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Islamic State – Disputed Statehood

1. Introduction

In June 2014, a terrorist group calling itself “Islamic State” proclaimed itself as a caliphate. After seizing large territories of Syria and Iraq, establishing a basis of administration and gaining control over the population inhabiting captured areas, the group announced a state governed in accordance with the Islamic law by a caliph. Reactions of the international community members were easy to predict. In official declarations, states, as well as international organizations, notified their refusal to recognize statehood of the new entity. Nevertheless, a real problem has been faced: how to deal with an entity engaged in terrorist activities, and therefore posing a real threat to international peace and security, but at the same time claiming to be a sovereign, independent state? Are these claims in accordance with international law if the entity has violated principles of territorial integrity, sovereign equality and inviolability of borders – all these of a *ius cogens* character? The aim of the analysis is to verify the hypothesis according to which, in case of the so-called Islamic State’s proclamation of caliphate, the entity established cannot be treated as a state, as it has no legal personality in international law and, accordingly, is not a recognized member of the international community. For this reason, the international law criteria concerning statehood will be analyzed in light of the determinants of statehood formulated in international practice. Consequently, reasons against the IS statehood will be specified. Among them, not only criteria of statehood, but references to international response will be formulated. The text will not focus on the historical background of the IS establishment, nor on military activities of this group, but only on the issue of statehood.

2. The Criteria of Statehood according to International Law and Practice

According to the classical definition provided by Georg Jellinek, a state is characterized by three elements: territory, population living on that territory and government exercising authority over the population and the territory.¹ The first

1 See: J. R. Crawford, *The Creation of State in International Law*, Oxford University Press, Oxford 1979, pp. 36–47.

element is regarded as any area which is subjected to exclusive rights and interests of a particular state-entity. Whilst a state can exist if it loses control over its territory – as a result of a conflict, for instance – it cannot be proclaimed without it.² The size of the territory, as well as its location, composition (land territory with rivers, lakes etc., the subsoil, the air space, maritime areas in case of coastal states) is not relevant. The second element refers to a group of persons subjected to a government authority and living permanently in a defined territory.³ The last element – government – means an organization or an organ of a political and administrative character, able to control all aspects of the state functioning and responsible for vindication of rights and obligations of this entity. This is the crucial task of government: not only to guarantee territorial integrity and the existence of a state but also to control behavior of its inhabitants. According to Hans Kelsen, a state: “is the specific union of individuals, and this union is the function of the order which regulates their mutual behaviour.”⁴ Therefore, stability and effectiveness are its key characteristics.

Nonetheless, such a three-element understanding has been formulated only for the purposes of internal functioning of a state. One must assume that, from the point of view of international law and international relations, the above-mentioned definition should be complemented with two additional elements. The reason is that an entity can be treated as a state only so long as it has the capacity of being a bearer of rights and duties defined in the international law, as well as of acting with legal effect, especially concluding international agreements, establishing diplomatic and consular relations, being a member of international organizations, being internationally responsible or having privileges and immunities. Therefore, territory, population and government do not constitute a state in the international law and international relations.

Although, there is no universal international agreement pointing out conditions necessary to be fulfilled by an entity which applies for an international legal status of a state, in 1933 a four-element definition was introduced. According to the Montevideo Convention on Rights and Duties of States, apart from a defined territory, a permanent population and government, “capacity to enter into relations with the

2 See: Th. Grant, *Defining Statehood: The Montevideo Convention and its Discontents*, “Columbia Journal of Transnational Law” no. 37, 1999, pp. 435.

3 “It does not mean that there can be no migration of peoples across territorial boundaries”: M. Dixon, *Textbook on International Law*, Oxford University Press, Oxford 2013, p. 119.

4 H. Kelsen, *The Pure Theory of Law and Analytical Jurisprudence*, “Harvard Law Review” no. 55, 1941, p. 44.

other States” is necessary for statehood,⁵ for only in relations with other states a given state is able to function actively in the international arena and to fulfill its objectives.

