

6.1 SOVEREIGNTY ACQUISITION AND TERRITORIAL DISPUTES: REVISITING THE EAST GREENLAND CASE AND ITS IMPLICATIONS ON INTERNATIONAL LAW

Yaroslav Kushnir, Ph.D. Student in International Law, Department of International Law and Comparative Law, FIR, National Aviation University, Ukraine, Kyiv
ORCID ID: <https://orchid.org/0009-0003-5505-9720>
E-mail: yaroslav1Kushnir@gmail.com

Scientific Advisor:

Roman Maksymovych, Ph.D. in Law, Acting Head of the Department of International Law and Comparative Law, FIR, National Aviation University, Ukraine, Kyiv
ORCID ID: <https://orchid.org/0000-0003-1812-6624>
E-mail: maksymovych1989@gmail.com

Abstract. *The concept of territorial sovereignty and the acquisition of sovereignty over a territory are critical aspects of international law, deeply influencing state relations and the resolution of territorial disputes. This article examines the historical evolution of territorial sovereignty and the key moments of acquisition of sovereignty over a territory in international law, with a focus on the East Greenland case as a pivotal ruling that sheds light on the intricacies of these concepts. The analysis highlights the role of the critical date in territorial disputes, the development of the concept of territorial sovereignty over the centuries, and the requirements for effective occupation. Furthermore, the article delves into the practical implications of the East Greenland case on modern international law and its impact on the resolution of territorial disputes, exploring the influence of the case on subsequent disputes, the role of borders in asserting territorial sovereignty, and the three-dimensional perception of modern territory. By reviewing the underlying principles of international law and assessing their application in the East Greenland case, this article aims to provide a comprehensive understanding of territorial sovereignty and its influence on contemporary international law, as well as recommendations for the stabilization of borders and the prevention of future territorial disputes.*

Keywords: *territorial sovereignty, acquisition of sovereignty, East Greenland case, international law, territorial disputes, key moment of acquisition, borders, three-dimensional perception.*

Introduction

Territorial sovereignty remains at the core of the international legal system, shaping relations between states and contributing to global stability. The acquisition of sovereignty over a territory and the resolution of disputes arising from territorial claims are central aspects of international law. These issues have evolved over time,

influenced by historical, political, and legal factors, and continue to be subject to ongoing debates and developments. The East Greenland case serves as a pivotal ruling that offers insights into the intricacies of territorial sovereignty and the key moments of acquisition in international law. This article revisits the East Greenland case and assesses its implications on contemporary international law, providing a comprehensive understanding of the acquisition of territorial sovereignty and its role in the resolution of territorial disputes.

The historical evolution of territorial sovereignty, from the early days of discovery and symbolic annexation to the more contemporary notion of effective occupation, is examined to provide a thorough understanding of the progression of these principles in international law. Moreover, we delve into the significance of the key moment of acquisition in territorial disputes, highlighting the critical role it plays in the resolution of such disputes and the determination of sovereignty over a territory.

Focusing on the East Greenland case we provide an overview of the background and context of the dispute, setting the stage for a more in-depth analysis of the legal issues involved. The application of the key moment of acquisition in the East Greenland case is examined, exploring how the Permanent Court of International Justice (PCIJ) addressed this concept in its ruling. Furthermore, we discuss the concept of territorial sovereignty in the East Greenland case and the way the Court's decision has shaped the understanding of this principle in international law.

We also delve into the legacy of the East Greenland case and its impact on modern international law. We explore the influence of the case on subsequent territorial disputes, examining how its principles have been applied in later cases and contributed to the development of legal norms in this field. Additionally, we discuss the role of borders in territorial sovereignty, considering the significance of clearly defined boundaries for the stability and security of states. Lastly, we analyze the three-dimensional perception of modern territory, taking into account the challenges posed by the increasing complexity of territorial claims in the contemporary world.

In conclusion, this article offers a comprehensive analysis of the acquisition of sovereignty and territorial disputes, using the East Greenland case as a focal point to understand the implications of these issues on international law. By revisiting the case and examining its influence on contemporary legal norms and practices, we aim to provide valuable insights into the resolution of territorial disputes and the stabilization of borders, contributing to the ongoing development of international law and the promotion of peace and stability among nations.

