MIRZA LJUBOVIĆ, HARIS SILAJDŽIĆ

The Peace Treaty of Passarowitz 1718: A Legal-Historical Analysis

Abstract

The wars fought in Europe in the late 17th and early 18th centuries were usually conflicts between European countries and the Ottoman Empire. This paper analyses the Peace Treaty of Passarowitz of 1718 using legal and historical methods. To understand how it came about, the first part of the paper provides a historical overview of the events preceding this peace agreement. A series of events and wars frequently altered the borders and territories of the warring European states over a short period. Consequently, the Peace Treaty of Passarowitz established borders and territory that endured for a longer period than those of its predecessors. The legal analysis examines the uti possidetis principle and presents it in a modern context through the lens of a historical event and document. In addition to the historical review, the paper analyses the beginnings of the negotiations, their course, the conclusion of the peace agreement and its characteristics. Having presented the peace agreement, the article will demonstrate its legal implications within the scope of modern public international law, alongside a comparative analysis of its influence on subsequent peace treaties. Lastly, it is important to recontextualise this peace treaty within the legal-philosophical evolution and demonstrate its connection to current challenges in public international law.

KEYWORDS: The Peace Treaty of Passarowitz, uti possitedis, The Venetian-Ottoman war, The Austro-Ottoman war, territory disputes, legal implications and public international law mechanisms, comparative analysis and recontextualization of the Peace Treaty of Passarowitz

MIRZA LJUBOVIĆ – assistant professor, University of Sarajevo,
ORCID – 0000-0003-3574-4811, e-mail: mljubovic@ius.edu.ba
HARIS SILAJDŽIĆ – PhD in law, University of Sarajevo,
ORCID – 0000-0001-5625-7719, e-mail: harissilajdzic@hotmail.com

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1 1. Introduction and Historical Review

The end of the 17th and the beginning of the 18th century in Europe represented a period of imbalance and mismatch of relations between the European powers and the Ottoman Empire. Such relations resulted of an alliance of states, better known as the Holy League, and a multi-year war with the Ottoman Empire, known in literature as the Great Turkish War (1683-1699). The war ended with the signing of the Treaty of Karlowitz in 1699, and it was the key element that achieved peace and harmonized the balance between the Ottoman Empire and other European countries. With the Peace Treaty of Karlowitz, the Habsburg Monarchy gained Hungary, Transylvania, Slavonia, and parts of Croatia. The Venetian Republic gained Dalmatia and the Morea. Poland returned to Podolia, or the Podolia eyalet, which belonged to the Ottoman Empire. The most significant outcome of this peace was that the Ottoman Empire lost a significant part of the territory within Europe, which resulted in a partial withdrawal from the European continent and the rise of the Habsburg Monarchy.[1] The question then arises: how can a peace treaty shape the principles of modern international law? The Peace Treaty of Karlowitz could not shape the principles of modern international law, but it played a significant role and, due to historical events that will be explained in the following paragraphs, created a solid foundation for subsequent peace treaties.

However, at the beginning of the eighteenth century, another disruption of peace and balance resulted in the War of the Spanish Succession (1701-1714). The war ended with the Treaties of Utrecht and Rastatt (1713-1714). Although the Ottoman Empire did not participate in this war, the presence of the war on European soil represented the European powers' preoccupation and the Ottoman Empire's neglect as the main enemy of Christian Europe.[2]

Turbulent periods in the late 17th and early 18th centuries significantly affected the borders of the territory of Bosnia. The borders of the Bosnian

1 John A.R. Marriott, *Eastern Question: An Historical Study in European Diplomacy* (Oxford: Clarendon Press, 1940), 127-128.

2 Atilla Racz, "Ottoman State Reforms from the Eighteenth Century to the Hatt-i-Sharif of Gulhane" *Studia Iuridica Auctoritate Universitatis Pecs Publicata*, No. 150 (2012): 240.

eyalet were significantly moved, and the most significant changes occurred as a result of the Austro-Ottoman wars in the period 1716 to 1718.[3]

The Ottoman Empire took advantage of the European powers' preoccupation and declared war on the Republic of Venice in December 1714. The pretext for the war was clashes between Ottoman and Venetian ships and the Montenegrin uprisings. The commander of the Ottoman troops, which numbered more than 100,000 men and over 100 ships, was the Grand Vizier Damad Ali Pasha. The war began with the attack and siege of the main fortress of Nafplion in the Morea in 1715. Soon after the successful conquest, Ottoman troops besieged Corinth and Monemvasia. The strong Ottoman troops captured the city of Corinth and one of the last Venetian fortresses, Monemvasia, in that territory in the same year.[4] Damad Ali Pasha had regained all the territory lost in the Great Turkish War by the autumn of 1715. This territory consisted of the Morea and the entire Peloponnese.[5] The territory of the Peloponnese consisted of Palamidi, Modon, and Koron.[6]

After Morea, Ottoman troops moved to conquer Corfu and the Dalmatian coast. The siege of Corfu began in 1716, and the Venetian Republic requested the help of the Habsburg Monarchy. The Habsburg Emperor Charles VI allied with the Venetian Republic in 1716, thus declaring war on the Ottoman Empire. With the help of a navy sent by the Habsburg Emperor, they defeated the Ottoman Empire in naval battles and defended Corfu. Besides the attack on Corfu, the Ottoman Empire attempted to attack parts of the Venetian Republic in Dalmatia by land, but these attacks were also repelled with the help of the local population.[7] One of the most important generals responsible for the defense of Corfu was the Venetian general Johann Matthias, Count of Schulenburg.[8]

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3 Avdo Sućeska, "Uticaj austro-turskih ratova na opterećivanje stanovništva u Bosni u XVIII stoljeću" *Godišnjak Pravnog fakulteta u Sarajevu*, No. 27, (1979): 201.

4 Edward Shepherd Creasy, *History of the Ottoman Turks; From the Beginning of Their Empire to the Present Time* (London: R. Bentley, 1856), 133-134.

5 Heinrich Zimmerer, "The Waning of the Crescent, The Moslem Wars with Christendom and Gradual Decline of Turkish Power," [in:] William Matthew Flinders et al., *The Book of History: A History of All Nations from the Earliest Times to the Present* (New York: The Grolier Society, 1915), 3021.