Another crucial element constituting a state in international law and international relations is sovereignty, defined in accordance with the decision on the Island of Palmas as “independence. Independence with regard to a portion of the globe is the right to exercise therein, to the exclusion of any other State, the functions of a State.”⁶ According to Ludwik Ehrlich, sovereignty can be perceived as independence from any other authority both in the internal sense (absolute authority, i.e. the authority of a state on its territory is primary, highest, exclusive and unlimited) and in the external sense (self-rule, i.e. independence from other states, but not from all external factors). Sovereignty implies a full capacity to perform legal transactions in the international arena and the protection of the legal status of a State in the form of mandatory standards prohibiting certain actions against States in their mutual relations.⁷

And although statehood depends only on meeting the aforementioned criteria,⁸ the actual functioning of a state in the international arena is strictly connected to international recognition. Without a formal consent expressed by other states, a state entity remains a “non-entity.”⁹ It is difficult for an entity which has not been recognized or which has gained recognition only of a limited number of states, to exercise certain rights granted to it under the international law; it does not participate in international “life” or does it to a limited extent.¹⁰ An entity, which is not internationally recognized, cannot fully benefit from e.g. being a member of international organizations, concluding treaties, the right of legation and the right to send and receive consular officers, as well as from privileges and immunities for its representatives.

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- 5 *Montevideo Convention on the Rights and Duties of States*, 1933, 165 I.N.T.S. 19, Art. 1.
 - 6 *The Island of Palmas Case (or Miangas)*, *United States of America v. the Netherlands. Award of the Tribunal of 4 April 1928*, Reports of International Arbitral Awards. Vol. XI, The Hague. April 4, 1928 (reprint: The Hague. 2009), p. 838.
 - 7 R. Kwiecień, *Teoria i filozofia prawa międzynarodowego. Problemy wybrane*, Wydawnictwo Difin, Warszawa 2011, p. 123.
 - 8 Arbitration Commission of the Conference on Yugoslavia on 29 November 1991, Opinion no. 1, reproduced in 92 International Law Reports, 1993, point 1, 2.
 - 9 R. D. Sloane, *The Changing Face of Recognition in International Law: A Case Study of Tibet*, “Emory International Law Review” no. 16, 2002, p. 116.
 - 10 M. Muszkat (ed.), *Zarys prawa międzynarodowego*, Vol. II, Wydawnictwo Prawnicze, Warsaw 1956, p. 6.

Until the end of the 18th century, there were no references to state recognition in international law, and hardly any in international law studies. When the recognition became a topic of interest of theoreticians in the second half of the 18th century, it was treated as an illegal intervention in matters of another state or as a unilateral act the need for which could not be justified.¹¹ Only the events which led to the declaration of independence by states in American continents made members of the international community realize the role of state recognition. According to the concept of Lassa Oppenheim, international law is the law of civilized countries, and the recognition leads to the incorporation of a new state, created in accordance to the will of its nation, to the international community. In consequence, in the opinion of Oppenheim, the lack of recognition makes it impossible for a country to become a part of the family of civilized nations and to function in the international arena.

Taking the above into consideration, it became necessary to specify the criteria determining the formal acceptance of newly created states. For the first time, conditions for recognizing a state were determined in 1825 by the then Foreign Minister of the United Kingdom George Canning. Only a state, whose government had declared its independence and exercised the actual authority of the state, and which was stable, unified and banned slave trade, could hope to be recognized.¹² Due to the territorial changes which took place in Europe after 1899 and to the necessity to harmonize the recognition criteria and adjust them

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- 11 Such an opinion was expressed, *inter alia*, by Johann Christian Wilhelm von Steck and Georg Friedrich von Martens: J. Ch. Von Steck, *Versuche über verschiedene Materien politischer und rechtlicher Kenntnisse*, Lange1, Berlin-Stralsund 1783, available at <http://www.archive.org>, accessed 16 January 2016; G. F. von Martens, *A Compendium of the Law of Nations founded on the treaties and customs of the modern nations of Europe*, Cobbett and Morgan, London 1802, available at <http://www.archive.org>, accessed 16 January 2016.
- 12 R. Bierzanek, J. Symonides, *Prawo międzynarodowe publiczne*, Wydawnictwo PWN, Warszawa 1994, p. 134; More: on the concept of State recognition in the 19th century: M. Fabry, *Recognizing States. International Society and the Establishment of New States Since 1776*, Oxford University Press, Oxford – New York 2010, pp. 49–78. It has not only been the recognition of a State that causes emotional reactions. The recognition of governments which came to power in a non-constitutional manner is equally controversial. In 1951, UK Foreign Minister Herbert Morrison, in his speech to the House of Commons, indicated criteria on the basis of which recognition of governments was to be performed. They included, *inter alia*, exercising actual and permanent control over most of the State territory. However, in 1980, Lord Carrington – another UK Foreign Minister – clearly stated that British authorities would not recognise governments. Thus, the UK accepted the Estrada Doctrine, elaborated earlier by authorities

