

SUNICOP

SUMMER SCHOOL

Branislav MALAGURSKI

**“An Introduction to the International
Aspects of the Regional Development”**

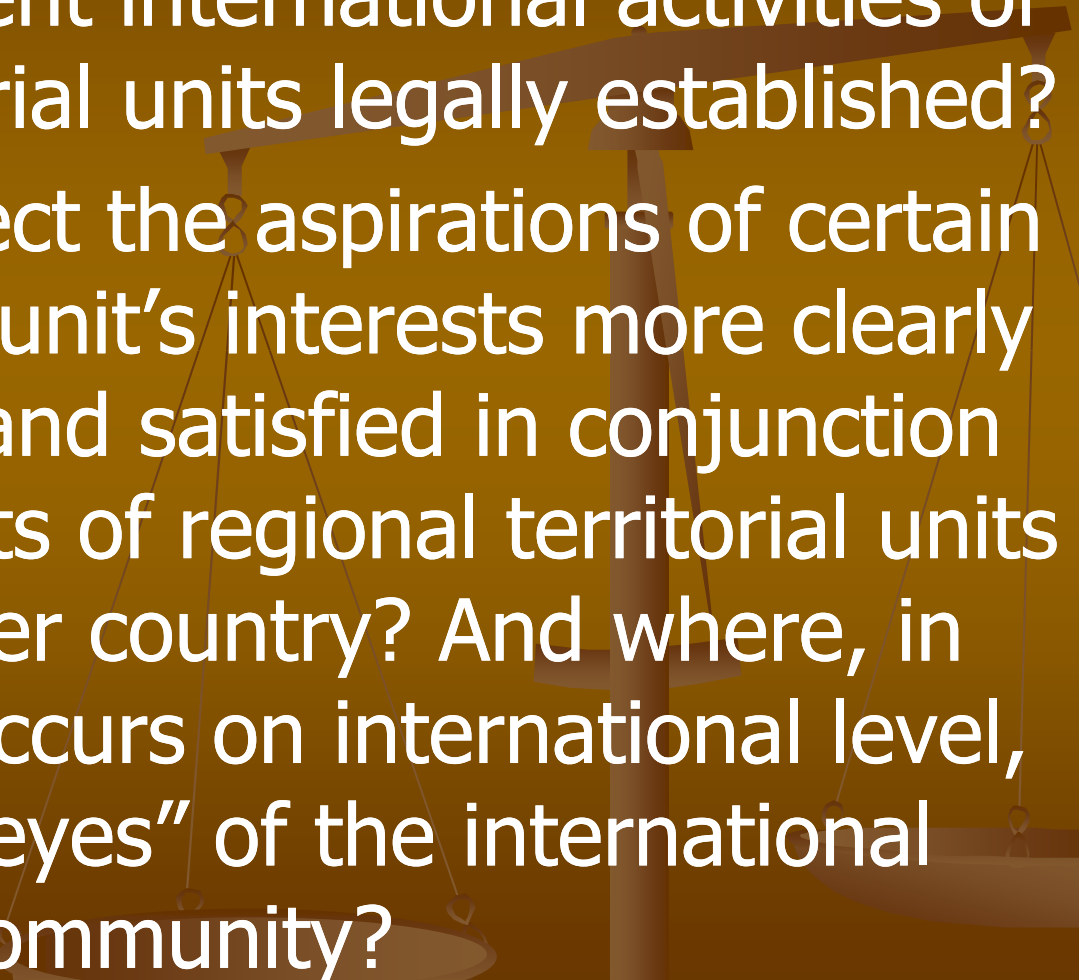
Lecture 1

**“REGIONAL TERRITORIAL UNITS AND
THE INTERNATIONAL LAW”**

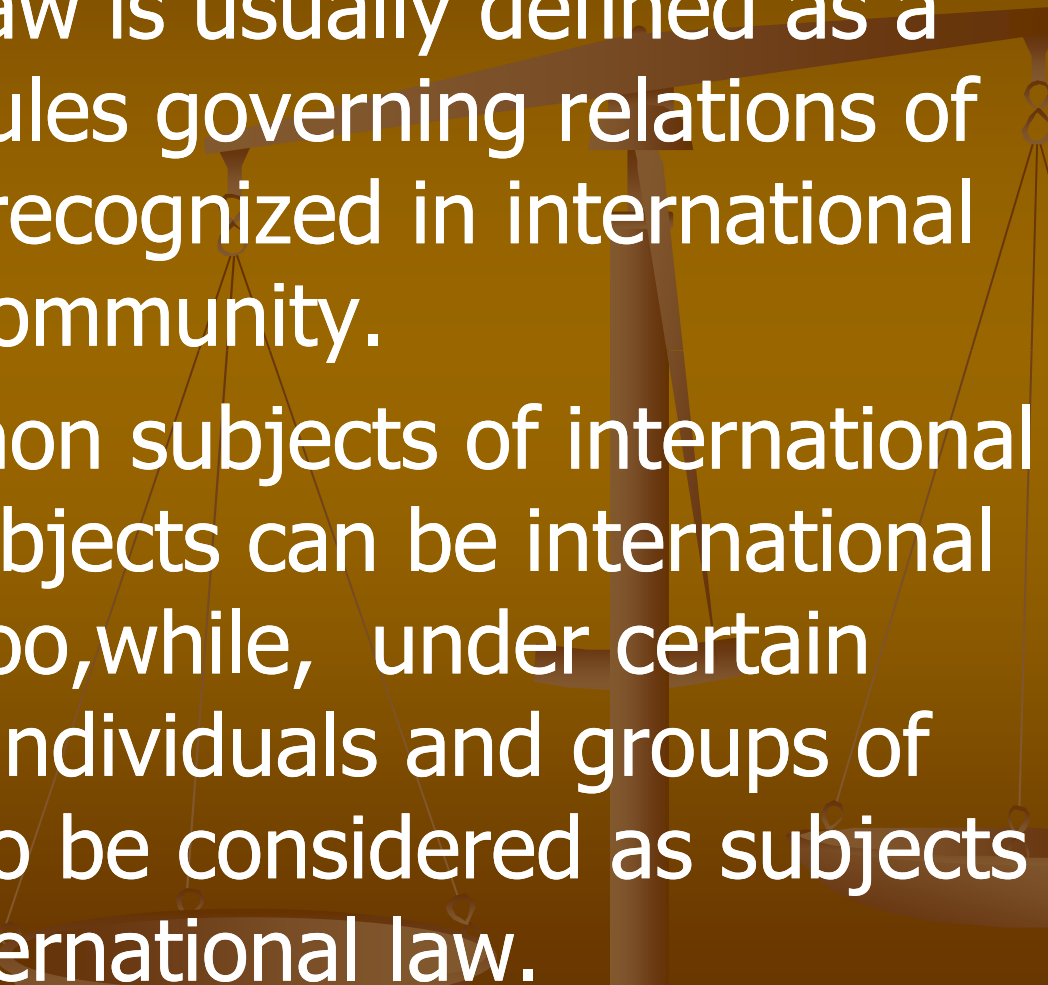
REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- The regional territorial units within the state are increasingly entering into relationships with regional and territorial units of the corresponding levels in neighboring states, or countries that belong to the same regional organization.
- To what extent is it all accorded with the classic international law, which states and international organizations observe as the exclusive actors in the international legal traffic?

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- How are the current international activities of the regional territorial units legally established?
 - How do they reflect the aspirations of certain regional territorial unit's interests more clearly to be articulated and satisfied in conjunction with similar interests of regional territorial units belonging to other country? And where, in addition, all that occurs on international level, in front of the "eyes" of the international community?
- 

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- International law is usually defined as a system of legal rules governing relations of entities that are recognized in international community.
 - The most common subjects of international law are states, subjects can be international organization too, while, under certain circumstances, individuals and groups of individuals can also be considered as subjects of international law.
- 

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- In legal practice are known situations where as subjects of international law were recognized territorial units of certain countries. This is the case with the Soviet Union and its republics of Ukraine and Belarus, which based on the Article 17 of the Soviet constitution from 1936. had the right to enter into direct relations with other states, conclude international agreements and exchange diplomatic and consular representatives. In addition they were also members of the United Nations.
- However, as the subject of the international law they were deemed to be the subject of international law with the limited legal capacity.
- On the other hand, the real control was on the level of Soviet Federation, through Communist party.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- When in the international law mentioned regions, it is commonly understood as group of countries that are located in a particular geographic area or that are economically linked. In this sense, the region does not understand the regional territorial units - self-government bodies under the central government of one state, but a group of countries belonging to a rounded geographic, economic or ethnic marked area
- Increasingly, individual constituent units of the State are acting in international legal traffic, within a certain framework that is set up by their central government. This is already the case for decades with Swiss Cantons and the Countries (Laender) in the framework of the Federal Republic of Germany.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- Within the European Union, and countries in transition on their way to join this Community of states, there are more and more Euroregions - transnational entities that sometimes comprise the whole of a EU Member or Non-member State, while sometimes encompasses some individual regional territorial units from several states, without the state as a whole.
- When it comes to the legal aspects of the participation of regions, i.e. regional territorial units in international legal transactions, one should bear in mind the fact that today many states have regional territorial units that have certain powers in the international legal transactions.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- As such explicitly are mentioned Argentina, Austria, Belgium, Bosnia and Herzegovina, Germany and Switzerland. In limited extent such powers exist in Denmark (limited to certain areas) and in the United States.