6 Edward Shepherd Creasy, *Turkey* (New York: P.F. Collier & Son Co, 1928), 286.

7 Creasy, *History of the Ottoman Turks; From the Beginning of Their Empire to the Present Time*, 134-135.

8 Zimmerer, "The Waning of the Crescent, The Moslem Wars with Christendom and Gradual Decline of Turkish Power," 3021.

Pope Clement XI supported the Habsburg intervention, and thereby expressed an evident attitude of the Holy League towards the Ottoman attempts to conquer parts of the Republic of Venice. Given that the Habsburg Monarchy helped the Republic of Venice in naval battles and thus declared war on the Ottoman Empire, the desire was awakened and provided an opportunity to expand its monarchy. The Habsburg monarchy believed that certain parts of the Ottoman Empire, which were on the border with the Ottoman Empire, could be instrumental in joining and becoming part of it.[9]

The Habsburg Monarchy changed the course of the Venetian-Ottoman War by entering the war. Thus, the conflict shifted from the Ionian Sea and Dalmatia to the upper part of the Ottoman Empire that bordered the Habsburg Monarchy. In literature, this war is better known as the Austro-Ottoman War. Prince Eugene of Savoy was the commander of the Habsburg army, and the war began with the Battle of Peterwardein in August 1716. The Ottoman forces led by Damad Ali Pasha made a camp on the south bank of the Danube River below Peterwardein. However, the army under the command of Prince Eugene had already taken up positions in the forts and trenches of the previous war. This forced the Ottoman army to dig trenches and prepare for the siege of Peterwardein. The following day, the Habsburg army launched an attack on the Ottoman troops, which resulted in a victory over the Ottoman army and the assassination of the Grand Vizier Damad Ali Pasha. Thus, the course of the war changed, and the Habsburg Monarchy, with its victory at Peterwardein, launched an offensive attack on other Ottoman territories.[10]

After Peterwardein, the Habsburg army moved on to Banat. The army occupied territory piece by piece until the last Ottoman stronghold in Banat – Temesvar. Since the Habsburg army was much stronger than the Ottoman army, the last Ottoman stronghold in Banat fell in September 1716. After the conquest of Temesvar, the last Ottoman fortress in the region, the Habsburg monarchy established permanent control over Banat.[11]

Having quickly captured a significant part of the Ottoman Empire's territory, Prince Eugene of Savoy decided to lay siege to Belgrade. Belgrade

9 Charles Ingrao, Jovan Pesalj, Nikola Samardzic, *The Peace of Passarowitz, 1718* (West Lafayette: Purdue University Press, 2011), 5. https://muse.jhu.edu/pub/60/monograph/book/2067.

10 Creasy, *Turkey*, 288.

11 Arthur Hassall, *Balance of Power, 1715-1789* (London: Rivingtons, 1950), 110.

was one of the most important Ottoman cities in the Balkans, making it a key target for its conquest. Thus, in June 1717, the Siege of Belgrade began. Belgrade was one of the largest Ottoman fortresses in the region, and 30,000 Ottoman troops withstood attacks that lasted two months from a three times larger army. After two months, another 150,000 Ottoman soldiers arrived in Belgrade. Many Habsburg troops were deployed between the Danube and Sava rivers, contributing to the increased artillery fire on the Ottoman troops and walls. After fifteen days of intense artillery fire, Prince Eugene's army seemed exhausted, and the Ottoman troops, led by the new Grand Vizier, went on the offensive attack. When the Ottoman troops launched an offensive attack, artillery fire intensified, resulting in tens of thousands of Ottoman soldiers dead, and after two days, Belgrade was conquered. After the fall of Belgrade, the Ottoman Empire was forced to stop the war and negotiate peace.[12] The loss of significant European territory forced the Ottoman Empire into what legal theorists like Grotius might describe as an adjustment of sovereignty — acknowledging de facto territorial loss through *de jure* recognition.[13]

2 Start of Negotiations

The town of Passarowitz (Požarevac), together with the surrounding Roman ruins of Viminacium, and the broader historical area, was a valuable site in its own right. The Passarowitz Peace Treaty[14] reflected the history of

12 Creasy, *Turkey*, 289-290.

13 More about it in part 8 of this paper.

14 Zedler's Universal Lexicon of 1740 printed in German the entire text of the trade and navigation agreement between the emperor and sultan, as well as the two peace treaties between the Habsburg and Ottoman empires and between Venice and the Ottoman Empire. Although each of the editions aspired to authenticity, their subjective nature becomes apparent when the various translations of the main passage from the Passarowitz Peace Treaty are examined. The Theatrum translator translates the passage "nec non prospicienda subditorum salute & bono recogitaretur" as "Heil und Frommen der Untertanen" (for the benefit and salvation of the subjects), while Lünig translates the same Latin aphorism as "Beförderung der Wohlfahrt wie auch Bestens derer Unterthanen" (promotion of well-being as well as all the best for the subjects). The metaphor "Heil und Frommen" appears not only in this edition, but is also a well-known topos in a religious and

the war and opened the door to peace in Southeastern Europe. The military events, diplomatic negotiations, and decisions made at Passarowitz helped shape modern international relations, public international law, and international borders. The aforementioned Treaty mainly regulated the issue of borders and the principle of *uti possidetis*. The Passarowitz Peace Treaty ended a devastating and significant war whose consequences were not limited exclusively to Southeastern Europe or the relations between Austria, Venice, Rome, and the Ottoman Empire.[15]

The Treaty of Karlowitz in 1699 marked a turning point in the relations of the Ottoman Empire with the Christian world. This turning point occurred when the actors established clearly defined borders in international relations. The most reliable borders were natural, such as the new Habsburg-Ottoman border line drawn southward to the great rivers Mureş, Tisza, Sava, and Danube in the Pannonian Plain. The Treaty of Karlowitz revealed that the Habsburg Monarchy was an international power equal to France.[16]

The official Ottoman proposal to begin negotiations on the principle of *uti possidetis* revealed that the Porte had abandoned hope of returning to the Karlowitz borders but had not given up its intention of retaining its recent conquest of the Peloponnese. Prince Eugene refused an armistice but agreed to mediate and set conditions that implied that he would accept the principle of *uti possidetis* if Venice were included in the negotiations. Although he was in favor of continuing the war, the Ottoman Grand Vizier Mehmed Pasha, through his officials (diplomats), offered the Habsburg monarchy a peace treaty based on the principle of *uti possidetis* on 24 January 1718.[17]

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theological, as well as a lyrical context. The expression "Beförderung der Wohlfahrt," on the other hand, is more common in historical, statistical and economic studies, as well as in articles on constitutional law. It can therefore be concluded that the above-mentioned editors created a text that was first theological and then political. Johannes Burkhardt has repeatedly pointed out the variations in content between different translations and editions, which allow for a large number of interpretative possibilities. The peace was therefore interpreted as evidence of the diminishing power of the Porte.

15 Mustafa Serdar Palabiyik, "The Emergence of the Idea of «International Law» in the Ottoman Empire before the Treaty of Paris (1856)" *Middle Eastern Studies*, No. 2 (2014): 237.

16 Angelina Del Balzo, "The Archive and the Repertoire of the Treaty of Karlowitz" *Studies in Eighteenth-Century Culture*, No. 1 (2022): 248.

17 Yasir Yılmaz, "«From Theory to Practice» Origins of the Ottoman Grand Vizierate and the Köprülü Restoration: A New Research Framework for the Office of the Grand Vizier" *Review of Middle East Studies*, No. 1 (2023): 41.

