

CONCEPT AND STATUS OF FICTIONAL STATES

Prof. nadzw. UR, dr hab. Viktoriya Serzhanova

Faculty of Law and Administration

University of Rzeszów (Poland)

Abstract: *The article aims at analyzing the phenomenon of fictional states from the perspective of a concept and definition, as well as a shape and functions of a contemporary state. Presently, the hitherto model of a national state is starting to lose its cognitive significance. At the same time, more and more often one can observe reaching for the idea of fictional organisms, which have been created and exist exceptionally as a result of their authors' fantasy. Therefore, besides the states functioning in reality, which possess their essential characteristic features determining their entity, one can perceive the existence of fictional 'states'. Such creations do not meet the requirements of a state definition, although some of them possess symbols, constitutions and even currency, stamps and anthems. Fictional states have their aims, such as commercial, promotional, historical or legal. Besides entertainment, they also perform very specific functions, like community-building and educational.*

Key words: *fictional states, concept, definition and functions of a contemporary state, political system, society, law, loophole, aims and functions of fictional states.*

Introduction

The hereby article aims at analyzing the phenomenon of fictional states in the context of a concept and definition, as well as a shape and functions of a contemporary state. There exist many studies about a state, written from the perspective of different scientific disciplines, above all political sciences, sociology, more seldom law. This problem is also the subject of keen interest of sociopolitical journalism and public opinion, which create a conglomerate of visions, reflections and opinions, rising both from the science and colloquial knowledge, being presently broadcast by media.

Nowadays, the hitherto model of a national state described in the literature of XIX and XX century by the classics, who used not up-to-date enough notion system, is starting to lose its cognitive significance. At the same time, more and more often one can observe reaching for the idea of fictional organisms in the form of states, which have been created and exist exceptionally as a result of their authors' fantasy – just the way it sometimes is with utopias.

Therefore, besides the states functioning in reality, which possess their essential characteristic features determining their entity and used in order to define them, one can perceive the existence of fictional 'states' (sometimes also called 'fantasy' or 'imaginary countries, nations')¹. It is necessary to remark, that such creations do not meet the

¹ In some sources one can encounter a term 'micronation' used to name such creations. This approach ought to be estimated critically. Micronations, sometimes also referred to as 'model countries' or 'new country projects', are entities which claim to be independent nations or states and which are not recognized by international community. In other words they exist in reality. Therefore, micronations must be definitely distinguished from imaginary countries by expressing a formal and persistent, even if unrecognized, claim of

requirements of a state definition², just the way utopian states do not either³, although some of them possess their own national symbols, constitutions, and even currency, stamps and anthems.

1. The Essence and Reasons of Fictional States' Creation

Fictional states are organisms, which creation and functioning exist in the sphere of their authors' fantasy. The reasons or motives of founding such states are various. The most important of them seem to be:

- conscious actions, which concealed meaning is commercial and advertising, sometimes undertaken by artists;
- promotion of particular regions;
- historical events, which result in questioning of belonging of a certain territory to the exact state;
- loopholes⁴.

2. The Analysis of Particular Examples of Fictional States

One of the examples of creation a fictional state because of commercial reasons, which also aimed at promoting the region, was Hay-on-Wye, founded on 1 April 1977. A small market town of such a name is really situated in the county of Powys in Mid Wales and is famous for a great number of second-hand bookshops (over thirty), hence it is often called 'the town of books'. It is also renowned for a literary festival, which was initiated in 1988, lasts for ten days each June and hosts the most prominent literary personages from all over the world.

This entity was brought into existence by a bibliophile Richard Booth, who declared himself to be the king of his independent monarchy Hay-on-Wye, and appointed his horse prime minister. This kind of commercial gimmick caused increase of tourist development, which changed a small market town into a 'mecca' for second-hand book lovers and transformed the local economy⁵.