to the requirements of modern times, on December, 16th 1991 Foreign Ministers of Member States of European Communities adopted, at their meeting in Brussels, the Declaration on the Guidelines on the Recognition of the New States in Eastern Europe and in the Soviet Union. The Declaration comprised conditions which had to be met in order to make it possible to recognize a state. They included obligations to:

- respect the provisions of the Charter of the United Nations, the Final Act of the CSCE and the Charter of Paris for a New Europe;
- guarantee the rights of ethnic and national groups and minorities in accordance with the commitments subscribed to in the framework of the CSCE;
- respect the inviolability of all frontiers which can only be changed by peaceful means and by common agreement;
- accept all relevant commitments with regard to disarmament and nuclear non-proliferation as well as to security and regional stability;
- peacefully settle disputes, including disputes related to succession.¹³

Representatives of Member States of the then Communities highlighted that they would not recognize entities created as a result of aggression. Furthermore, they emphasized that, before making the final decision, they would take consequences for neighboring countries into account. The above criteria reflect not only the principles of international law (the obligation to solve disputes in a peaceful manner, the principle of the inviolability of frontiers) constituting its foundation but also the *ius cogens* norms (protection of human rights, respect for the principle of sovereign equality of States, prohibition of the use of force or threats to use force).¹⁴

Despite the elaboration of the criteria for recognition of new states, it is not absolutely clear if territorial changes have been consistent with applicable legal

of Mexico, which rejects the possibility of recognizing governments. More in D. H. Ott, *Public International Law in the Modern World*, London 1987, pp. 85, 88–89.

13 *Declaration on the Guidelines on the Recognition of the New States in Eastern Europe and in the Soviet Union*, Letter dated 17 December 1991 from the Permanent Representative of the Netherlands to the United Nations addressed to the Secretary-General. A/46/804, 18 December 1991.

14 That is the reason why Ch. Hillgruber was not right when he denied the relationship between the criteria elaborated within the framework of European Communities and the principles of international law. Cf. Ch. Hillgruber, *The Admission of New States to International Community*, “European Journal of International Law” no. 9, 1998, pp. 492–493.

norms. Two, often contradictory, principles of international law are “weighed”: sovereign equality of states (respect for the territorial integrity of a state) and the nations’ right to self-determination. Sovereignty is a basic attribute of a state. It is defined as the absolute, sole, highest and unlimited authority of a state over its territory and population living there, and its capacity to act independently in the international arena. Sovereignty is important from the perspective of new state entities which strive for international recognition and, as a consequence, have to demonstrate the independent character of their actions at the internal and external levels. Above all, however, sovereignty is an argument used by states to protect their territorial integrity. It constitutes a specific protection against attempts at secession on the part of national and ethnic minorities living in the existing states. Thus, the sovereignty of existing states makes it difficult or even impossible for new state entities to declare independence.