Eugene protested when the Grand Vizier replied in late January that he did not take the terms seriously. Charles VI accepted the peace offer three days later, a decision that Prince Eugene of Savoy conveyed in writing to the Sublime Porte on 15 February. He also called for the Venetian Republic to be invited to peace negotiations as a third party to the war. However, by March, an agreement had been reached to begin negotiations at Passarowitz. The new Grand Vizier, Ibrahim Pasha, led the Porte's peace delegation, and negotiations accelerated.[18]

3 The Course of Negotiations

The three countries appointed their peace negotiators, Count Virmont, who was then an envoy to the Polish court and headed the Austrian delegation. He was accompanied by Talman, a member of the Imperial War Council and an expert in Ottoman-Turkish language and protocol. The Venetian peace negotiating team was headed by the renowned diplomat Carlo Ruzzini, and his deputy was the distinguished senator Vendramino Bianchi. Silahdar Ibrahim Agha and the artillery inspector Mehmed Bey led the Ottoman peace delegation. The Wallachian Prince John Mavrocordato was present as their interpreter (*tercüman*).[19]

Great Britain and the Netherlands were again mediators, as they had been during the Karlowitz Peace. On this occasion, British King George I invited the renowned diplomats Sutton and Stanyan, former and current envoys in Istanbul, to join his negotiating team. Sutton and Stanyan were renowned experts on most of the issues that arose during the peace negotiations. Vienna decided on the British that the negotiations should be led by Sir Robert Sutton, whom they trusted. The Dutch chief diplomat

18 Charlotte Backerra, "Disregarding Norms: Emperor Charles VI and His Intimate Relationships" *Royal Studies Journal*, No. 2 (2019): 77.

19 Marija Kocić, Nikola Samardžić, "Uloga Roberta Suttona u sazivanju i radu mirovnoga Kongresa u Požarevcu 1718. godine [The Role of Robert Sutton in Convening and Functioning of the 1718 Passarowitz Peace Conference]" *Povijesni prilozi*, No. 52 (2017): 108.

at these peace negotiations was Jacobus Colyer, the Dutch envoy to the Sublime Porte.[20]

These appointments were of great importance, especially considering the important issues that the negotiators were dealing with. When the first negotiations began in June 1718, Luca Chirico, as interpreter for Sir Robert Sutton, was appointed as a negotiating team member, not entirely coincidentally.[21]

At the initiative of the new Grand Vizier, the Sultan accepted peace negotiations on the principle of *uti possidetis*, with the active participation of Venetian diplomats. Only then did the official negotiations begin on Sunday, 5 June. As previously agreed, the Ottoman delegation first entered the congress hall to demonstrate which warring party had first requested peace negotiations publicly. Then, the emperor's diplomats and the remaining delegations arrived. Sir Robert Sutton opened the meeting, and Count Virmont spoke on behalf of those present. The excessive demands of the Austrian delegation marked the opening speech.[22]

Two days later, mediators joined the negotiations, further fueling the negotiations. The Austrian diplomats behaved very arrogantly. They demanded from the Ottoman delegation the entire Belgrade pashalik (i.e., the Smederevo sanjak), together with Niš and Vidin, Wallachia, and the Bosnian eyalet, and proposed the return of the Peloponnese (i.e., the Morea) to Venice. These unrealistic demands surprised both the Ottoman and British delegations. The Ottoman diplomats were outraged.[23]

Ottoman diplomats then said the talks were over because the Austrian side had not adhered to the previous agreement based on the principle of *uti possidetis*. On 12 June, Eugene of Savoy, the main war hero of the victory over the Ottomans, urged his diplomats to speed up the negotiations because of the new Spanish-Austrian War. The Ottoman Grand Vizier also

20 Reyhan Şahin Allahverdi, "Pasarofça Müzakereleri ve Sınır Tahdidinde Yaşanan Diplomatik Krizler/Passarowitz Negotiations and Diplomatic Crises in the Border Restriction" *Süleyman Demirel Üniversitesi Fen-Edebiyat Fakültesi Sosyal Bilimler Dergisi*, No. 55 (2022): 297.

21 Sedat BiNgöl, Hayrettin Pinar, "Diplomatic Immunity and Encrypted Diplomatic Correspondence In The Ottoman Empire" *Tarih İncelemeleri Dergisi*, No. 1 (2021): 12.

22 Mahmut Halef Cevrioğlu, "Ottoman-Austrian Ceremonial Embassies of the First Half of the Seventeenth Century: The Selection of Ambassador Rıdvan Agha (1633)" *Austrian History Yearbook*, 55 (2024): 22.

23 Jonathan Singerton, "An Austrian Atlantic: The Habsburg Monarchy and the Atlantic World in the Eighteenth Century" *Atlantic Studies*, No. 4 (2023): 679.

urged the continuation of negotiations for practical reasons, fearing further territorial losses if war broke out again. As a result, peace negotiations resumed, with concessions on specific issues that seemed to have little chance of reaching a common agreement.[24]

A week later, on 10 July 1718, the negotiators agreed that new border lines would be drawn along the Danube to the Timok and from Paraćin to the Morava and Kolubara. Diplomats from all warring parties made compromises at this meeting.[25]

4 Conclusion of a Peace Treaty

With careful planning and balanced and mutually proportionate concessions on both sides, the conference continued for six weeks, considering proposals that led to the final conclusion of the negotiations and adopting a mutually agreed text of the peace treaty.

Over the next nine days, starting on 10 July 1718, diplomats in Passarowitz began to refine the peace treaty terms. They completed this part of the work on 21 July 1718, paving the way for the official signing. Article I of the treaty stated that the Habsburg monarchy would retain all the territories it had captured in the war. Among other things, Articles III and IV referred to the territories that had been part of the Eyalet of Bosnia until 1716 and now belonged to the Habsburg monarchy. These included Bijeljina, Brčko, Jasenovac, Dubica, Bosanski Novi, Kobaš, Brod, Kostajnica and Furjan.[26]

24 Magdalena S. Sanchez, "A House Divided: Spain, Austria, and the Bohemian and Hungarian Successions" *The Sixteenth Century Journal*, No. 4 (1994): 888.

25 Mirela Altić, "From Borderlands to Boundary Lines: Mapping on the Edges of the Ottoman Empire" *Imago Mundi*, No. 2 (2022): 205.

26 Michael Talbot, "A Treaty of Narratives: Friendship, Gifts, and Diplomatic History in the British Capitulations of 1641" *Osmanlı Araştırmaları*, 48 (2016): 362.

Figure 1. The Ottoman Defeat, 1683–1718

The peace treaty provisions also provided for the ceding to the Austrian side of a strip of land, ten to fifteen kilometers wide, depending on the terrain, between Bijeljina and Bosanski Novi, on the Bosnian side of the Sava River.

The first ten articles of the peace treaty mainly concerned the demarcation of the new border, while the remaining ten dealt with the suppression of banditry, piracy, and religious freedom. A trade treaty (*Commerciorum et navigationis tractatus*) was also concluded, which was particularly favorable to the emperor and later provided a sound basis for establishing trade relations.[27]

27 Karl A. Roider, "The Perils of Eighteenth-Century Peacemaking: Austria and the Treaty of Belgrade, 1739" *Central European History*, No. 3 (1972): 196.

Venice and the Ottoman Empire signed a special peace treaty with an unlimited time frame. On the same day, a special Ottoman-Venetian peace treaty, consisting of twenty-six articles, was signed in the tents near Passarowitz. The first few articles also concerned the demarcation of the new Ottoman-Venetian border. Article I recognized Venice's right to Imotski, Strmnica, Cista, and other places that had been part of Bosnia before the war. The new border in that region had to be drawn in a straight line, except in populated areas, where semicircles were drawn with radii equal to half an hour's walk from the villages in question.[28]

Čačvina, one of the most important places in the area, also came under Venetian rule, thus moving the new border further away from Mount Tara.