On the other hand, in Canada, Portugal, Ukraine and Finland there is no such authority of regional territorial units.

Italy is even more specific in it, as there although regional territorial units, in principle, can not participate in international legal traffic, regional territorial units can still carry out certain development initiatives abroad.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- In most states that allow their regional territorial units to participate in international legal traffic authority for that springs directly from the constitutions of these countries (like in Belgium, Denmark / law based on its constitution)
 - In addition, regional territorial units of particular states can have such authority within the framework of their jurisdiction (like in Austria, Germany, Switzerland).

In some other countries the limits of their powers in concluding international agreements are in the extent to which they are compatible with national interests (Argentina) or are limited to the matter in which the regions have own legislative powers. (Belgium)

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- In third countries, regional territorial units are authorized to establish special bilateral relations with neighboring countries, taking into account the territorial integrity of the country, while certain general and special arrangements may be concluded with the permission of the central parliament. (B&H)
- There are other examples where the involvement of regional territorial units is reduced only to participate in negotiations in those matters which are under their jurisdiction, without being entitled to enter into or to enforce contracts. (Denmark)
- Furthermore, in some countries there is a possibility that regional territorial units conclude multilateral treaties. (Argentina, Austria, Belgium, Bosnia, Germany, Switzerland)

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- When it comes to the representation of regional territorial units in international organizations, in some states there is no such possibility (Germany), while in others there is, but only when their representatives participate in the framework of the national delegation of central government authorities (Portugal, Denmark, Canada, Finland, Italy , Ukraine)
- When it comes to the representation of particular regional territorial units of a Member State in the European Union, in a small number of countries there is opened up such possibility but with series of restrictions on the implementation of this practice (complex procedures in Austria, Belgium, Italy and Finland).