The peoples’ right to self-determination became an issue of interest to the international community during the French and the American Revolutions, when the right of a nation to decide about its own fate was emphasized. In the second half of the 19th century, national awareness kept growing and thus attention started to be paid to nations’ right to self-determination. In 1851, Pasquale S. Mancini, in his lecture entitled *Nationality as the Foundation of the Law of Nations*, presented his concept of rights attributed to a nation. He defined nationality as the right of an individual and a collectivity to benefit from freedom. As for freedom, he understood it as, inter alia, the right to create a separate state, to choose its internal regime, and to be independent from other peoples.¹⁵ After World War I, the reference to the existence of the principle of nation’s right to self-determination facilitated the acceptance of the new states emerging in territories of defeated countries. Self-determination, treated as a political but not legal principle, made it possible to achieve temporary political goals. It was American President Woodrow Wilson who argued for the recognition of the right to self-determination as a principle of international law. In his numerous speeches, he pointed out that every authority owed its powers to the will of those who were subject to the power, and each nation had the right to choose the authority it would be subject to. In his speech of January 8th, 1918, Wilson argued that national aspirations should be taken into account and the principle of the right to self-determination should be a norm in the international arena. He said that Russia should obtain “her an unhampered and unembarrassed opportunity for the independent determination

15 L. Dembiński, *Samostanowienie w prawie i praktyce ONZ*, Wydawnictwo PWN, Warszawa 1969, p. 12.

of her own political development and national policy;” the peoples of Austria-Hungary “should be accorded the freest opportunity to autonomous development;” nations functioning under the Turkish regime rule “should be assured [...] an absolutely unmolested opportunity of autonomous development;” and the Polish nation should live in an independent Polish state. During the Versailles Peace Conference, Wilson underlined that it should be a basic rule in the post-war world that no government or group of governments should be allowed to force free nations to subordination.¹⁶ He postulated to add to the Covenant of the League of Nations, next to the guarantee of political independence and territorial integrity of states, the possibility of territorial transformations in order to execute the principle of self-determination. Possible territorial transformations would be an effect of changes in racial, social or political relations taking place within the population living in a contentious territory and causing an increase in independence aspirations among the population members. Territorial changes would take place also with the approval of 3/4 of delegates of the League of Nations acting in the name and on behalf of the interested population.¹⁷ The ideas of Woodrow Wilson were developed further by Lloyd George who proposed to cover African nations living in German colonies with the principle of self-determination but those postulates did not gain international support. According to the Covenant of the League of Nations self-determination might take place only by means of granting nations autonomy within the framework of an existing state,¹⁸ not by recognizing the right of nations to freely determine their political status. That is why, in the interwar period, self-determination functioned as a political principle. The opinion on Aland Islands of the Advisory Committee of jurists appointed by the League of Nations in 1921 confirmed that self-determination was only a political concept, not a principle of international law.¹⁹

For the first time the principle of self-determination entered international law at the end of World War II. The Atlantic Charter signed in 1941 did not mention

16 Cited after: A. Rigo Sureda, *The Evolution of the Right of Self-Determination. A Study of United Nations Practice*, Sijthoff International Publishing, Leyden 1973, pp. 95–96.

17 M. Pomerance, *Self-Determination in Law and Practice. The New Doctrine in the United Nations*, Springer, New York 1982, p. 7.

18 L. Dembiński, *Samostanowienie w prawie...* op.cit., p. 17.

19 J. Tyranowski, *Integralność terytorialna, nienaruszalność granic i samostanowienie w prawie międzynarodowym*, Wydawnictwo PWN, Warsaw 1990, pp. 187–188; Ö. Österud, *Sovereign Statehood and National Self-Determination. A World Order Dilemma, in: Subduing sovereignty. Sovereignty and the right to intervene*, M. Heiberg (ed.), Pinter Publishers Ltd., London 1994, p. 23.

the principle of self-determination in an explicit manner. However, the principle was referred to, as it was stated that the signatories of the Charter “desire to see no territorial changes that do not accord with the freely expressed wishes of the peoples concerned” and that “they respect the right of all peoples to choose the form of Government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.”²⁰ The first international document in which self-determination was expressly mentioned was the Charter of the United Nations. In Article 1(2) it was stipulated that friendly relations among nations should be developed with respect for the principle of equal rights and self-determination of peoples. It was highlighted that only respect for the principle of equal rights and self-determination of peoples would allow to create conditions of stability and well-being necessary for the maintenance of peaceful and friendly relations among nations (Art. 55). The principle of self-determination was defined on 14 December 1960 in the Declaration on the Granting of Independence to Colonial Countries and Peoples (Resolution 1514 XV). The emphasis on the inevitability of the process of decolonization guaranteed the people’s right to self-determination. Self-determination was defined as the right to freely determine the political status and ensure economic, social and cultural development. The right to self-determination was attributed, under point 3 of the Declaration, regardless of the level of political, economic, social or educational development of the peoples. On 14 December 1960, Resolution 1541 (XV) was adopted. It determined the ways to exercise the right to self-determination. Under provisions of the Resolution, exercising its right to self-determination people may create their own independent state, associate with an existing state or decide on integration with another state. In each case, the decision on the future political status should be the result of a free and voluntary decision of people living in a given territory, of their will expressed in a democratic manner.²¹