This territorial acquisition enabled the Venetians to expand inland from the Adriatic Sea. The only Ottoman gain in this area was Gabela, taken from the Venetians in early March 1716. The peace treaty obliged the Venetians to withdraw from the area of Ottoman territory that had previously been a buffer zone between Venice and Dubrovnik, thus confirming the borders of Karlowitz. This meant the Venetian army had to abandon the area between the Neretva and Herceg Novi and Popovo Polje, Hutovo, Carina, Zubci, and another narrow strip between Herceg Novi and Risan.[29]

Both sides pledged not to build fortifications in the area, although the Venetians retained the right to build new villages if necessary. Thus, Klek, Neum, and Sutorina remained within the eyalet of Bosnia, giving the Ottoman province direct access to the Adriatic. Other treaty articles concerned the new borders in the Peloponnese and other Ottoman-Venetian border villages that were further away from Bosnia. Thus, the last war between the Ottoman Empire and the Venetian Republic ended with a peace treaty that made the Republic of Saint Mark a second-rate European power.[30]

28 Harald Heppner, "The Treaties of Požarevac and Their Impact on Europe" *Istraživanja, Journal of Historical Researches*, No. 30 (2019): 88.

29 Christopher Storrs, "The War of the Quadruple Alliance (1718-20): The «Great War» That Never Was" *Studia Historica: Historia Moderna*, No. 2 (2022): 37.

30 Mariateresa Sala, *The Ottoman-Venetian Border (15th-18th Centuries)* (Venice: Università Ca' Foscari Venezia, Italia, 2017), 58.

5 Legal Characteristics of the Peace Treaty of Passarowitz

According to modern legal understanding, the Passarowitz Treaty is an international peace treaty consisting of the agreement of the wills of two or more subjects of international law to achieve a certain effect under international law, creating a relationship of rights and duties between its parties.[31] Here, we also observe the principle of personality in applying the law, which remained the legal way of thinking and resolving disputes in the Ottoman Empire. The rules of the *kanun*, state law, were created by the legislator, and in the Ottoman Empire, this was the sultan.[32] The most challenging part of the peace process was not reaching an agreement on the treaty's terms but how to begin with it. It is important to point out the four stages that led to the conclusion of the peace treaty, which are:

1. Disputes over representation and arguments over the composition and decision-making powers of the delegations of the two main parties to the treaty.
2. Deliberate delaying tactics, used by both parties, to achieve advantage from the timing and/or location of the peace conference.
3. Real and threatened military action, used by both parties to weaken the resolve or moderate the claims of the opposing side in the negotiations.
4. Disputes and wrangling over practical arrangements and provisions for the accommodation of the conference delegates used to achieve psychological advantage, to save face or achieve parity and reciprocity, and to claim symbolic victory in procedural matters, in advance of the real conference, which was inevitably going to require both sides to make concessions and unwelcome compromises.[33]

31 Mark Retter, Andrea Varga, Marc Weller, "Introduction: Framing the Relationship between International Law and Peace Settlements," [in:] *International Law and Peace Settlements*, ed. Andrea Varga, Marc Weller, Mark Retter (Cambridge: Cambridge University Press, 2021), 8.

32 Fulya Özkan, "Osmanlı yumuşak gücü ve uluslararası sistemdeki yeri/Ottoman soft power and its place in the international system" *Trends in Business and Economics*, No. 3 (2022): 226.

33 Charles Ingrao, Jovan Pesalj, Nikola Samardzic, *The Peace of Passarowitz, 1718* (West Lafayette: Purdue University Press, 2011), 76.

The peace treaties were signed in Passarowitz on 21 July 1718. The text of the peace treaty between the emperor and the sultan contained twenty articles. The peace treaty provided for the formation of border commissions that would determine the new borders within the next two months. The remaining disputed areas were left to experts. The peace treaty relied heavily on an earlier document signed in Karlowitz in 1699, prohibiting the violation of existing borders (i.e., respecting the principle of *uti possidetis*) or further incursions by either side, the obligation to deny asylum to criminals and rebels (except for Rákóczi and other Hungarian rebels, as long as they were not near the border), and providing for the release of prisoners of war and the redemption of private prisoners. It also stipulated the formalities for the treaty's ratification, the exchange of special embassies, and the rights and privileges of ambassadors.[34]

Throughout its historical development, the Ottoman Empire opposed peace treaties that had no validity period – in most cases, they advocated ten years. Treaties at that time did not last forever – they could have a validity period of up to ninety-nine years. Namely, it was a truce, but some period had to exist.[35] The last paragraph of the Passarowitz peace treaty stipulated that the treaty would be valid for twenty-four lunar years, after which it could be extended by mutual agreement, and also provided for the exchange of copies of the text of the peace treaty in Turkish and Latin languages.[36]

34 Fabrizio Rudi, "Austrian «Kingdom of Serbia» (1718-1739). The Infrastructural Innovations Introduced by the Habsburg Domination" *Yearbook of the Society for 18th Century Studies on South Eastern Europe*, 2 (2019): 143.

35 Karl-heinz Ziegler, "The Peace Treaties of the Ottoman Empire with European Christian Powers," [in:] *Peace Treaties and International Law in European History: From the Late Middle Ages to World War One*, ed. Randall Lesaffer (Cambridge: Cambridge University Press, 2004), 355.

36 Gergely Brandl, "Suggestions on an Editorial Guideline for the Latin Language Peace Treaties between the Habsburg and the Ottoman Empire Based on the 18th-Century Case Study" *Prace Historyczne*, No. 4 (2021): 771.

6 Legal Implications of the Peace Treaty of Passarowitz in Modern Public International Law

The Peace Treaty of Passarowitz (1718) truly represents a pivotal moment in the history of European and Ottoman international relations, significantly shaping the territorial structures of early modern Europe. The treaty offers valuable insights into pre-Westphalian legal orders and early forms of multilateral contracting between empires of different legal traditions. Pre-Westphalian legal orders referred to international legal and domestic legal structures that existed before the Peace of Westphalia (1648), which is often considered a turning point in modern sovereignty and international law development. At that time, the concept of territoriality and sovereignty in the modern sense did not exist. There were no clear and indisputable borders between states as there are today. There was no principle of equality of sovereign states in international relations. Rights were not universal or symmetrical among subjects of public international law. There were no codified norms of public international law. Everything was based on custom, negotiation, and power. War was not outside the law, but a legitimate instrument of politics and law (the so-called just war theory). Peace treaties (such as those in Augsburg in 1555) did not create a permanent international order but an ad hoc balance of power. All of these characterized the circumstances under which the Peace Treaty of Passarowitz was concluded. Although the article presents the historical and legal context of the treaty, it is necessary to strengthen the links between this historical episode and contemporary legal frameworks, especially concerning sovereignty, the principle of *uti possidetis juris,* and the mechanisms of peace treaties.[37]