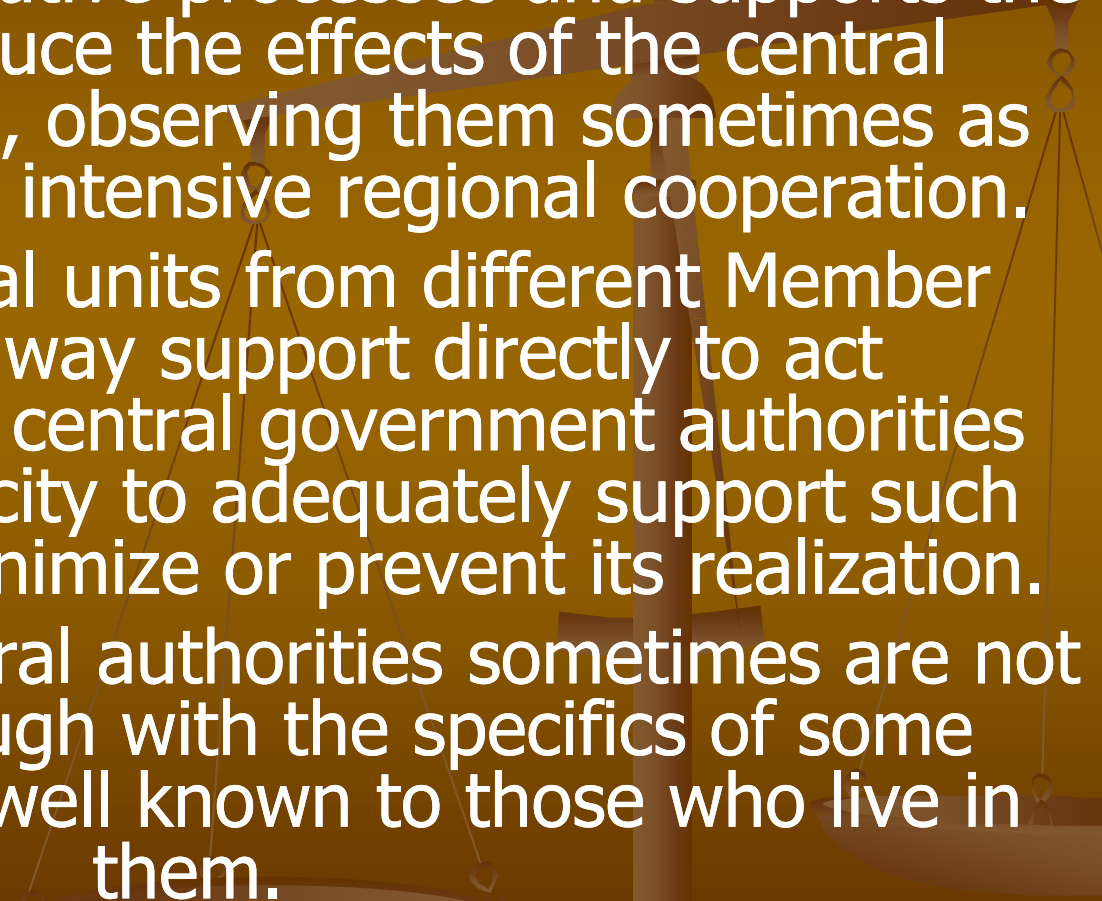
REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- Why is it important to allow neighbouring regional territorial units of different states to cooperate with each other directly. In the first place, such an argument can rely on a set of historical, economic and ethnic reasons, which boils down to the border in history was changing, and that once a comprehensive and integrated communities were divided by the boundaries of different countries.
- Such divided communities still possess the common features, and now in the time of European integration, when the limits disappear or become elastic again come to the fore the interests of cooperation between now neighbouring regions, that have retained common historical and socio-ethnic characteristics.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- In addition, in those regions that previously had no such common features, (bearing in mind the current economic interests, complementary economies and relatively low cost of transportation of goods or services - which increases the global competitiveness of the territory close to the area), strengthened the tendency towards integration and intensification of cooperation within such spaces.
- Local and regional economic development, as defined by the World Bank is also suitable stage for the roles of the regional territorial units, in particular for their cooperation with public, private sectors and civil society to improve conditions for economic development and employment within the whole area.

REGIONAL TERRITORIAL UNITS AND THE INTERNATIONAL LAW

- The European Union encourages through its many programs such integrative processes and supports the activities that reduce the effects of the central authorities of states, observing them sometimes as the "bottlenecks" to intensive regional cooperation.
 - Regional territorial units from different Member States get that way support directly to act internationally. The central government authorities often lack the capacity to adequately support such cooperation, and minimize or prevent its realization.
 - In addition, the central authorities sometimes are not even familiar enough with the specifics of some regions, which are well known to those who live in them.
- 