Research Outcomes

Historical Evolution of Territorial Sovereignty. Territorial sovereignty has evolved significantly throughout history, shaped by the changing dynamics of international relations and the development of legal principles¹. The early notions of territorial sovereignty were rooted in the concept of discovery and symbolic annexation. In the Age of Exploration, European powers laid claim to vast territories

around the globe, often through mere acts of discovery and the planting of flags, crosses, or other symbols of possession. This practice was legitimized by the Doctrine of Discovery, which granted European powers the exclusive right to claim newly discovered lands, despite the existence of indigenous populations [8].

As the world became more interconnected and colonial powers began to establish settlements and exercise control over territories, the concept of effective occupation emerged as a key principle for acquiring territorial sovereignty [6]. Effective occupation required a state to demonstrate actual, continuous, and peaceful administration over the territory in question, ensuring that the claim was grounded in reality rather than mere symbolic acts. The Berlin Conference of 1884-1885, which established the rules for the colonization of Africa, further solidified the concept of effective occupation by requiring European powers to establish a physical presence in the territories they claimed [1].

Over time, the principle of effective occupation was refined and expanded upon by international courts and scholars. The *Island of Palmas* case (1928) laid down two key requirements for effective occupation: the establishment of state authority and the intention to exercise sovereignty [4]. In the *Clipperton Island* case (1931), the arbitrator emphasized the need for the exercise of sovereignty to be peaceful, public, and continuous [3]. The evolution of the concept of effective occupation has also been influenced by customary international law, state practice, and the opinions of legal scholars.

Key Moment of Acquisition and Its Significance in Territorial Disputes. The key moment of acquisition refers to the point in time when a state acquires sovereignty over a territory, marking the beginning of the legal relationship between the state and the territory in question. Identifying the key moment of acquisition is essential for resolving territorial disputes, as it serves as a reference point for determining the validity of competing claims to sovereignty.

The critical date is a related concept often used in the resolution of territorial disputes. It refers to the date on which the dispute crystallizes, meaning that the parties involved have become aware of their competing claims and have taken opposing positions. The critical date is crucial for establishing the relevant facts and evidence that are admissible in the legal proceedings to resolve the dispute. Actions taken after the critical date may not be considered as evidence to support or undermine a claim to territorial sovereignty.

In determining the key moment of acquisition, international courts and tribunals often examine several factors, such as the manifestation of state authority, the establishment of administrative structures, the enforcement of laws and regulations, and the continuous and peaceful exercise of jurisdiction. The specific requirements for the key moment of acquisition may vary depending on the circumstances of the case and the legal principles applicable to the acquisition of territorial sovereignty.

The identification of the key moment of acquisition is of paramount importance in territorial disputes, as it serves to clarify the legal status of the territory and prevent further conflicts. By establishing a clear point in time when sovereignty was acquired, international law provides a framework for resolving disputes and promoting stability and peaceful coexistence among states. The significance of the key moment of acquisition is evident in numerous territorial disputes, including the East Greenland case, which serves as a focal point for understanding the acquisition of sovereignty and its implications for international law [4].

The East Greenland Case and Its Implications for Territorial Sovereignty. Background and Context of the Dispute. The East Greenland case, also known as the Legal Status of Eastern Greenland (Norway v. Denmark), was a landmark dispute adjudicated by the Permanent Court of International Justice (PCIJ) in 1933. The case concerned the territorial sovereignty over Eastern Greenland and served as a crucial test for the legal principles governing the acquisition of sovereignty [7].

Greenland, the world's largest island, had been under Danish control since the early 18th century. However, the eastern part of the island remained largely unexplored and unadministered. In the early 20th century, growing international interest in the Arctic region led to competing claims over the territory. Norway, seeking to expand its presence in the region, established a presence in East Greenland in 1929 and subsequently declared its sovereignty over the area in 1931.

Denmark, in response, brought the case before the PCIJ, asserting its claim over the entire island of Greenland. The dispute centered on whether Denmark's historical claim to Greenland extended to the eastern portion of the island, and whether Norway's recent actions could be considered as sufficient to establish a competing claim to sovereignty [7].