In Poland the Principality of Łeba, founded in 1998 by Henryk Ruszewski and several other inhabitants of the Łeba town situated at the Baltic sea-side, can also be considered a fictional state. According to the idea of its creators, the Principality was supposed to have its own customs area and border check-points. In June 1998 the first elections of a Prince were held, in which several thousands of people participated, among them many tourists from the whole Poland. 2819 people cast their votes, which amounted to 90% of all entitled to participate in the elections. Everybody who achieved seven years of age was entitled to vote and to be elected. During the elections one could buy the citizenship of the Principality and a Łeba passport. Henryk Ruszewski, being the main initiator of Łeba's monarchization, was elected Prince. Later, a coronation ceremony of the first Prince Henryk I of Łeba was conducted and there was also held a ball in his honour. All the guests wore ball dresses and the Prince promised his subjects to liquidate a military

sovereignty over some physical territory. They are real entities, while fictional states exist in fantasy and are not the kind of beings to meet the definition of a micronation.

² Detailed analysis of different approaches to a state defining, as well as its essential characteristic features can be found in: S. Sagan, V. Serzhanova, *Nauka o państwie współczesnym (Science on a Contemporary State)*, 3 extended edition, Warszawa 2013, p. 35 & ff.

³ Profound periphrasis of utopian states in the context of a concept, shape and functions of a contemporary state is made by: V. Serzhanova, *Utopian States*, „Acta Universitatis Lucian Blaga”, nr 1/2013.

⁴ S. Sagan, V. Serzhanova, *Nauka o państwie ...*, p. 61.

⁵ *Self-Styled King of Hay Sells up*, BBC News, http://news.bbc.co.uk/2/hi/uk_news/wales/mid_/4159106.stm, accessed on 7 August 2013.

unit, open a casino and create a customs-free zone at the port area, which finally was intended to be spread to the whole Principality's territory. In time, there was also elected a Chancellor, as well as a Chapter of the Principality of Leba, and in May 2008 – the next Prince Zbyszek I.

Activities taken up by the Principality's creators are mainly of promotional and advertising nature and intend to assure touristic and economical development of the region. They also aim at bringing social aid to families and persons being in difficult conditions, equaling chances for families in complicated life situations, promoting employment and professional activation of the local community, organizing recreation for children and youth, preparing professional training and occupation adapting courses, editing publications for the purpose of popularization of a positive life image, as well as familiarization of touristic and economical values of the region and improvement of the natural environment.

On 1 April 1997, the inhabitants of a historic district of the old town in Vilnius called Užupis (meaning 'a place located over the river', referring to the Vilnia River) proclaimed arising of an independent state – the Republic of Užupis. It was created on the initiative of a poet, musician and film director Romas Lileikis and several other artists: poets, writers, painters and musicians. It is also known as 'the Republic of Artists'.

Užupis is one of the oldest districts in Vilnius. Due to its bohemian atmosphere it is often compared to Montmartre in Paris or old Freetown Christiania in Copenhagen. The first mentions of it come from XVI century. It was a suburb then, mainly inhabited by craftsmen and the poor. During the Soviet times Užupis became a district of the dregs of society and was considered to be the most dangerous place in Vilnius. In the course of time, artists started to move into cheap and neglected houses in Užupis, because just nearby, over the bridge there was situated the Academy of Fine Arts. Nowadays, Užupis is a prestigious and one of the most expensive districts in Vilnius. There are held various artistic endeavours here: festivals of alternative fashion, concerts, exhibitions, poetry nights, performances and other very original events.

The Republic of Užupis has its own constitution⁶ written by its current president Romas Lileikis and Thomas Chėpaitis. It consists of 41 rights and is engraved on mirrors, attached to a wall on Paupio Street, where everyone can read it. Moreover, the Republic has its own prime minister, government, ambassadors, a bishop and a palace.

The Republic has its flags (four – one for each time of the year), an anthem, a currency and even an army, which presently counts 12 persons. It also has its patron, who is the Užupis Angel. A bronze statue of the archangel Gabriel blowing a trumpet was unveiled in the main square in 2002. It was intended to symbolize the revival and artistic freedom in the Eastern Europe. This work of the sculptor Romas Vilėiauskas has become the symbol of the district. There are also two churches there, a cemetery and seven bridges. Each year on 1 April the Republic celebrates its independence holiday – Užupis Day.