The principle of *uti possidetis juris*, which stabilizes borders based on existing administrative divisions, has developed into a fundamental rule of contemporary public international law, especially in decolonization. The principle was internationally confirmed and systematized in the International Court of Justice (ICJ) judgment in the case: Case Concerning the Frontier Dispute (Burkina Faso/Republic of Mali – Judgment of 22 December 1986). In that judgment, the ICJ proclaimed the principle of *uti possidetis juris* as a binding rule of general public international law,

37 James F. Childress, "Just-War Theories: The Bases, Interrelations, Priorities, and Functions of Their Criteria" *Theological Studies*, No. 3 (1978): 429.

especially in the context of the decolonization of Africa.[38] The legal logic behind territorial stabilization contained in *uti possidetis juris*, which can already be recognized in the pragmatic provisions of the Peace Treaty of Passarowitz, can be considered a forerunner of later legal standards on territorial claims, delimitation, and dispute resolution. As emphasized by Kohen and Hébié in their analysis of territorial conflicts, the historical evolution of sovereignty norms shows that treaties like the Peace Treaty of Passarowitz already contained the beginnings of later legal rules on the recognition of territorial status and border management methods.[39] The Peace Treaty of Passarowitz formalized changes in territorial sovereignty. The Ottoman Empire recognized Austro-Hungarian rule over a significant part of northern Serbia and the Banat. Thus, the international treaty was a legal instrument for determining territorial status, which is the basis of today's concept of international border recognition.[40]

Contemporary disputes, such as Kosovo and Crimea, and the dispute in the South China Sea, demonstrate the permanence of conflicting demands for sovereignty and the delicate balance between territorial integrity and the right to self-determination of peoples. Kosovo reflects the legal tension between sovereignty and the so-called "remedial secession". Today, territorial integrity and sovereignty are violated mainly by the abuse of the right to self-determination of peoples, which includes secession. This directly contradicts Article 2(4) of the UN Charter which states that "all members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other way incompatible with the purposes of the United Nations." Although Article 1(2) of the UN Charter requires members "to develop friendly relations between peoples based on respect for the principles of equality and self-determination of peoples [...]," in practice

38 See: "The principle of uti possidetis juris is a general principle, which is logically connected with the phenomenon of the obtaining of independence, wherever it occurs." (ICJ Reports 1986, para. 20). The Court emphasized that the aim of the principle was to preserve stability and avoid territorial conflicts between newly formed states, even if the borders were not always fair or precisely determined.

39 Marcelo G. Kohen, Mamadou Hébié, "Chapter 1: Territorial Conflicts and Their International Legal Framework," [in:] *Research Handbook on Territorial Disputes in International Law* (Cheltenham: Edward Elgar Publishing, 2018), 9.

40 See: Anticipation of the modern principle that sovereignty and territorial jurisdiction are confirmed by international acts (peace treaties or resolutions).

it often has to be harmonized with the principle of sovereignty and territorial integrity of states.

The Kosovo case is an exception in public international law and does not set a legal precedent for the future. In its advisory opinion of 22 July 2010 in the question case "Is the unilateral declaration of independence of Kosovo under international law?," the International Court of Justice (ICJ) provided several key legal formulations that are of great importance for the understanding of public international law and which led to the conclusion that the declaration of independence of Kosovo was not contrary to public international law. The key factor that enabled Kosovo to declare independence and secession was the support of the great powers. Regarding the case of Kosovo, the opinion of Professor of international law P. Nanda is important, who said: "When we talk about the external self-determination of the peoples, the requirement for secession and independence of a country, it is important to know that no member state of the United Nations supports requests for unilateral secession. The latest developments, particularly those of Bangladesh, East Timor, and Kosovo, and in light of the statement made by the Supreme Court of Canada, provide a possibility of exceptional circumstances that could justify a unilateral secession. One such exception, around which there was a wider international consensus in the past, was a process of decolonization. Furthermore, the only possible exception justifying the secession is the existence of non-democratic regimes, which do not allow the «people» to participate in political and economic activities within the state, especially where there is a gross violation of human rights."[41] This ultimately happened in Kosovo.

The territorial and population arrangements in the Peace Treaty of Passarowitz provide historical analogies for today's debates about international recognition and contestation of sovereignty. In the Peace Treaty of Passarowitz, borders were determined based on military conquests and political compromises between great powers (Austria, Venice, the Ottoman Empire), without regard to the will of the local population. This model is reminiscent of numerous modern cases where borders are recognized or contested primarily based on international negotiations and the interests of great powers, and not exclusively on the principles of

41 Mirza Ljubovic, "The Right to Self-Determination of Peoples through Examples of Aland Islands and Quebec: Recommendations for a Peaceful International Legal Order" *Review of European and Comparative Law (RECoL)*, No. 2 (2023): 199.

self-determination of peoples.[42] Although certain territories de facto came under new administration, the de jure recognition of sovereignty was the subject of diplomatic games and wars. In public international law and politics today, many situations (Crimea, Palestine, and Taiwan) reflect the same tension between actual control and legal recognition.[43] By treaty, territories inhabited by various ethnic and religious groups were transferred to new states without their consent, often changing the legal status of the population and the relationship between the government and the communities. This phenomenon points to the continuity of problems of minority rights, citizenship, and identity in the face of changes in sovereignty.[44] The Peace Treaty of Passarowitz resulted from the then-valid legal norms (*ius belli ac pacis*), where the right of the stronger played a significant role. Today, public international law relies more on the principles of the UN Charter, but legal precedents and customs are still important in interpreting the legitimacy of changes in sovereignty.

Crimea is an illustrative example of the issue of illegal annexation. As Bering points out, the international community's reaction to the Russian annexation demonstrates the enduring power of legal doctrines such as the prohibition of annexation, collective non-recognition, and the possibility of countermeasures. Such contemporary practice relies on norms that began to develop in early modern contracts, such as the Peace Treaty of Passarowitz. Furthermore, they represent early attempts at international legal regulation of territorial relations, through recognizing borders, sovereignty, and the right to manage territories.[45] The Peace Treaty of Passarowitz (1718) contained precise clauses on delimitation and management, which anticipated later norms on the prohibition of forced border changes, the legitimacy of territorial claims, and the importance of the parties' consent in international relations. This created a legal precedent

42 See: Agreements such as Dayton (Bosnia and Herzegovina) or negotiations regarding the status of Kosovo, where international actors play a key role in defining sovereignty.

43 See: De facto control over territory does not guarantee automatic international recognition of sovereignty (Russian annexation of Crimea).

44 See: Changing the borders or status of entities often leaves the population in legal and political uncertainty (residents of Nagorno-Karabakh).