The PCIJ, in its judgment, reaffirmed the principle of effective occupation as the primary basis for acquiring territorial sovereignty. The Court acknowledged Denmark's historical connection to Greenland but noted that the principle of effective occupation required more than mere historical links.

The Court examined Denmark's exercise of authority over the territory, including the establishment of administrative structures, the enforcement of laws and regulations, and the continuous and peaceful exercise of jurisdiction [7].

In its analysis, the PCIJ emphasized the importance of the "doctrine of contiguity," which posited that the sovereignty of a coastal state could extend to adjacent territories, even if the state did not exercise effective control over those areas [7]. The Court found that Denmark had exercised its sovereignty over East Greenland to a sufficient degree, despite the sparse population and limited administration in the region. The Court also took into account the recognition by other states of Denmark's sovereignty over Greenland, which further reinforced Denmark's claim.

Ultimately, the PCIJ ruled in favor of Denmark, holding that Denmark's sovereignty over Greenland included the eastern part of the island [7]. The Court

determined that Norway's recent actions in the territory were not sufficient to establish a competing claim to sovereignty, as they were not continuous, peaceful, or accompanied by an intention to exercise sovereignty.

The East Greenland case not only served to resolve a specific territorial dispute but also provided valuable insights into the principles governing the acquisition of territorial sovereignty. The case reaffirmed the importance of effective occupation as the primary basis for acquiring sovereignty and clarified the requirements for establishing the key moment of acquisition. Furthermore, the case highlighted the role of the doctrine of contiguity and the recognition by other states in the determination of sovereignty over a territory [6].

In the following sections, we will delve deeper into the East Greenland case's implications for the concept of territorial sovereignty and its lasting impact on international law.

The Application of the Key Moment of Acquisition in the East Greenland Case. The East Greenland case presented a unique opportunity for the Permanent Court of International Justice (PCIJ) to assess the key moment of acquisition of territorial sovereignty. The judgment offers valuable insights into how the Court applied the principles of effective occupation, the doctrine of contiguity, and the recognition by other states to determine the crucial point at which Denmark's sovereignty over East Greenland was established.

One of the central issues in the East Greenland case was determining the key moment of acquisition of territorial sovereignty. In its analysis, the PCIJ emphasized the importance of the principle of effective occupation. This principle required that a state exercise continuous, peaceful, and actual authority over a territory to acquire sovereignty. The Court examined Denmark's actions in East Greenland, including the establishment of administrative structures, the enforcement of laws and regulations, and the continuous and peaceful exercise of jurisdiction.

In applying the principle of effective occupation to the East Greenland case, the PCIJ considered the doctrine of contiguity, which holds that the sovereignty of a coastal state can extend to adjacent territories, even if the state does not exercise effective control over those areas. The Court found that Denmark had exercised its sovereignty over East Greenland to a sufficient degree, despite the sparse population and limited administration in the region. The doctrine of contiguity was instrumental in supporting Denmark's claim to sovereignty over the entirety of Greenland, as it allowed for the extension of Denmark's sovereignty from the western part of the island to the eastern part, where effective occupation was less evident.

Another crucial factor in determining the key moment of acquisition in the East Greenland case was the role of recognition by other states. The PCIJ noted that Denmark's claim to sovereignty over Greenland had been widely recognized by other states, which further reinforced Denmark's claim. This recognition demonstrated that Denmark's actions in East Greenland were not only sufficient to

establish the key moment of acquisition but also consistent with the expectations of the international community.

In its final judgment, the PCIJ ruled that Denmark's sovereignty over Greenland included the eastern part of the island, thus determining that the key moment of acquisition of territorial sovereignty had occurred. The Court found that Denmark's actions in East Greenland met the requirements of effective occupation, and that the doctrine of contiguity and recognition by other states further supported Denmark's claim to sovereignty over the entire island.

The East Greenland case highlights the complex interplay between the key moment of acquisition, the principle of effective occupation, the doctrine of contiguity, and the recognition by other states in determining territorial sovereignty. The PCIJ's decision in this case not only resolved a specific territorial dispute but also provided valuable guidance on the application of these principles in future cases involving territorial disputes [7].