The Republic of Pešėenica could be considered an artistic endeavour of a satiric nature. It was a parodical project of a dictator-ruled republic, which was founded by a famous Croatian traveler, writer and presenter of satirical TV programmes Źeljko Malnar

⁶ The English text of the Constitution of the Republic of Užupis is available on the following website: <http://outinthemiddaysun.blogspot.com/2008/02/uupis-constitution.html>, accessed on 8 August 2013.

in a working class district of Zagreb. The district of Peščenica is situated in the northern part of Zagreb, southeastwards from the city center and northwards from the Sava River. The Republic had its president, who was Željko Malnar⁷, government which consisted of the actors participating in his TV show, among others Tarzan, Remzo, Laki, as well as the Minister of Defense Zvonimir Levačić-Ševa, defender of Roma people minority living in Peščenica Braco Cigan called 'Cro-Rom', its own legendary singer Cezar Legenda and a TV presenter Jaran (Jajan). The Republic also had its anthem *Danijela*⁸.

Those events were broadcast in an anti-television night talk-show *Noćna mora* (*Nightmare*) conducted by Željko Malnar personally and was described by him in a short version in the column of the Globus magazine edited in Zagreb. After 18 years of live airing and 878 shows, following the death of the most popular character Zvonimir Levačić-Ševa 'Nightmare Stage' formally ended on 26 June 2010, finishing the whole project and thus dissolving the Republic.

However, in Wiena there was created the Republic of Kugelmugel, situated in a part of the Prater park, enclosed by a barbed-wire fence⁹. The plot contains a ball-shaped house of the dimension of 7,68 m in diameter, built by an artist Edwin Lipburger. The word 'Kugel' means 'sphere' in German, while the word 'Mugel' is an Austrian German expression for a 'bump' or 'mogul'.

The Republic of Kugelmugel's creation was connected with a dispute between Lipburger and Austrian authorities over building permits for the ball-shaped house. In 1971 Lipburger built it in the countryside of Katzelsdorf near Wiener Neustadt in Lower Austria. Yet, because of its untypical and unstable construction, he did not receive a building permit for it. A part of the constructional elements was confiscated by the local police. The case found its final conclusion before the regional court in Wiener Neustadt. In 1976 Lipburger proclaimed the arising of his independent Republic. In 1979 he was sentenced by the court and spent ten weeks in prison. The president's pardon preserved him from further imprisonment. In 1982 the house was moved by the authorities to the Wiena Prater nearby the Planetarium, where it became one of the tourist attractions. It is located exactly at the corner of Prater-Hauptallee and Vivariumstraße, but according to Lipburger its address is Antifaschismusplatz 2.

The Republic has its own flag, official seal and coat of arms, it is marked by special warning tables and there is one border check-point in the fence. The current president is Edwin Lipburger-Kugelmugel, who is the head of state of hundreds of non-resident citizens and, as he calls himself, 'a great democratic revolutionary leader'.

The case of a Forvik Island (Forewick Holm) is considered to be an example of a fictional state, which was founded as a result of questioning its belonging to the British Crown, exactly to Scotland. Forewick Holm is a small island in the Shetlands, located between Papa Stour and the Sandness Peninsula. The island's belonging was objected by its disputed owner, sole occasional occupant and Cunningsburgh resident Stuart Alan Hill, who considered that historically both the island, as well as the whole archipelago ought not to have belonged to Scotland. He contends that the legal grounds of this state of affairs originates from the arrangement struck in 1469 between King Christian I of Denmark and

⁷ Died on 9 July 2013.

⁸ The creator and founder of the Republic Peščenica wrote penetratingly about it in: Ž. Malnar, *Filozofija Republike Peščenice*, Birotisak-Zagreb 2004, *passim*.

⁹ The creation of the Republic of Kugelmugel is described in: J. Ryan, G. Dunford, S. Sellars, *Micronations: The Lonely Planet Guide to Home-Made Nations*, Footscray-Oakland-London: Lonely Planet Publications 2006, pp. 82-85.

Norway, and Scotland's King James III, whereby Christian effectively pawned the Shetland Islands to James in order to raise money for his daughter's dowry. Because of the fact, that the loan has never been repaid and no other legal agreement has ever been put in its place, the Shetlands remain in a constitutional limbo and ought to properly enjoy the status of Crown Dependencies, such as the Isle of Man or the Channel Islands.