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

Key words: international law, regional territorial units, decentralization

Discussion



REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

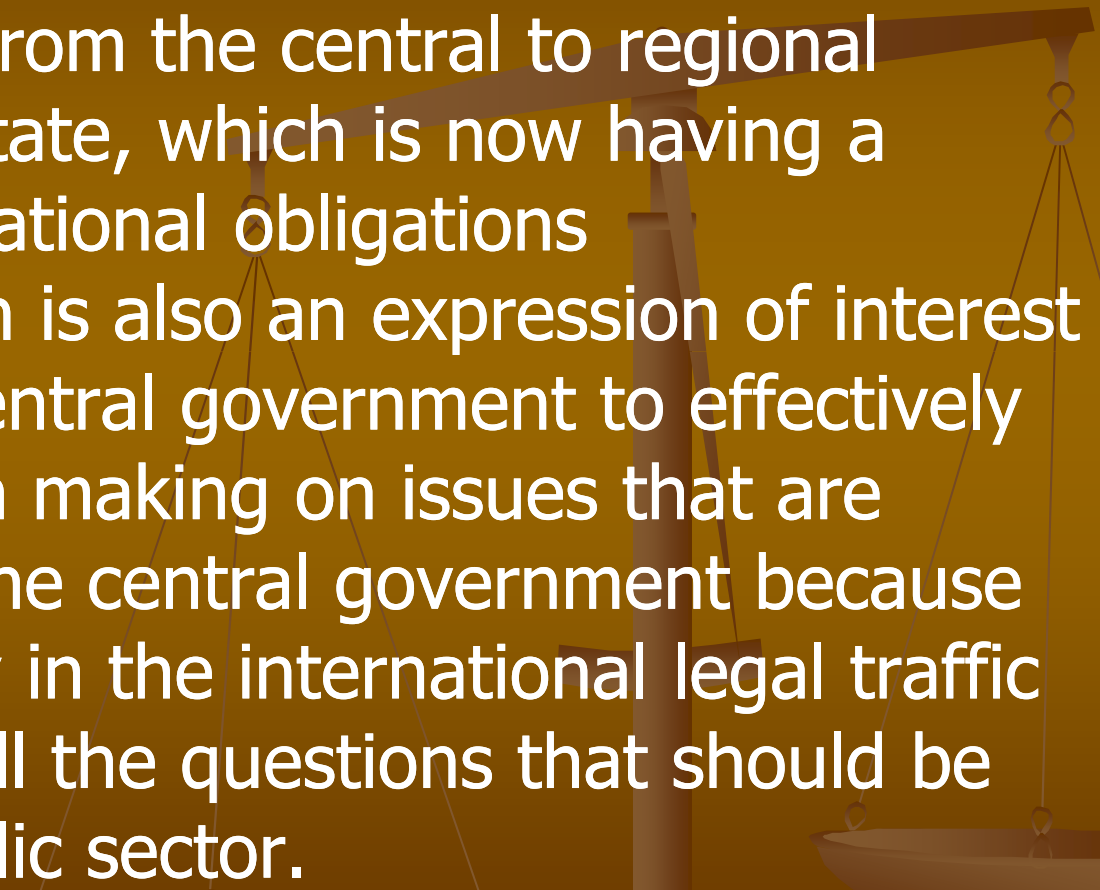
- Technical-technological progress and on it based economic development in the XX century enabled the rapid and efficient communication, access to vast amounts of information wherever you are, increase and diversification of the population and their desire for the wider participation in decision making at various levels of political, economic and other decisions that affect life in the community.
- All this produced the need and the ability of effective decentralization of government and engaging the wider sections of the population in decision making at various levels of government. And the the consequence its effects should be the real democratization and decentralization of power.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- This could not dispense effects on international law which witnesses in international traffic the participation of those entities that are below the central government.

In recent years the trend is to increase powers given to lower levels of government.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- This is due to redistribution of power with the tendency to move it from the central to regional territorial units of a state, which is now having a larger share of international obligations
 - The decentralisation is also an expression of interest of levels below the central government to effectively participate in decision making on issues that are important to them. The central government because of the intense activity in the international legal traffic can not alone solve all the questions that should be addressed to the public sector.
- 