By examining the East Greenland case, we can better understand the nuances of the key moment of acquisition of territorial sovereignty and the factors that influence its determination. This understanding can, in turn, inform our analysis of other territorial disputes and contribute to the development of more effective and equitable mechanisms for resolving such disputes in the international legal system.

The Concept of Territorial Sovereignty in the East Greenland Case. The East Greenland case significantly contributed to the development of the concept of territorial sovereignty in international law. The judgment of the Permanent Court of International Justice (PCIJ) in this case clarified various aspects of territorial sovereignty, including the principle of effective occupation, the doctrine of contiguity, and the role of recognition by other states. The case also highlighted the importance of maintaining a balance between the competing interests of states in territorial disputes and the need for a stable and predictable international legal system.

In its decision, the PCIJ emphasized the significance of effective occupation as a crucial element of territorial sovereignty. The Court underscored that to acquire sovereignty over a territory, a state must exercise continuous, peaceful, and actual authority over the area. The East Greenland case demonstrated that even in territories with sparse populations and limited administrative structures, effective occupation could be established if a state's presence and activities met these requirements [10].

Moreover, the East Greenland case brought the doctrine of contiguity to the forefront of international law discussions. The PCIJ acknowledged the role of contiguity in the extension of a coastal state's sovereignty over adjacent territories. The doctrine played a crucial part in Denmark's claim to sovereignty over the entirety of Greenland, as it enabled the extension of Danish sovereignty from the western part of the island to the eastern part, where effective occupation was less evident [10]. The Court's application of the doctrine of contiguity in the East Greenland case demonstrated the importance of considering geographical factors when determining territorial sovereignty.

The PCIJ's decision also highlighted the role of recognition by other states in the establishment of territorial sovereignty. The Court noted that Denmark's claim to sovereignty over Greenland had been widely recognized by other states, which further reinforced Denmark's claim. The recognition by other states demonstrated that Denmark's actions in East Greenland were consistent with the expectations of the international community [7]. This aspect of the judgment emphasized the significance of the international community's acceptance of a state's claim to sovereignty in establishing and maintaining territorial sovereignty.

Furthermore, the East Greenland case underscored the need for a balance between the competing interests of states in territorial disputes. The PCIJ recognized that while Norway had a legitimate interest in the region, the need for stability and predictability in the international legal system outweighed Norway's claim. By prioritizing the stability of the international legal system, the Court's decision in the East Greenland case helped maintain a balance between the competing interests of states and contributed to the development of a more stable and predictable framework for resolving territorial disputes.

In conclusion, the East Greenland case significantly contributed to the development of the concept of territorial sovereignty in international law. The judgment of the PCIJ clarified various aspects of territorial sovereignty and highlighted the importance of effective occupation, the doctrine of contiguity, and recognition by other states in determining territorial sovereignty. The case also underscored the need for a balance between competing state interests and the maintenance of a stable and predictable international legal system.

The Legacy of the East Greenland Case and Modern International Law. The Influence of the East Greenland Case on Subsequent Territorial Disputes. The East Greenland case has had a lasting impact on the development of international law, particularly in the context of territorial disputes. Its emphasis on the principles of effective occupation, the doctrine of contiguity, and recognition by other states has influenced several subsequent territorial disputes, shaping the way states assert and defend their territorial claims. Some of the most notable examples include the *Minquiers and Ecrehos* case, the *Western Sahara* case, and the *South China Sea* disputes [10].

In the *Minquiers and Ecrehos* case (*France v. United Kingdom*), the International Court of Justice (ICJ) relied on the principles established in the East Greenland case to determine the sovereignty over the *Minquiers and Ecrehos* groups of islets and rocks. The ICJ emphasized the importance of effective occupation and recognition by other states in its judgment, ultimately awarding sovereignty to the United Kingdom based on its continuous and peaceful exercise of authority over the disputed territory [9].

Similarly, the *Western Sahara* case (*Advisory Opinion*) saw the ICJ applying the principles established in the East Greenland case to analyze the legal status of Western Sahara. The Court emphasized the importance of effective occupation and

recognition by other states when determining territorial sovereignty, ultimately concluding that neither Morocco nor Mauritania had established a valid claim to the territory based on these principles [14].