Hence, on 21 June 2008 Stuart Hill unilaterally proclaimed Forvik to be a British Crown Dependency, named the Crown Dependency of Forvik, by issuing a Forvik Declaration of Direct Dependence. Thus it became an independently administered jurisdiction – one of the British Islands – and therefore, not a part of the United Kingdom or the European Union. On 23 February 2011 the mentioned above Declaration was superseded by the Declaration of Independence, adopted by the Forvik Assembly (the Ting), proclaiming the island's independency and thus creating the Sovereign State of Forvik, in which Hill appointed himself His Excellency Steward. The state has its own parliament, constitution, flag, coat of arms, confer citizenship and even issues driving licences.

The case of a small town Seborga, situated in northwest Italy, in the province of Imperia in Liguria, near the French border, can be qualified similarly. Its inhabitants¹⁰ claim that it is a separate entity and does not belong to Italy. The formal argument for this status is that there is no mention of Seborga in the Act of Unification for the Kingdom of Italy in 1861. Hence, in 1954 a group of inhabitants declared a symbolic independence of the Principality of Seborga¹¹.

The history of Seborga dates back to VIII century, when it was a village belonging to the Counts of Ventimiglia. In 954 Count Guido bestowed it to the Benedictine monks of Lérins. Since 1181 the place was a subject of dispute between the Abbey and the Republic of Genoa. The reason of that was, that Seborga still remained within the state borders, although, similarly to other Benedictine estate, it was never really ruled by it. In 1729 the prince of Piedmont and the king of Sardinia Victor Amadeus II bought Seborga. Being a part of the Sardinian state, in 1861 it found itself within the Kingdom of Italy¹².

Declaring independency in 1954, the inhabitants referred to a local tradition, according to which the purchase of the town by Sardinia in 1729 was not legally valid. Hence, Seborga preserved its independence then, and because of the fact, that it did not participate in the unification of Italy individually, it could not be formally considered a part of the Italian state. In 1963 the head of the local flower-growers co-operative Giorgio Carbone declared himself Prince of Seborga Giorgio I. He ruled till his death in November 2009. Presently, the head of the Principality of Seborga is an entrepreneur Marcello Menegatto – Prince Marcello I¹³.

The Principality has its parliament and government. In 1995 it adopted its constitution, during 1994-1996 it issued its local currency 'luigino' (by which one can pay in several shops) and stamps. There was also composed an anthem, introduced a flag and a coat of arms. At the entrance there were put symbolic border boxes and there was even

¹⁰According to the data from the end of 2010, Seborga is inhabited by 319 people, 37 (11,6%) foreigners among them. Source: demographic statistics of Istat, available on its website: <http://en.istat.it/>

¹¹ The creation of the Principality of Seborga is described in: J. Ryan, G. Dunford, S. Sellars, *Micronations ...*, p. 55.

¹² The history of Seborga is analyzed in detail by: A. Gandolfo, *La provincia di Imperia: storia, arti, tradizioni*, t. I, Torino 2005, *passim*.

¹³ N. Squires, *Tiny Italian Principality Announces New Monarch Called 'His Tremendousness'*, 'The Daily Telegraph', 27 April 2010.

created an ‘army’ consisting of one soldier. On 23 April 1995 in an informal referendum 304 out of 308 the then Seborgans voted in favour of the Principality’s ‘independence’, with only 4 votes against it¹⁴.

Self-proclaimed independency caused the expansion of tourism, which contributed to the restoration of the Principality’s historic town centre, ensuring that its charms were protected from commercial overdevelopment. The Republic of Italy and international institutions consider and treat Seborga as an integral part of the Italian territory. Moreover, there is no tension between the Principality of Seborga and the Italian government, because the Principality has only a symbolic value. Law enforcement, public health, telecommunications, school services and all other public services are provided as in the rest of Italy. Seborgans regularly pay taxes, participate in the Italian administrative life and vote in local and national elections¹⁵.

Another example of creating a fictional state, which has been the newest case so far, was founding the Principality of Filettino on 1 January 2012. Filettino is a small village and commune situated in central Italy in Lazio region, Frosinone province¹⁶. The place lies on the height of 1063 m above the sea level in Granara valley, between the peaks Monte Velino and Monte Viglio, in the chain of Monte Simbruini. It is located within the national landscape park Apennines – Monti Simbruini. The centre of winter sports Campo Staffi is situated nearby, therefore Filettino is a popular tourist resort.