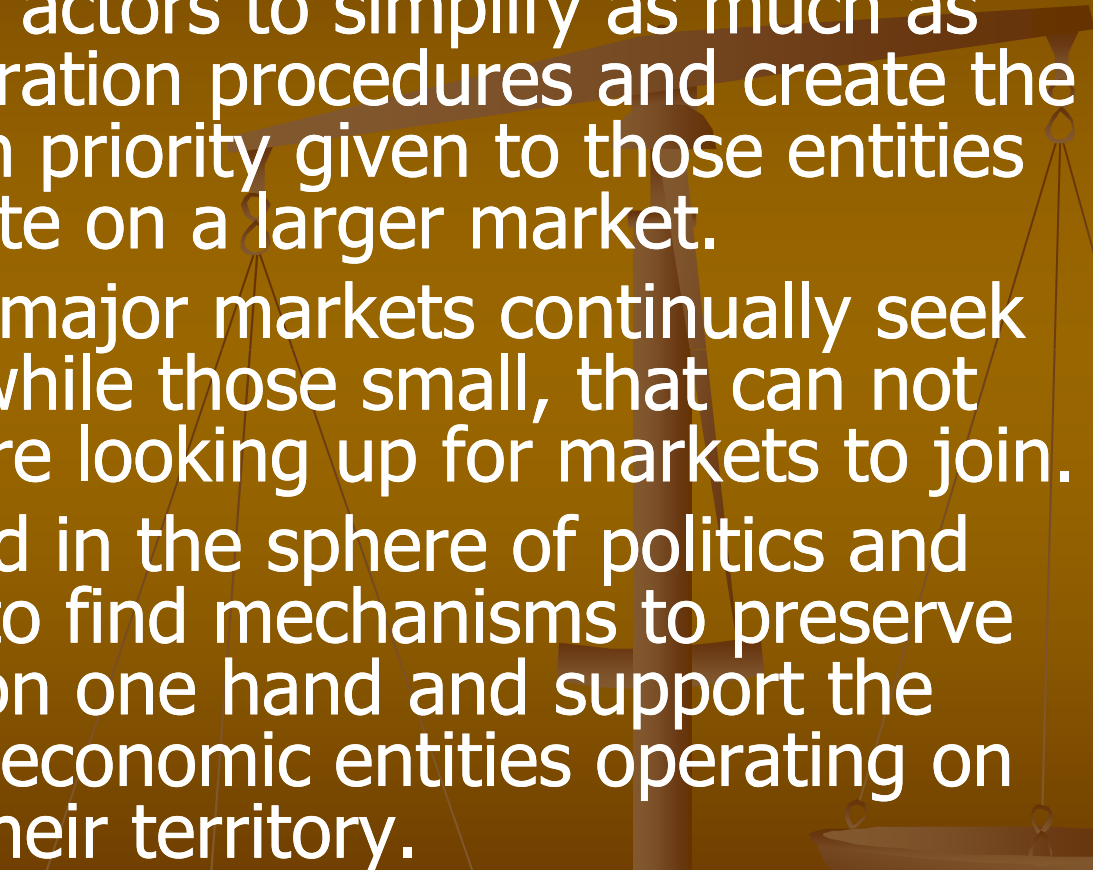
REGIONALNE TERITORIJSKE JEDINICE I MEĐUNARODNO PRAVO

- Beside the number of decisions makes it impossible to decide on everything from one center, in favor of decentralization is the fact that the inhabitants of certain regions better understand the specific problems to be solved and which decisions exactly are to be made.
- Finally, decentralization expands the circle of people who are involved in decision making and therefore it may be brought better and more appropriate decisions that resolve the situation.
- Tendencies are: to be decided at the central level about what is of general interest to the state, while regional and local level are delegated to deal with those issues that are related to these communities.

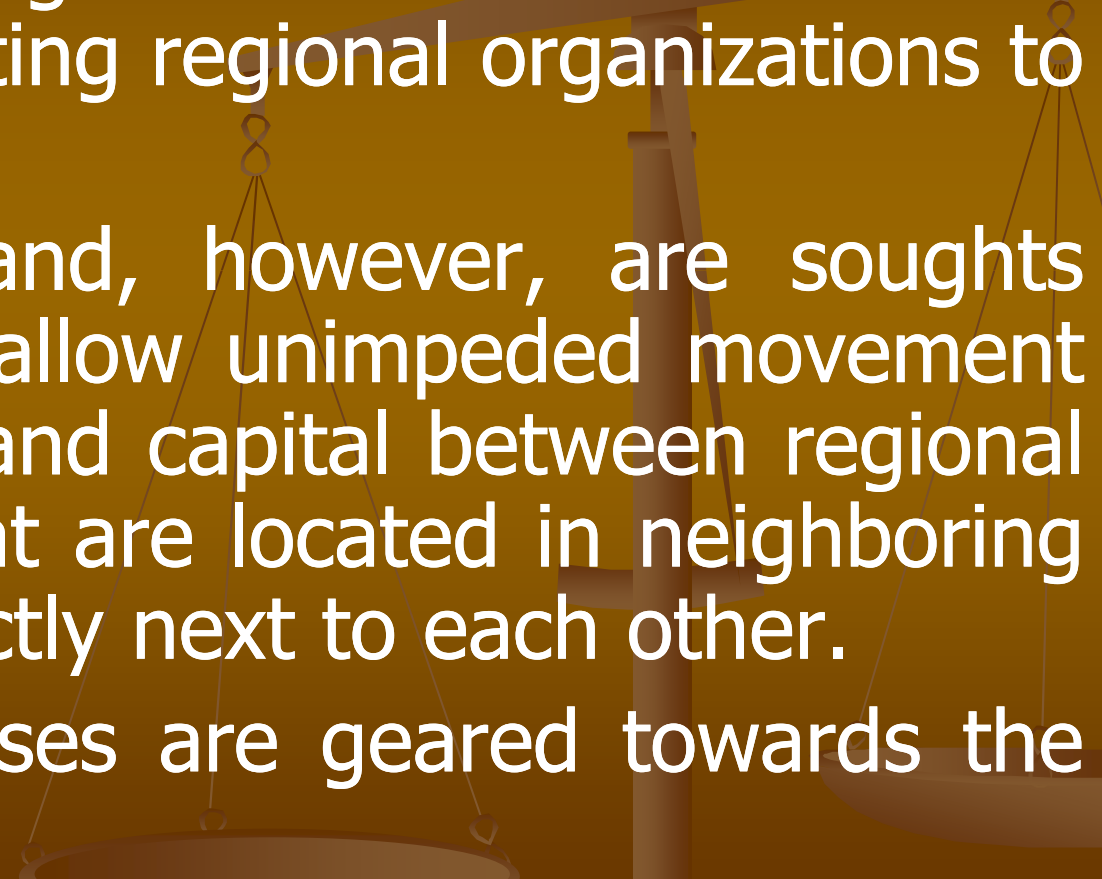
REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- One of the effects of decentralization is that regional territorial units within the State have defined their competencies and responsibilities by establishing a consistent and coherent system, which aims not only to define their relations with central authorities but also to establish cooperation with regional territorial units that are located within the state, while strengthening EU integration process with foreign countries cooperate with their regional territorial units.
- Expansion of economic cooperation between states inevitably leads to greater coherence and integration of state and regional territorial units stimulating the border region to cooperate. This in turn produces a deeper desire for cohesion within the countries and regions.
 - In this matter international organizations are implementing a variety of specialized programs of cooperation or harmonization of law and legal practice.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- In the omnipresent process of globalization the pressure is on key actors to simplify as much as possible the administration procedures and create the larger markets, with priority given to those entities that operate on a larger market.
 - Therefore, several major markets continually seek ways to expand, while those small, that can not effectively function are looking up for markets to join.
 - All this is reflected in the sphere of politics and government so as to find mechanisms to preserve state authority, on one hand and support the competitiveness of economic entities operating on their territory.
- 