In the South China Sea disputes, the East Greenland case's principles have been invoked by various states to assert their claims over the disputed islands and maritime features. While the arbitration case between the Philippines and China (South China Sea Arbitration) did not directly address the issue of territorial sovereignty, the principles of effective occupation and recognition by other states have played a significant role in shaping the legal arguments of the disputing parties [11]. The South China Sea disputes demonstrate the continued relevance of the East Greenland case's principles in contemporary territorial disputes.

The legacy of the East Greenland case in modern international law is evident in its influence on subsequent territorial disputes. The principles established by the PCIJ in the East Greenland case continue to shape state practice and legal arguments in territorial disputes, highlighting the case's enduring significance in the development of international law governing territorial sovereignty.

The Role of Borders in Territorial Sovereignty. Borders play a crucial role in establishing and maintaining territorial sovereignty under international law. They define the limits of a state's territory, separating its jurisdiction from that of neighboring states.

The concept of borders has evolved over time, reflecting the changing nature of international relations and the development of international law.

In the early days of international law, borders were often established through conquest, colonization, or treaties between states. The principle of *uti possidetis juris*, which originated in the context of the Latin American wars of independence, dictated that newly independent states should inherit the colonial administrative borders of their predecessor states. This principle later gained wider acceptance and has been applied to the process of decolonization in Africa and other regions [12].

In modern international law, the establishment and maintenance of borders are governed by several key principles. The principle of territorial integrity prohibits states from using force or threats of force to alter the borders of other states. The principle of self-determination allows peoples to freely determine their political status and pursue their economic, social, and cultural development, including the right to establish their own borders. Furthermore, the peaceful settlement of disputes, including border disputes, is a fundamental principle of international law, as enshrined in the United Nations Charter [13].

The role of borders in territorial sovereignty is further reinforced by the customary international law principle of acquiescence and estoppel. Acquiescence refers to the tacit acceptance by one state of another state's claim to a particular territory, while estoppel prevents a state from denying a position it has previously accepted. These principles serve to stabilize borders and prevent the re-emergence of territorial disputes.

The Three-Dimensional Perception of Modern Territory. The concept of territory in international law has evolved from a purely two-dimensional perspective, focused on land and maritime boundaries, to a more complex, three-dimensional understanding that encompasses the airspace above and the subsoil below a state's land and maritime territory.

The advent of aviation and the increasing importance of air travel in the 20th century led to the recognition of state sovereignty over the airspace above its territory. The 1944 Chicago Convention on International Civil Aviation established that each state has complete and exclusive sovereignty over the airspace above its territory.

Similarly, technological advancements in the extraction of natural resources and the exploration of the seabed have expanded the concept of territorial sovereignty to encompass the subsoil and the continental shelf. The 1958 Geneva Convention on the Continental Shelf and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) established the legal framework for states to exercise sovereign rights over the natural resources in their continental shelf and exclusive economic zone.

This three-dimensional perception of modern territory presents new challenges and opportunities for states in asserting their territorial sovereignty. As the Arctic region becomes increasingly accessible due to climate change and technological advancements, disputes over the delimitation of maritime boundaries and the allocation of natural resources are likely to intensify. Similarly, the militarization of outer space and the potential for the exploitation of space resources raise important questions about the limits of state sovereignty and the future of international law [2].

In conclusion, the role of borders and the three-dimensional perception of modern territory are essential aspects of territorial sovereignty in contemporary international law. As states continue to navigate the complexities of asserting their territorial claims in an increasingly interconnected world, the principles and norms established by landmark cases like the East Greenland case will remain critical to maintaining international peace and security.

Conclusions

The East Greenland case, decided by the Permanent Court of International Justice in 1933, has had a lasting impact on the development of international law and the concept of territorial sovereignty. By examining the historical evolution of territorial sovereignty and the key moment of acquisition, this article has highlighted the significance of the case in shaping modern international law.

The case established the importance of effective occupation as a criterion for asserting territorial sovereignty, demonstrating that a state's continuous and peaceful exercise of authority over a territory is critical in establishing a valid claim. The Court's decision also underscored the significance of the critical date in determining

the validity of competing claims, emphasizing the need for states to establish their claims before the critical date to be considered legitimate.