In thus defined right to self-determination, its two perspectives need to be underlined. From the internal perspective, the right to self-determination is understood as the possibility to determine the form of government. From the external perspective, people have the right to freely determine a political status of their

20 *Atlantic Charter of August 14, 1941*, Art. 2, 3, available at <http://avalon.law.yale.edu/wwii/atlantic.asp>, accessed 14 February 2016.

21 A. Potyrała, *Prawo do samostanowienia a problem suwerenności państwa*, in: *Zbrojne konflikty i spory międzynarodowe u progu XXI wieku. Analiza problemów i studia przypadków* W. Malendowski (ed.), Wydawnictwo Atla 2, Wrocław 2003, pp. 76–80; M. Perkowski, *Samostanowienie narodów w prawie międzynarodowym*, Wydawnictwo PWN, Warsaw 2001.

state. The latter arose most controversies. Pursuant to Resolution 1541 (XV), the political status may be determined in three ways. A nation (people) invoking the right to self-determination may decide for a creation of its own independent state, an association with an existing state or a separation from an existing state and integration with another state. These three ways for exercising the right to self-determination did not arise serious concerns in relation to colonial peoples. However, applying them to all nations could threaten the sovereignty of existing states and the international order. The international community noticed that the right to self-determination as a universal law could lead to an intensification of separatist movements among peoples invoking the right to self-determination. Therefore, in the Declaration on Principles of International Law of 1970 it was underlined that the peoples' right to self-determination should not be understood as "authorizing or encouraging any action which would dismember or impair totally or in part, the territorial integrity or political unity of sovereign and independent States conducting themselves in compliance with the principle of equal rights and self-determination of peoples" (Declaration 1970). Thus, the right to self-determination could be defined only as a right of peoples to demand and to develop autonomy within the framework of an existing state, the territory of which is inhabited by a given national group. It was decided that people could not invoke the right to self-determination by presenting demands for independence if a state acted in accordance with the principle of equal rights and self-determination of peoples. Thus, the interpretation of the right to self-determination as a right to secession²² of national groups from the authority of existing states was expressly rejected. Secession is acceptable only in the case of serious and massive human rights violations. Such a view was earlier presented by Hugo Grotius and Emmer de Vattel. Thus, members of the international community had no doubts when inhabitants of Timor-Leste, Montenegro and Southern Sudan invoked the right to self-determination and chose independence in referendums. In these cases, the recognition of new countries was a natural consequence of acceptance of the peoples' right to self-determination. However, the chance that a given state or territory will gain international recognition is increasingly determined by political considerations or objectives. The reason is that the recognition of a state is not conditioned by law but by politics.²³

22 L. C. Buchheit, *Secession. The Legitimacy of Self-Determination*, Yale University Press, New Haven-London 1978, pp. 43–137.

23 R. Rich, *Recognition of States: the Collapse of Yugoslavia and the Soviet Union*, "European Journal of International Law" no. 4, 1993, p. 36.

3. IS Proclaimed Statehood – IL Criteria and International Response

Taking the above into consideration, it is necessary to refer the criteria constituting a state in international law and international relations to the so-called Islamic State (Islamic State of Iraq and the Levant, the Islamic State of Iraq and Syria, the Islamic State of Iraq and Sham, or Daesh).