The origin of Filettino is unknown. The first historical mention about it comes from the beginning of XI century. Since 1297 the village belonged to the Caetani family and in 1602 it was incorporated into Apostolic Chamber by Pope Clement VII and thus subsequently absorbed into the Papal States. Along with them, in 1870 Filettino was annexed to the Kingdom of Italy.

Symbolic independence of the commune as the Principality of Filettino was declared as an expression of a protest against the government plans of cutting administrative costs, which among others assumed liquidation of communes counting less than a thousand inhabitants¹⁷. The protest was also shown in the fact, that the village issued its own currency ‘fiorito’. The word means ‘flowered’, referring to how Filettino will ‘flower under its new guise’ and alludes to the currency ‘florin’, first minted in XIII-century Florence¹⁸.

However, Paddy Roy Bates who created the Principality of Sealand in 1967, seemed to have intended to use a loophole. The Principality was founded on a former Second World War Maunsell Sea Fort Roughs, which had the surface of 560 m². It is located in the North Sea, 13 kilometres off the coast of Harwich in eastern England, at the coastal waters of Suffolk. Sealand arose when the abandoned fortress island was occupied by Bates, who declared himself Prince of the new sovereign, independent from the British Crown state.

¹⁴ C. Moran, *Noel Gallagher Is My Choice for Monarch*, ‘The Times’, 30 January 2006.

¹⁵ E. Dellacasa, *La principessa s’arrende: Seborga all’Italia*, ‘Corriere della Sera’, 12 June 2006.

¹⁶ According to the data from the end of 2010, it is inhabited by 554 people. Source: demographic statistics of Istat, available on its website: <http://en.istat.it/>.

¹⁷ D. Willey, *Italian Town Filettino Declares Independence*, ‘BBC News’, 3 September 2011; also *Włochy się rozpadły – na księstwo Filettino i całą resztę (Italy has Split – for a Principality and the Rest)*, ‘Wprost’, 13 January 2012.

¹⁸ *Filettino sogna il principato. E la nuova moneta va a ruba*, ‘La Repubblica’, 19 August 2011. See also: E. Povoledo, *In an Italian Town, Dreams of Freedom on a Princely Scale*, ‘New York Times’, 29 August 2011.

Paddy Roy Bates moved to the abandoned platform in January 1967 because he had some tax problems connected with starting a pirate radio station in 1965. After having been fined for illegal broadcasting, Bates decided to broadcast from the platform. He chose one of the former British military platforms Fort Roughs, because it was then situated in international waters and lay beyond the British jurisdiction, yet close enough to the British coast, which enabled him to broadcast radio programmes without any difficulties.

On 2 September Bates, along with his family and followers, declared the independence of Roughs Tower and deemed it the Principality of Sealand¹⁹. He intended to keep the radio station and its owners independent.

Bates asserted that Sealand was an independent sovereign state on the basis of two facts²⁰. Firstly, when Bates and his associates occupied Roughs Tower in 1967, it was situated within international waters beyond the jurisdiction of Great Britain and other sovereign states. Secondly, in 1968 Paddy Roy and his son Michael were arrested for firing. Being the British subjects at that time, they were summoned to court in England on weapon charges. The court made a decision, in which it stated that the Bateses could not be tried before the British court, for Roughs Tower was outside British jurisdiction because of being beyond the then three-mile limit of the country's water. This also meant that, lying within international waters, the platform remained beyond the jurisdiction of any state. It was interpreted as the recognition of Sealand's sovereignty. However, neither of the mentioned above facts forejudges the matter, because the platform is not land and ought to be treated rather like a ship. Yet, possessing territory is an essential condition for establishing a state. At the same time, the English court did not decide upon Sealand's sovereignty, but exceptionally upon the fact, that then the platform lay beyond its jurisdiction.

Passports and stamps have been in circulation in the Principality since 1969. In 1972 there was issued a currency – the Sealand Dollar. Selling passports brought Bates much profit. In 1975 there was adopted a constitution of Sealand, introduced a flag, a coat of arms and a national anthem. There was also established a government with the prime minister as a head. A German lawyer Alexander Achenbach was appointed to exercise this function.