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- And here again there is a tendency toward standardization, greater coherence and connection to existing regional organizations to ensure survival.
 - On the other hand, however, are sought ways in order to allow unimpeded movement of people, goods and capital between regional territorial units that are located in neighboring countries, i.e. directly next to each other.
 - Two basic processes are geared towards the same goal:
- 

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- One takes place at central government level, where laws are made and the measures adopted that will make the own land compatible and complementary with surrounding states.
 - The second process occurs at the level of regional territorial units within those countries, who are looking for ways, especially when they are at the border, to consolidate the conditions of work, life, and businesses with regional territorial units from neighboring states- which are on the other side of the border.
 - Such interconnection occurs particularly in effective way where are already created conditions in neighbouring countries to link together. Elsewhere, this process is going slower and more difficult, but certainly in the direction of greater integration.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- There have always been actors in international relations who tried differences within individual countries or international organizations to use for support to their own goals, which were not always congruent with the objectives of those countries or international organizations.
- Therefore, the legitimate interests of each country is not to permit the individual regional territorial units within it to be used as the logistics for the dissemination of certain interests of neighboring or other countries in the economic, political, religious, cultural, ethnic, military or other fields, that are not in conformity with the interests of the state whose integral part is that regional territorial unit.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- So the fact that there is a decentralization of the economy of certain country, including the possibility that its regional territorial units establish co-operation with neighboring countries or regional territorial unit from it independently of central government, can turn to promotion of the economic interests of neighboring states, impacting implementation of operational plan for development of the region and state.
- In can lead not only to promotion of interest of other states, but also to assumption of control of important economic resources of the country, which can be of strategic importance for it.
- Therefore, no lack of prudence when the central government creates a framework for regional co-operation of individual territorial units. And this is to be carried out under the monitoring of central government authorities, and periodically to be measured the effects, results and impact of such cooperation that takes place on the level below the central authorities of the two countries.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- When it comes to culture and cultural impact, there is the possibility of unilateral expansion of interests through cooperation with regional territorial units on both sides of the border between neighboring countries or neighbouring regional territorial unit of an influential and powerful country and smaller country.
 - This impact often is based on legitimate and mutually beneficial interests to learn the language of one state in the regional territorial unit of another state. This can be positive and beneficial for strengthening mutual cooperation in all spheres of life. Students, professionals, scientists and artists of that country may be able to speak that language, have access to useful literature, knowledge and other resources that can provide rapid progress of the country, even if this came through certain regional territorial unit of that country.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- However, there need to be removed any signs or attempted realization of assimilation, imposing a foreign language as a standard language in the country, and the like, because that would be beyond the positive and legitimate interests of both parties. History and present are filled with examples where great nations and states simply obliterated hundreds of native languages of small peoples and state formations, not only in Africa, Asia or America but in Europe, too.
- Similarly, adequate attention is to be paid to any other cultural activities in the country, especially if it is concentrated on only a specific regional territorial unit of that State. Because to a similar purpose can serve visual or musical arts, museology, theater, film or literature.
- Particularly vulnerable are examples of such actions on the regional territorial units of another state if they are part of ethnic or religious characteristics.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- History is marked by a series of examples where the problems between countries or certain regions occurred because of these characteristics. Specifically, ethnic or religious propagation knows no boundaries. Under certain circumstances it may be religious or ethnic diversity used for publicity in a particular country objectives or activities that do not meet the support of the majority or the ruling regime in that country. Then the problem often focuses on the specific regional territorial units of a state where it is possible to more easily implement some of the interests of neighboring states or powerful.
- Therefore, all aspects should be taken into account when allowing direct international legal traffic between regional territorial units of different countries, which historically, economically, culturally, ethnically or from religious point of view form one unit, or a relatively homogeneous territory.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- What are the regional territorial units in terms of international law? Are they the subjects of international law, and what do they rank?