Although the group controls a significant territory in Iraq and Syria and aspires to control the Levant region (which includes Iraq, Israel, Jordan, Lebanon and Syria), its leadership is effective and dominates over population inhabiting the territories, these facts cannot be regarded as the fulfillment of international law criteria for being a state. First of all, because there is no sovereignty, either in internal and external sense: the authority is not unlimited and independent from external factors. Secondly, because IS lacks capacity to enter into official international relations with members of the international community. As it was stated in the first part, the five criteria defined in international law must be supplemented by the one, perceptible in international practice, which is recognition. This is the final argument why IS cannot be regarded as a state. After the caliphate has been proclaimed, it met with no positive reaction of international community members who officially refused to accept the announcement. The basis for such decisions is a claim that no entity established as a result of the *ius cogens* norms violations can be recognized as a legitimate member of the international community. Accordingly, if a new entity claiming statehood strives for recognition, it must prove its readiness for compliance with international law. Otherwise, it has no chance of being accepted and consequently – no chance of being capable to enter into relations with other states, international organizations, etc. Taking into account that territorial integrity and internationally recognized borders of two states, Iraq and Syria, have been violated as a result of IS offensive, it would be illegal to establish any relations with this entity. Moreover, the IS's terrorist activities violate internationally accepted human rights, especially provisions prohibiting genocide, crimes against humanity, tortures and other cruel, inhuman treatment. Therefore, any attempt to enter into relations with this entity would be regarded as approval of international crimes.

While analyzing official documents issued by states and international governmental organizations, one can notice that in none there are references defining IS as a state. The only qualification of IS is an “entity” and a “terrorist group” or “organization”, being a clear proof of lack of consent for the IS statehood and lack of approval of the IS's proclamation of caliphate.

The UN Security Council, responsible for international peace and security, has tackled the problem of IS functioning and its activities several times. In resolution

2170 of August 2014 and 2253 of December 2015, pointing out “violent, extremist ideology”, “widespread abuses of human rights and violations of international humanitarian law”, “ongoing, multiple criminal terrorist acts” such as among others kidnapping and hostage-takings, the Security Council defined IS as a “splinter group of Al Qaeda”²⁴. In the resolution 2178 of September 2014, while referring to IS, the official term “entity” was introduced by the Security Council²⁵. In the resolution 2199 of February 2015, the Security Council confirmed “sovereignty, unity and territorial integrity” of Iraq and Syria, refusing to accept conquest as a way of acquiring territory by IS.²⁶ Consequently, one of main attributes of statehood has been questioned.

A very similar position has been taken by the European Union. In conclusions adopted as a result of a special meeting of the European Council in August 2014, the qualification of IS as a “terrorist organization” has been made.²⁷ The creation of the Islamic Caliphate in Iraq and Syria has been regarded as “a direct threat to the security.”²⁸ Such official statement has been repeated in the following conclusions, agreed on as a result of the Council of the European Union meetings in October 2014 and March 2015. The EU decided to condemn acts perpetrated by “ISIL/Daesh and other terrorist groups” and announced its contribution to the international endeavour to defeat these entities.²⁹ In the same documents, references to IS as to a “terrorist organization” have been made.³⁰ In the regional strategy for Syria and Iraq, adopted by the Council of the European Union in March 2015, there are no references to IS statehood. Instead, the group is called “a cross-border

24 *Resolution 2170 Adopted by the Security Council at its 7242nd meeting, on 15 August 2014*, S/RES/2170 2014, para. 1, 18, preamble; *Resolution 2253 (2015) Adopted by the Security Council at its 7587th meeting, on 17 December 2015.*, S/RES/2253 2015, preamble.

25 *Resolution 2178 (2014) Adopted by the Security Council at its 7272nd meeting, on 24 September 2014*, S/RES/2178 2014, preamble.

26 *Resolution 2199 Adopted by the Security Council at its 7379th meeting, on 12 February 2015*, S/RES/2199 2015, preamble.

27 *Conclusions*, Special meeting of the European Council (30 August 2014), EUCO 163/14, Brussels 2014, para. 14, 17.

28 *Ibid.* para. 17.

29 *Council conclusions on the EU Regional Strategy for Syria and Iraq as well as the ISIL/Daesh threat*, Council of the European Union, Brussels, 16 March 2015, 7267/15 Brussels, para. 1, 2, 13; *Council conclusions on the ISIL/Daesh crisis in Syria and Iraq*, Council of the European Union, Luxemburg, 20 October 2014, para. 1, 3, 5.