45 Juergen Bering, "The Prohibition on Annexation: Lessons from Crimea" *New York University Journal of International Law and Politics (JILP)*, No. 3 (2017): 748.

that would form the basis of modern norms, such as the prohibition of annexation and the principle of territorial integrity.[46]

The South China Sea dispute raises questions of historical rights and sovereignty over maritime areas, similar to the land-based territorial negotiations of the Peace Treaty of Passarowitz era. Although the context differs, the legal tensions over title, control, and effective possession remain similar. Especially in determining who has the legal basis (historical rights, treaties, and recognitions) for claiming a particular territory or sea area? Who governs that space: military bases, administration, laws, et cetera. Who actually and continuously exercises authority and presence, which is important for public international law. So, both then (in the 18th century) and now, it is crucial to combine the legal basis (*iustus titulus*) with factual control to prove sovereignty, and therein lies the structural similarity.[47]

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46 See: The Charter of the United Nations (UN Charter) – Article 2(4): "All members in their international relations shall refrain from the threat of force or the use of force against the territorial integrity or political independence of any state [...]" Here, the use of force to change borders is clearly prohibited, which includes the prohibition of annexing the territory of another state. Article 1(1): The goal of the UN is "to maintain international peace and security and, for this purpose, to take effective collective measures to prevent and eliminate threats to peace [...]" Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States, where this document elaborates in detail the principle of territorial integrity and the prohibition of the acquisition of territory by force: "No acquisition of territory by force shall be recognized as lawful." "Each state is obliged to refrain from actions that would constitute the threat or use of force against territorial integrity [...]" Helsinki Final Charter (1975) – Conference on Security and Cooperation in Europe (CSCE/OSCE), the Act affirms: "The borders of states are immutable by force." "States shall respect the sovereign equality and territorial integrity of other States." UN General Assembly Resolution No. 2625 (XXV) (1970), where it further affirms: "The use of force for the acquisition of territory is unlawful and shall not be recognized as lawful."

47 See: The South China Sea dispute is a multilateral international territorial conflict between China and several other countries (Philippines, Vietnam, Malaysia, Brunei, Taiwan) over sovereignty over islands, reefs and maritime areas in the South China Sea. China claims about 90% of the sea through the so-called "Nine-dash line", referring to "historical rights". Other countries dispute these rights, referring to international maritime law (UNCLOS) which defines the right to territorial waters and exclusive economic zones (EEZ). In 2016, the Permanent Court of Arbitration in The Hague (PCA) ruled in favor of the Philippines, stating that China had no legal basis for broad historical claims, but China does not recognize the ruling. The dispute has a geopolitical, economic and strategic dimension due to the wealth of resources (oil, gas, fish) and important trade routes that pass through this sea.

The Peace Treaty of Passarowitz ended the war and established a framework for coexistence and legal normalization between the Habsburg Monarchy and the Ottoman Empire. It introduced precise demarcations, mutual recognition of territorial status, and trade and religious rights provisions. Functions that are now expected of peace treaties in contemporary public international law. As Kohen explains, territorial disputes become legal disputes based on competing sovereign claims, an approach that can already be observed in the precise territorial provisions of the Peace Treaty of Passarowitz.[48] In this context, the Peace Treaty of Passarowitz (1718) contains precise clauses on the delimitation of territory and the transfer of power, thus showing an early example of the legal articulation of sovereign rights. Thus, the dispute is fought with weapons or political pressure and becomes the subject of legal arguments about title, continuity of possession, effective control, and the foundations of the later international legal approach to territorial issues.

7 A Brief Legal and Comparative Analysis of the Peace Treaty of Passarowitz, with Subsequent Peace Treaties

When shaping the modern doctrines of public international law, and relying on the seminal work of Randall Lesaffer, we will briefly look at the development of the principles of territorial integrity, state sovereignty, and balance of power. The demarcation of territory between the Habsburg Monarchy and the Ottoman Empire represents an early example of the normative idea that peace solutions should be based on consensus and not on conquest, according to the principle later confirmed in the Treaty of Versailles (1919) and the UN Charter (1945).[49] The Treaty of Versailles (1919) confirms that territorial solutions should rest on international consensus and not on mere force, through establishing the League of Nations to preserve

48 Kohen, Hébié, "Chapter 1," 8.

49 Randall Lesaffer, "Peace Treaties and the Formation of International Law," [in:] *The Oxford Handbook of the History of International Law* (Oxford: Oxford University Press, 2012), 92.

peace through collective security and negotiations. Specifically, Article 10 obliges members to respect other states' territorial integrity and political independence, showing a move away from conquest. The Charter of the United Nations (1945) further institutionalizes this principle. Article 2(4) prohibits the threat or use of force against the territorial integrity or political independence of any state, while Article 1(1) promotes the settlement of disputes by peaceful means, and Article 1(2) recognizes the right of peoples to self-determination. This confirms that the international order rests on law, not force.

It is also necessary to refer briefly to the doctrinal analysis of the legal principles of that era, such *as pacta sunt servanda, jus post bellum,* and the evolution of the concept of sovereignty through the Peace Treaty of Passarowitz. As Lesaffer points out, early modern European peace treaties became increasingly sophisticated instruments of public international law, and shaped the basic norms for regulating post-war relations. The Peace Treaty of Passarowitz testifies to the growing role of public international law in regulating relations between states, whereby sovereignty moves from dynastic legitimacy to a territorial and legally based conception of state power. This laid the foundation for the later development of public international law as a system based on mutually recognized sovereignty and contractual obligations. The Peace Treaty of Passarowitz can be presented as a transitional legal treaty that reflects the complex interplay of the Ottoman and Habsburg legal-political traditions. If we compare the Peace Treaty of Passarowitz (1718) with the Treaty of Utrecht (1713) and the Congress of Vienna (1815), we can see that they represent key points in the development of European peace, law, and diplomatic practice.[50]

In a comparative sense, the Peace Treaty of Passarowitz already anticipates certain elements that will later be standardized in international relations. The Treaty of Utrecht marks the beginning of a new order based on the balance of power in Europe, while the Congress of Vienna institutionalized the principle of legitimacy and collective security. The Peace Treaty of Passarowitz, although formally bilateral between the Habsburg Monarchy and the Ottoman Empire, contains elements of coordination between several actors (including Venice), bringing it closer to the more multilateral approach that would become the norm after 1815. In all three documents, territorial issues play a key role. The Peace Treaty of Passarowitz elaborates precisely the borders and rights over the disputed

50 Lesaffer, "Peace Treaties and the Formation of International Law," 84.

territories, which is common to the practices of Utrecht and Vienna, but still without a developed mechanism of guarantees and control that will be introduced later by the Congress of Vienna (collective monitoring of Switzerland's neutrality status). Also, the formal ratification of the treaty by the sovereign confirms the increasing importance of the procedure, which develops into the precise diplomatic protocols of the Congress of Vienna.[51]

8 Recontextualization of the Peace Treaty of Passarowitz within Legal-Philosophical Evolution and Connection with Current Challenges of Public International Law

Expanding the understanding of the Peace Treaty of Passarowitz by including frameworks from classical and contemporary philosophy of law is necessary. Hugo Grotius's concept of natural law and the law among nations (*jus inter gentes*) provides an important theoretical framework for analyzing the legal dimensions of the Peace Treaty of Passarowitz. Grotius's ideas on sovereignty and just war theory (*bellum iustum*) provide a valuable tool for interpreting treaties beyond their immediate diplomatic function. Grotius defines sovereignty as the legal authority of a state to manage its affairs without outside interference. In the context of the Peace Treaty of Passarowitz, the provisions on recognizing territorial changes (the loss of the Banat by the Ottomans) can be interpreted as a legal articulation of sovereignty within an internationally recognized order. Grotius believes that war must have a legal and moral basis (defense against aggression or punishment for violation of rights). The Peace Treaty of Passarowitz was concluded after the Habsburg-Ottoman war, and its clauses can be analyzed through the prism of whether the war was conducted and concluded following the principles of justice.[52] Grotius introduces the idea of a uni-