It could be arguably claimed that regional territorial units are not subjects of international law with full active capacity. Subjects of international law are states in which they are composed.

How then happens that the regional territorial units perform more frequent and widespread in international relations and even conclude certain legal documents, which are typical to be entered into by the subjects of international law?

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- The entitlement can be come from the provisions of Fundamental rights by the internal legal acts of States (Constitution or particular law) or from their agreements with other countries, which are concluded by the State on whose territory the regional territorial unit is located.
 - These documents set the framework and authorization for the limited role of regional territorial units of a State in international law, which role is usually reserved for the states.
- Namely, when the constitution or a special internal law of a State permit limited international performance of regional territorial units of that State, then it is formed the legal basis and are determined the competencies and procedures under which such regional territorial units may undertake specific activities in the field of international law

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- When the specific regional territorial units operate in practice, they will meet the requirements established by the State to undertake measures and procedures for the cooperation with regional territorial units from neighboring countries to be implemented in the way it has been drawn by legal documents of central state that preceded the set up of cooperation on that level.

Can it be considered that the regional territorial units thus become a nucleus of the subject of international law or subject of international law to a limited extent?

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- The correct answer is closer to the latter claim, provided that it is a very limited range of activities, or activities that may in international legal traffic undertake such regional territorial units. Typically these activities relate to matters that are otherwise under the jurisdiction of the regional territorial units by internal law; to take any action by regional territorial units it is previously required to exist legal framework established by central government authorities (interstate agreement, for example); regional territorial units need to take into account national interests when entering into the agreement; and finally what do the regional territorial units is subject to constant monitoring by the central government.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- The regional territorial units are not only to a limited extent involved in international legal traffic, but it can be said that they represent subjects of international law with very limited activity.
- This activity is limited to cooperation with regional territorial units of other, usually neighboring country, or of a member state of the same regional international organization, and to those matters in which regional territorial unit has competence and responsibility according to internal laws of its country.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- In these matters, they can enter into international agreements with regional territorial units of other states, which are usually concluded within the framework of the mutual agreements concluded between the states on whose territory are located these territorial units. Such agreements are often after their conclusion and during their implementation subject to monitoring and control by central government authorities.
- The regional territorial units may participate in international conferences, although as a rule within the central state delegation; they can also directly implement the provisions of international agreements they have concluded with regional territorial units of another states.

REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- If it is observed the activity to which can relate the limited participation of regional territorial units in the international legal traffic, the areas in question, are in the first line the issues of economic relations, culture, education, art and decorating small border traffic, some issues of safety or environmental protection matters.



REGIONALNE TERITORIJALNE JEDINICE I MEĐUNARODNO PRAVO

- Conventional international law includes frameworks to support the participation of regional territorial units in the international legal traffic.
- Although states have different approaches, with some of them allowing a wider participation of regional territorial units, and some of them still not allowing so, it can be considered that there is a tendency to democratization and decentralization within the state, that strengthens the competence of its regional territorial units and leads them ever in deeper participation in international legal traffic, as well as wider recognition of their status of international legal personality, albeit with limited activity.

2012

JJ Strossmayer University
Faculty of Law in Osijek
Branislav MALAGURSKI

SUNICOP
SUMMER SCHOOL
LECTURE

" REGIONAL TERRITORIAL UNITS AND THE
INTERNATIONAL LAW "

