accurately interpreting the legal scope and application of individual legal rules regarding the protection of submarine infrastructure can be challenging. Nevertheless, due to the interdependence of states and the private companies that own and operate the infrastructure, cooperation is essential at all stages of its lifecycle. This includes the initial preparations for its laying and, particularly, in relation to its protection from intentional damage. Given the inadequate international legal framework on the one hand, and on the other, the geopolitical competition often manifested through hybrid actions by states relying on various non-state actors, both states and private companies must persistently work together to establish legal foundations for the various approaches needed to protect submarine cables and pipelines.

The existing normative framework provides a legal foundation for protective actions by states, provided these actions are sufficiently connected to the coastal state's sovereign rights over the continental shelf or EEZ, or to the rights of other states – particularly the freedom to lay and maintain

submarine cables and pipelines. These actions primarily involve monitoring and preventive measures, such as joint or coordinated maritime patrols, the establishment of protection zones, and the exercise of full jurisdiction by the coastal state over submarine cables and pipelines that form an integral part of broader submarine infrastructure established under its sovereign rights in the EEZ or on the continental shelf. Additionally, such protection may be justified on the grounds of marine environmental protection and – subject to the fulfillment of necessary preconditions – by invoking the customary international law principle of necessity. In the view of the present author, the involvement of the coastal state should be a central element in all such efforts, at a minimum through coordination with other states, particularly when the coastal state has a direct interest in the infrastructure and possesses the capability to ensure its protection effectively.

The future normative framework – whose adoption remains uncertain, whether under the auspices of the United Nations, the European Union, or other regional international organizations or initiatives – should clearly delineate the role of the private sector. For instance, it could recognize the jurisdiction of the state whose nationals own or operate the submarine cable or pipeline, or the state in which the relevant company is incorporated. Jurisdictional claims could also be extended to other interested states, such as those through which transboundary cables and pipelines pass or where they make landfall. Furthermore, it would be advisable to consider classifying the intentional damage of submarine cables or pipelines as acts of terrorism or piracy. Central to the effectiveness of such a framework is the alignment of state interests and the political will of states – as primary actors in international law – to conclude binding treaties, at least within regional contexts. Nonetheless, it is important to acknowledge that, irrespective of the comprehensiveness of legal rules or the availability of dispute resolution mechanisms, the arbitrary actions of individual states will continue to pose risks to the submarine infrastructure of other nations and may even obstruct the pursuit of justice, as exemplified by the "Arctic Sunrise" case before the ITLOS.

Abstrakt

Zważywszy współczesne globalne znaczenie transgranicznych kabli podmorskich i rurociągów, przede wszystkim z perspektywy gospodarczej i społecznej – tak kontrastujące z umyślnym, celowym niszczeniem lub uszkadzaniem tej infrastruktury – celem niniejszego artykułu jest zbadanie, w jakim stopniu prawo międzynarodowe wspiera jurysdykcję państw nadbrzeżnych nad obszarami morskimi, co do których mają one jedynie pewne prawa suwerenne. W tym celu autor analizuje reżimy prawne dotyczące

szelfu kontynentalnego oraz wyłącznej strefy ekonomicznej, a także prawo międzynarodowe regulujące ochronę kabli podmorskich i rurociągów. Analizie poddano zwłaszcza dwa kluczowe traktaty międzynarodowe: Konwencję Narodów Zjednoczonych o prawie morza z 1982 r. oraz Konwencję o ochronie podmorskich kabli telegraficznych z 1884 r. Zgodnie z przyjętymi celami badawczymi autor bierze również pod uwagę opinie prawników, praktykę państw oraz stosowne orzecznictwo międzynarodowe. Po dokonaniu syntezy wyników badań autor daje zniuansowaną odpowiedź co do zakresu i podstaw prawnych jurysdykcji państw nadbrzeżnych w obrębie ich szelfu kontynentalnego oraz wyłącznej strefy ekonomicznej – w odniesieniu do jurysdykcji państw, których statki lub obywatele umyślnie uszkadzają kable podmorskie lub rurociągi.

Słowa kluczowe: kabel podmorski, rurociąg podmorski, państwo nadbrzeżne, wyłączna strefa ekonomiczna, szelf kontynentalny, umyślne uszkodzenie, jurysdykcja.

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