51 David A. Chikvaidze, "Multilateralism: Its Past, Present and Future" *Cadmus*, No. 2 (2020): 128.

52 *See:* "Bellum justum est, quod ex edicto geritur" [A just war is one that is waged on the basis of a public declaration]. This saying is also mentioned by Cicero *(De Officiis*, I, 36*)*, and was later adopted by Grotius in his theory of just war *(De Jure Belli ac Pacis)*. He emphasizes that a war can only be just if it is preceded by a formal declaration and if it is conducted in accordance with law and moral

versal legal order among states based on reason and law, not just force or divine right. Thus, the Peace Treaty of Passarowitz can be seen as a political compromise and an act within a broader attempt to establish legal order among states. Grotius's concept of natural law enables the analysis of the Peace Treaty of Passarowitz as a normative act that reflects the balance of power and the effort to ensure a stable and legitimate peace among sovereign actors through the international legal order (*jus inter gentes*).[53]

The Peace Treaty of Passarowitz can also be analyzed in light of the theories of Samuel Pufendorf and Emer de Vattel, especially in connection with voluntarist positivism and the emergence of the normative structure of early modern public international law. The treaty reflects the transition of public international law from theological-natural law to voluntaristic-positivist frameworks, which these two authors anticipated in their works. Although starting from natural law, Pufendorf believes that the legal order among states is created through the will of sovereign entities. In this sense, treaties such as the Peace Treaty of Passarowitz represent the will of sovereign states, which create binding norms through the treaty. Thus, peace becomes a legal instrument that creates a new balance by the contracting parties' will, and not with some abstract justice. On the other hand, Vattel, in *Le Droit des Gens* (1758), further develops the concept of public international law as law among nations *(jus inter gentes)*, where sovereignty and reciprocity between states create a legal order. Vattel emphasizes that international treaties have strength because states recognize and respect each other's independence, as seen in the Peace Treaty of Passarowitz, where territorial demarcations and rights are mutually agreed upon, and not unilaterally imposed.[54]

The Peace Treaty of Passarowitz also brings to life philosophical concepts such as legitimacy, consent, and legal equality of states, which are critically discussed by contemporary authors such as John Tasioulas and

principles. "Finis belli est pax" [*The goal of war is peace*]. This saying reflects the key principle of *jus ad bellum* and *jus post bellum*, where war must strive for a just and stable peace, which is also relevant in the interpretation of peace treaties like the Peace Treaty of Passarowitz.

53 Gordon E. Sherman, "Jus Gentium and International Law" *The American Journal of International Law*, No. 1 (1918): 56.

54 Koen Stapelbroek, Antonio Trampus, "The Legacy of Vattel's Droit Des Gens: Contexts, Concepts, Reception, Translation and Diffusion," [in:] *The Legacy of Vattel's Droit Des Gens*, ed. Koen Stapelbroek, Antonio Trampus (Cham: Springer International Publishing, 2019), 16.

Anna Orford, especially in their works on the Peace of Westphalia and regional legal orders. Tasioulas, relying on moral realism and the natural law tradition, emphasizes the legitimacy of public international law based not only on the formal will of states, but on morally recognizable norms of justice and consent. In this context, the Peace Treaty of Passarowitz can be analyzed as an attempt to establish a new order that is not exclusively a product of force, but also of reciprocal recognition and consent of sovereign actors, which corresponds to Tasioulas's insistence on the "acceptability" of rights for the addressees of norms. On the other hand, Orford criticizes traditional narratives of the Westphalian system as the foundation of equal sovereign states. She shows how these narratives often obscured power asymmetries and the selective application of legal equality, particularly in colonial and regional contexts. A similar critical framework can be applied to the Peace Treaty of Passarowitz, where the legal equality of the Ottoman Empire and the Habsburg Monarchy was formally recognized, but in practice was often subjected to the hierarchical and interest-based logics of the great powers, reflecting Orford's thesis on the normative ambivalence of sovereignty. Thus, through Tasioulas, we can interpret the Peace Treaty of Passarowitz as a normative act that requires moral legitimacy through consent and justice, while Orford helps us see its structural inequalities, despite the formal recognition of the parties' sovereignty.[55]

The Peace Treaty of Passarowitz can be contextualized as part of a wider evolution of international legal norms, not only as a bilateral peace agreement, but primarily through the consolidation of the concept of territorial sovereignty that develops from the Westphalian system and continues to be shaped through the diplomacy of the 18th century. The treaty affirms the principle of *uti possidetis juris* de facto, where territorial changes are legitimized through negotiation rather than unilateral conquest. It thus becomes part of the broader process of institutionalizing international diplomacy in the 18th century, which, through a series of peace treaties (Utrecht 1713, Vienna 1738), codified the norms of border recognition, stability of order, and balance of power among sovereign entities. The institutionalization of international diplomacy means the process of diplomatic practice moving from ad hoc and personal negotiations to formalized, permanent, and structured communication mechanisms

55 Christopher Allsobrook, "Strategies of Normative Ambivalence in Critical Theories of Recognition for the Decolonised Diagnosis of Conflict and Oppression" *Theoria*, No. 181 (2024): 17.

between states. This includes establishing rules, protocols, and institutions that govern the conduct of international relations, such as conferences and multilateral negotiation forums. After the Peace Treaty of Passarowitz, the negotiations were conducted in the spirit of multilateral coordination and with neutral mediators. This shows the increasing professionalization of the diplomatic process and respect for procedure. This trend of institutionalization culminated in the 19th century with the Congress of Vienna (1815), and the establishment of the congress system as a mechanism for collective decision-making by European powers, which had its roots in the 18th century.[56]

The Peace Treaty of Passarowitz (1718) represents a significant point in the development of *jus publicum Europaeum*, because it institutionalizes specific legal models for the conclusion of future international treaties. Through the normative practice of bilateral negotiations and detailed territorial clauses, this treaty consolidates the European legal order in which sovereign states become the main subjects of public international law. The role of the Venetians and mediating missions clearly articulates the early form of peace arbitration and collective European diplomacy, which is the forerunner of modern international conferences and multilateral forums. It is a forerunner of the development of the modern principle of public international law, *pacta sunt servanda*, which respects signed contracts and formal ratifications through state actors, confirming the growing significance of the binding power of international norms. Therefore, the Peace Treaty of Passarowitz consolidates the previous patterns from the Westphalian system (1648) and builds on them in the context of Ottoman-Christian coexistence. In this sense, the treaty is one of the early examples of transcultural legal communication and institutionalized diplomatic practice that precedes the later international legal order of the 19th century.[57]

We can say that the Peace Treaty of Passarowitz (1718), concluded between the Habsburg Monarchy and the Ottoman Empire, represents an important historical precedent in the development of public international law, especially concerning the contractual regulation of territorial relations.

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56 Christer Jönsson, Martin Hall, *Essence of Diplomacy* (London: Palgrave Macmillan UK, 2005), 12.