The East Greenland case has left a lasting legacy in modern international law, influencing the resolution of subsequent territorial disputes and contributing to the development of key principles governing the establishment and maintenance of borders. The case has also helped to shape the three-dimensional perception of modern territory, as states continue to assert their sovereignty over the airspace above and the subsoil below their land and maritime territories.

As the world faces new challenges in the 21st century, such as the increasing accessibility of the Arctic region and the militarization of outer space, the principles established in the East Greenland case will continue to provide valuable guidance for states seeking to assert and defend their territorial sovereignty. It is essential that states adhere to the principles of international law, including the peaceful settlement of disputes, the respect for territorial integrity, and the right to self-determination, to ensure that the international community can successfully navigate these complex issues and maintain global peace and security.

In conclusion, the East Greenland case remains a pivotal moment in the development of international law and the concept of territorial sovereignty. By revisiting the case and its implications, this article has demonstrated the enduring relevance of the principles established in the decision. As the world continues to evolve and face new challenges, it is important for states and legal scholars alike to draw upon the wisdom of past cases like the East Greenland case to guide the development and application of international law in the future.

REFERENCES

1. Anghie, A. (2007). *Imperialism, Sovereignty and the Making of International Law*. Cambridge: Cambridge University Press, [Internet resource] URL: <https://doi.org/10.1017/CBO9780511614262>
2. Berisha, Fejzulla and Berisha, Fejzulla, *Territorial Reach of the Power of State (Three-Dimensional Reach)* (2017). [Internet resource] URL: <https://ssrn.com/abstract=2966320>
3. Clipperton Island case (France v. Mexico), *Arbitral Award on the Subject of the Difference Relative to the Sovereignty over Clipperton Island*, Award of the Arbitrator, *The American Journal of International Law* (1932) Vol. 26, No. 2, pp. 390-394, [Internet resource] URL: <https://doi.org/10.2307/2189369>
4. Higgins, Rosalyn (1997) *Time and the Law: International Perspectives on an Old Problem*, *International & Comparative Law Quarterly*, Volume 46, Issue 3, pp. 501 - 520, [Internet resource] DOI: <https://doi.org/10.1017/S0020589300060784>
5. *Island of Palmas case (Netherlands v. United States of America)* (1928) P.C.I.J. (ser. A) No. 17 (Apr. 4), Reports of international arbitral awards, [Internet resource] URL: https://legal.un.org/riaa/cases/vol_II/829-871.pdf
6. Koskenniemi, M. (2001). *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870-1960*. Cambridge: Cambridge University Press, [Internet resource] URL: <https://doi.org/10.1017/CBO9780511494222>

7. Legal Status of Eastern Greenland (Norway v. Denmark), (1933) P.C.I.J. (ser. A/B) No. 53 (Apr. 5), [Internet resource] URL: <https://law.justia.com/cases/foreign/international/1933-pcij-series-a-b-no-53.html>
8. Miller, Robert J., *The International Law of Colonialism: A Comparative Analysis* (2011). *Lewis & Clark Law Review*, Forthcoming, Lewis & Clark Law School Legal Studies Research Paper No. 2011-23, [Internet resource] URL: <https://ssrn.com/abstract=1920009>, p.
9. Minquiers and Ecrehos Case (France v. United Kingdom), ICJ Reports (1953), p. 47;
10. Shaw, Malcolm N. (2008). *International Law*, 6th Edition. Cambridge: Cambridge University Press, [Internet resource] URL: <https://www.cambridge.org/features/law/shaw>
11. South China Sea Arbitration (The Republic of the Philippines v. The People's Republic of China), PCA Case No. 2013-19, Award of 12 July 2016.
12. Thürer Daniel, (1999) The "failed State" and international law, *Article, International Review of the Red Cross*, No. 836, pp. 9-47, [Internet resource] URL: <https://www.icrc.org/en/doc/resources/documents/article/other/57jq6u.htm>
13. United Nations Charter (full text), [Internet resource] URL: <https://www.un.org/en/about-us/un-charter/full-text>
14. Western Sahara, Advisory Opinion, ICJ Reports (1975), p. 12; [Internet resource] URL: <https://www.icj-cij.org/case/61>