30 Council conclusions on the EU Regional ... *op.cit.*, para. 8; Council conclusions on the ISIL/Daesh... *op.cit.*, para. 7.

phenomenon spanning two sovereign states” what is a clear evidence that military actions directed to acquisition of territory belonging to Syria and Iraq are not accepted by the EU member states. The European Parliament in its resolutions uses the term “the so-called ‘ISIS/Daesh’” and “the self-styled ‘Islamic State’” to deny IS statehood.³¹ At the same time, the character of “a terrorist group” or “a terrorist organization” is emphasized, and IS is described as an “extremist jihadist group.”³²

According to the League of Arab States, IS is an organization responsible for international crimes and terrorism. Similarly, the North Atlantic Treaty Organization defines IS as a “terrorist group” and an “organization”, as does the Organization for Cooperation and Security in Europe. According to OCSE, Islamic State is “probably the most effective terrorist organization in using social media.”³³ Such connotations are also noticeable in official statements of other international bodies such as non-governmental or organizations define IS as a terrorist group. According to the Institute for Economics and Peace, IS was “the most destructive terrorist group in 2014.”³⁴ The Global Coalition to counter the Daesh, announced in September 2014 by president Obama, composed of over 60 states,³⁵ aimed at IS degradation and destruction “through a comprehensive and sustained counterterrorism strategy” regards IS as a “terrorist organization.” For this reason, partners

31 See: *European Parliament resolution of 4 February 2016 on the systematic mass murder of religious minorities by the so-called ‘ISIS/Daesh’*, European Parliament, 2016/2529(RSP), P8_TA-PROV(2016)0051, Strasbourg 2016, para. 1, 2, 4, 7–9, 14; *European Parliament resolution on the situation in Iraq and Syria and the ISIS offensive*, European Parliament, 2014/2843(RSP), B8-0110/2014, Strasbourg 2014, summary.

32 *European Parliament resolution on the situation in Iraq and Syria and the ISIS offensive ...op.cit.*, preamble, point A.; *ISIL/Daesh and ‘non-conventional’ weapons of terror*, Briefing 2015. 572.806, European Parliamentary Research Service.

33 Organization for Security and Cooperation in Europe (OSCE) Human Dimension Implementation Meeting (HDIM), European Foundation for Democracy, HDIM. NGO/0025/15, 22.09.2015, p. 2.

34 Global Terrorism Index, *Measuring and Understanding The Impact of Terrorism*, Institute for Economics and Peace, New York-Sydney-Mexico 2015, p. 38.

35 Afghanistan, Albania, Australia, Austria, Bahrain, Belgium, Bosnia and Herzegovina, Bulgaria, Canada, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Georgia, Germany, Greece, Hungary, Iceland, Iraq, Ireland, Italy, Japan, Jordan, Korea, Kosovo, Kuwait, Latvia, Lebanon, Lithuania, Luxembourg, Macedonia, Malaysia, Moldova, Montenegro, Morocco, Netherlands, New Zealand, Nigeria, Norway, Oman, Panama, Poland, Portugal, Qatar, Romania, Saudi Arabia, Serbia, Singapore, Slovakia, Slovenia, Somalia, Spain, Sweden, Taiwan, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States. Additionally, Arab League and European Union.

have decided about targeting IS with airstrikes, impeding the flow of foreign fighters and disrupting the recruitment, as well as stopping IS's financing and funding.

4. Conclusion

The rise of Islamic State and the official proclamation of a caliphate, has started discussions concerning an official status of IS in international law and international relations. Two groups of arguments – legal and practical – have been taken into consideration by states, international governmental organizations, as well as think tanks and NGOs. After the analysis of six criteria of statehood, as well as reactions of the international community members, the only possible conclusion is that because of the illegal character of IS's activities, lack of full independence and resistance of the international community members, especially states and governmental organizations, it is not possible to treat IS as a state being a legitimate actor in the international arena. Not only decisions concerning non-recognition of IS statehood have been taken, but also an international coalition has been created with the aim to counter IS, being a clear proof that IS is nothing but a “terrorist organization” or “group.”

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