The difference of views between Bates and Achenbach soon led to the prime minister's dismissal and expulsion from the Principality. However, Achenbach decided to regain the power, hence in 1978, along with some German and Dutch mercenaries, he invaded the platform and seized the power. With the assistance of his acquaintances, Paddy Roy Bates managed to retake the platform and capture Achenbach and the mercenaries. Achenbach was charged with treason against Sealand²¹ and was held unless he paid for his liberation. The governments of the Netherlands, Austria and Germany petitioned the British government for his release, but the United Kingdom disavowed his imprisonment, citing the 1968 court decision. Germany then sent a diplomat from its London embassy to Roughs Tower to negotiate for Achenbach's release. Roy Bates relented after several weeks of negotiations and subsequently claimed that the diplomat's visit constituted a *de facto* recognition of Sealand by Germany. Following his repatriation, Alexander

¹⁹ The creation and functioning of the Principality of Sealand is discussed in detail by: J. Ryan, G. Dunford, S. Sellars, *Micronations ...*, pp. 9-12.

²⁰ The legal status of the Principality, as well as its history and present-day existence from the legal perspective are profoundly analyzed by: J. Grimmelmann, *Sealand, Havenco, and the Rule of Law*, 'University of Illinois Law Review' Vol. 2012, No 2, pp. 405-484.

²¹ J. Ryan, G. Dunford, S. Sellars, *Micronations ...*, p. 11.

Achenbach, regarding himself to be the only legal ruler of Sealand, established a 'government in exile', sometimes also known as the Sealand/Sealandic Rebel Government in Germany. In 1989 Johannes Seiger was appointed new prime minister of the government in exile. It changed the constitution and appointed a Dutch lawyer Adrian Oomen prince instead of Paddy Roy Bates. Seiger continues to claim via his website that he is the only Sealand's legitimate ruling authority.

In 1987, the United Kingdom announced the extension of its territorial waters area from three to twelve miles. A day before Great Britain intended to implement a twelve-mile zone, on 30 September 1987, Prince Roy edited a decree also establishing a twelve-mile zone of Sealand's territorial waters²². However, according to international law, the next day Sealand found itself inside the British territorial waters.

In 1998 Sean Hastings arrived in Sealand. He proposed a partnership in return for installing computer servers on the platform. He intended to create 'an internet heaven' beyond any government supervision which prohibited hazard and pornography, as well as without any control over electronic mail. The idea was materialized in 2000 by Ryan Lackey and primarily brought very high benefits. There was established a new entity called HavenCo, a data haven, which effectively took control of Roughs Tower itself. However, HavenCo's founder later quit because he lost the money he had invested in the venture. In November 2008, operations of HavenCo ceased without explanation.

In June 2006 the platform caught fire due to an electrical failure. It caused extensive damages, which were assessed at 1 million USD. In January 2007 Michael Bates, exercising then a function of prince-regent, with the assistance of a Spanish real estate company offered the platform for sale. The price tag put on Sealand counted almost 750 million euros (904 million dollars). However, Michael was reluctant to put a price tag on it.

Presently Sealand also sells titles of individual nobility including Lord, Baron, Count and since 2012 has publicly offered Knighthoods.

In October 2012 Prince Roy died and was succeeded by his son Michael, who is incumbent as Prince Michael.

Conclusion

Fictional states exercise very important functions in societies. They create communities which aim at building a model of an ideal state. These creations' existence has its positive sides, because their members receive knowledge on the mechanisms of state authorities and institutions' functioning, as well as state's economies, which could be useful in reality. In this sense they fulfill an educational function. Fictional states enable their 'citizens' getting new experiences in the activity of a state public apparatus and economical instruments which exist in ideal societies, thus assuring them entertainment. The most important is that they also guarantee their communities making their dreams come true, which is impossible in the real world. From this point of view, fictional states have become a new version of an everlasting myth and desire to create an ideal model of society, a utopian state, although in new conditions. There may also be seen another important function which they fulfill. For many people, who feel excluded or discouraged

²² Pursuant to the law of the sea, particularly to the Convention on the Continental Shelf form 1958 (came into force in 1964) and the United Nations Convention on the Law of the Sea concluded in 1982 (in force since 1994) artificial installations do not possess the status of islands, it is not allowed to establish territorial sea around them, and their presence does not affect the delimitation of the territorial sea, the exclusive economic zone or the continental shelf. Therefore, Bates's decree establishing Sealand's territorial waters zone was illegal.

by real mechanisms on which contemporary states' functioning is based, they realize a need for community.