57 Guillaume Calafat, "Ottoman North Africa and Ius Publicum Europæum," [in:] *War, Trade and Neutrality. Europe and the Mediterranean in the Seventeenth and Eighteenth Centuries*, ed. Antonella Alimento (Milan: FrancoAngeli Edizioni, 2011), 178.

Its legal structure and precise border regulation illustrate an early form of legal rationalism in international relations, where a unilateral act of conquest does not establish sovereignty and territory, but by bilateral consensus and written confirmation. The Peace Treaty of Passarowitz contributes to the treaty's legal legacy in several aspects: the normatization of territorial sovereignty is established, where borders are defined not only by de facto control, but also by de jure recognition; the legal formalization of peace arbitration is introduced, as an early practice of institutionalized negotiation; and promotes the principle of effectiveness and possession, which later becomes fundamental in the practice of international courts.[58]

In light of contemporary case law, particularly before the International Court of Justice (ICJ), it is possible to see how this logic finds an echo in recent judgments on territorial disputes, where disputed issues are resolved based on the relative strength of the evidence, effective possession, and the silence or passivity of other states (acquiescence). As Fukamachi points out in his analysis, international courts today increasingly prioritize facts on the ground and the conduct of states, as opposed to purely formal titles or declarations of sovereignty. Therefore, the new doctrinal interpretation of the Peace Treaty of Passarowitz can be positioned within the continuity of legal evolution, where early modern treaties regulate peace and anticipate key criteria of contemporary international legal decision-making. In this light, the Peace Treaty of Passarowitz is a historical document and a legal model, whose provisions reflect the stabilization of the international order through consensus, legal precision, and effective territorial governance, which encompasses all the elements that still shape the decisions of international courts today.[59]

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58 Fukamachi, "Some Reflections on Territorial Title in Contemporary International Law," 10.

59 See: The ICJ judgment in the Honduras/El Salvador case (1992), emphasizes the importance of long-term effective possession of formal titles, which corresponds to early modern treaties such as Peace Treaty of Passarowitz, where territory is transferred based on de facto control and agreement. The court gave priority to the continuity of effective administration, not to historical maps. Judgment in the Kasikili/Sedudu Island case (Namibia/Botswana – 1999) – The court relied on the interpretation of the old treaty (from the colonial period), the use of the territory, and the conduct of the parties. This methodology is reminiscent of the normative logic of earlier treaties such as Peace Treaty of Passarowitz, where the use and recognition of territorial reality was important. Judgment in the Temple of Preah Vihear case (Cambodia/Thailand – 1962) – Although the map was unfavorable to Thailand, Thailand did not object to the map for decades, which

9 Conclusion

The Peace Treaty of Passarowitz confirmed the new reality of international relations, which the sultan accepted in Karlowitz. By agreeing to neutral mediation during the negotiations, Turkey admitted defeat to the Christian coalition for the first time. In the Karlowitz and Passarowitz cases, the Ottomans were forced to agree on joint border commissions, whose goal was to determine the demarcation and revision of territorial boundaries. The peace agreements were updated at all levels of state administration, especially considering that the borders were to be defined by joint commissions of both sides and not by natural borders. This was the first time internationally recognized borders defined the Ottoman Empire.[60]

Peace negotiations were conducted on an equal and bilateral basis with the Ottomans from 1697 to 1699, and were an important precedent in the history of international relations. This precedent was confirmed in 1718. For the Ottomans, facing this new reality in international relations forced them to engage in ideological self-examination. The demarcation with neighboring Christian states involved at least two principles of public international law that had been unacceptable to the Ottomans until then, namely the recognition of political borders (a precursor to the principle of territorial integrity) and respect for the sovereignty of foreign states (a precursor to the principle of sovereignty). However, the acceptance of these principles also revealed the overall inability of the Ottoman Empire to control and organize established borders. Moreover, the acceptance of the concept of political borders and the principle of territorial integrity implied that the question of the survival of the Ottoman dynasty in the future was redundant.[61]

The Peace Treaty of Passarowitz was particularly favorable to the Habsburg Monarchy. Its territory extended to the right bank of the Sava River

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the Court interpreted as acquiescence. The right to remain silent as consent *(tacit consent)* has its roots in bilateral treaties of the early modern century, including those like Peace Treaty of Passarowitz, where the absence of protest means acceptance of the legal situation.

60 Giorgio Ennas, "Borders and Contagion. Ottoman Administration of Bosnia Between Border Reinforcement and Health Protection (1866–1867)" *Historical Searches*, 22 (2023): 93.

61 Sabine Jesner, "Chapter 4 Clerks, Guards and Physicians: Imperial Staff and the Implementation of Border Security Concepts within the Transylvanian Military Border" Vol. 14 (The Hague: Brill, 2022), 116.

for the first time. Under the treaty, the Ottoman Empire renounced Banat, Little Wallachia, northern Serbia, and part of northern Bosnia, prompting British historian John Marriott to write that the Peace Treaty in 1718 for Vienna was „the zenith of their territorial expansion" to the east. As the true victor of the war, the emperor was able to dictate the terms of the treaty as he saw fit, formulating „the clearest peace treaty the House of Habsburg [had] ever concluded." The Habsburg Monarchy thus joined Great Britain, France, and Russia as one of the great powers of Europe. At the same time, former powers such as Spain, Sweden, and the Republic of Venice were in decline and fading into the background.[62]

This peace treaty went beyond being a mere geopolitical settlement. Even though it arose from its geopolitical context (such as Austria's military victories and Ottoman territorial losses) it should be treated as a legal instrument that introduced early norms of public international law. As we could see from the treaty itself, it formalized borders through the principle of *uti possidetis*, and created binding legal relations between two sides with defining mutual rights and obligations. The Peace Treaty of Passarowitz introduced many formal legal mechanisms and containted many provisions, such as trade, religious freedom, etc. Even though the treaty's legal principles influenced later developments in diplomacy and public international law, the enforcement of these principles were contingent on political conditions and situations, there was not yet binding continuity in subsequent peace treaties.

Both war and peace became increasingly formal and conventional, abandoning the previous postulates of justice and moral or religious purposes. Wars were fought for specific territories, their eventual exchange, and the establishment of new borders. Ambassadors were exchanged for the first time in the history of Austro-Turkish relations. Turkey gradually accepted the principle of bilateralism and shared interests. The acceptance of public international law as a reality, although not as an established system, had immediate political consequences for the Ottoman Empire. The Porte was obliged to abandon unilateralism in diplomacy and negotiations, and accept multilateral terms, including, after defeat, a position of weakness. This new reality in relations with modern Christian states required adaptation to significant changes in foreign affairs. Diplomacy was suddenly imposed

62 Jonathan Singerton, "An Austrian Atlantic: The Habsburg Monarchy and the Atlantic World in the Eighteenth Century" *Atlantic Studies*, No. 4 (2023): 680.

as an alternative to war and unilateralism, after 350 years of the Ottoman Empire's presence on European soil.[63]

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63 Michael Talbot, "Protecting the Mediterranean: Ottoman Responses to Maritime Violence, 1718-1770" *Journal of Early Modern History*, No. 4 (2017): 287.

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