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SOVEREIGN STATE – THE CLASSIC BASIC SUBJECT OF PUBLIC INTERNATIONAL LAW

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Abstract:

The problem of subjects holds a central place in national and international law and is one central to the general theory of law nationally and internationally, respectively. The whole motivation of the existence of law is focused on determining the recipients of the rules it contains. It is essential to know to whom the rules, the norms and the principles of international law are applied.

Contemporary international law is a system of principles and rules governing the relations between sovereign states and other derivatives and secondary subjects in relation to states, rules that represent the will of states, and respect for which if necessary it can be supplied or imposed by the use of coercion applied in individual or collective basis.

International relations and international law have a coordinating nature, and not a subordinating one, as is the situation in national law, given the fact that there is no organized political power on the subjects.

The notion of subject of law is common to any juridical, domestic or international order. It designates entities that have the capacity to participate in legal relations governed by specific rules of a legal order and to be entitled to the rights and obligations within it.

Being a central problem to the theory and practice of law and international relations, this subject is permanently in the attention of researchers. The dynamics of life and international relations is likely to impose a scientific reaction, doctrinal changes that occur in the contemporary world, their awareness, the scientific consolidation.

Key words: public international law, international relations, subject of international law, sovereign state

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INTRODUCTION

The notion of subject of law is common to any legal order, be it domestic or international. It designates entities that have the capacity to participate in legal relationships governed by the specific rules of that legal order and to be entitled to the rights and obligations within it [1].

In the international law the notion of subject of law presents essential features in comparison with the national law. These features , which refer to the nature, legal basis, content and scope, determine the main differences between the concepts of subject of international law and subject of national law.

The subject of national law is the holder of rights and obligations, whose capacity to participate in legal relationships is required by law. Thus, in the national law, the law establishes the subjects of law, governs their ability to enter into legal relations, determines the extent of the rights that they can exercise and the obligations undertaken in the framework of these reports. According to the law, subject of national law are the individuals and the legal entities.

The international law presents, under this aspect, features determined by the peculiarities of the international relations that are subject to the legal regulation. The fact that, the international relations are carried out with the direct participation of the states as sovereign and independent entities, equal in rights, excludes the existence in this area of a "suprastatal body" or of a "government" to determine, to regulate or to concede the quality of subject of international law.

This quality belongs to, above all, the state by virtue of its sovereignty. It can also be part of other entities (peoples who are fighting for liberation, governmental and nongovernmental

international organizations, transnational companies, etc.) to the extent and within the limits determined by the member states of the international community.

The quality of subject of international law defines, first of all, the legal situation of an entity as the holder of international rights and obligations [2]. This is not just a trend, an abstract legal capacity and it cannot be defined outside the reality of the international law within which it manifests and exercises itself. On the contrary, it exists for states or other entities through the direct participation as subjects of reports in which they exercise their rights and fulfil their obligations.

CHARACTERISTICS OF THE INTERNATIONAL PERSONALITY OF THE STATE

Throughout history, states have been formed as a result of wars and the conquest of territories, through inheritance, through marriages between monarchical families[3]. New states have appeared with the formation and consolidation of the bourgeoisie, as a result of the struggle for national independence. In this way arose the national unified states Italy, Germany or independent states which were formed through the breakup of Empires (the Ottoman Empire, the Habsburg monarchy). There were also formed many states through the separation of the colonies from the metropole or dismemberment of Federated States (the USSR, Yugoslavia, Czechoslovakia).

The state is a historical, political and legal phenomenon. Being a highly complex social category, the notion of state can be analysed in several ways. In the definition of the state there are several opinions influenced by different doctrines and ideologies. C. Dissescu (in the paper *Constitutional Law*, Bucharest, 1915, p. 237) appreciates that in the classical theories, the state was studied in an abstract way, being created a concept based more on what we want it to be than on what it really is. Thus, the state is defined as a human collectivity, permanently settled down in a given territory and having a structure of bodies of power that enjoys sovereignty. The state, once organized, has a specific purpose and well determined functions. Of course, the main purpose of the state lies in defending the general interest (common good). In this sense, Hegel was perfectly right when he said: "if citizens do not go well, if their subjective purpose is not satisfied, if they do not find that the intercession of this satisfaction represents the state itself as such, then the state sits on weak legs" [4].

From this point of view, by state we must understand an organizational system that achieves political leadership of a society, holding, with this purpose, the monopoly of creating and applying the law.

According to David Scăunaş, the state, as a rule, is characterized as:

a. a political organization of society through which one achieves social leadership;

b. an organization, which holds the monopoly on the creation and application of law;

c. an organization that exerts power on an established territory of a human community;

d. a political organization of state power holders who exclusively can compel execution of the general will, applying, in the case of necessity, coercion force [5].

Based on these characteristics, it was carried out an analysis of the idea of the state as a subject of international law. The creation of an independent state should be based on the principle of equality of peoples and of their right to dispose of themselves. Violation of this right and failure to comply with the principle of non-interference in the internal affairs of states are illicit acts and can be disputed and punished according to the international law.

The new states enjoy the quality of subject of international law from the moment of their occurrence, the other states being forced to comply with their sovereign rights. The consideration of state, as subject of international law, is expressed by the totality of the rights and obligations resulting from membership to the international community and voluntary obligation to respect them.

Unlike other subjects of international law, only the states possess the totality of rights and obligations with international character. States are not only subjects of international law, but also

the creators of this law. The quality of international legal personality of the state is characterized by its intrinsic elements: through its sovereignty over its territory and the people that are on this territory. In order to qualify a particular entity as a state having international legal personality certain criteria must be taken into account.

International practice refers generally to "conventional" criteria developed by constitutional law, having regard to the three fundamental elements of the existence of the state: two of sociological order – ***population and territory*** –, and the third – a legal element – ***the existence of a government***. Being an independent, sovereign and organized community, situated on a certain space, it has the quality of subject of law both in relation to the internal order and the international one.

It is precisely the sovereignty of its power that gives it this double quality. On the basis of this power, the state has the right to govern the society inside and establish relations with other states, in conditions of full equality. If the internal side of sovereignty of the state regards its power of command inside, embodied in the development of general rules and in the pursuit of their application in social practice (achieving the rule of law), the external side of state is concerned with its behaviour in the international society, its relations with other states.

Thus, sovereignty is the legal and political basis of the quality of state as a subject of international law and it establishes the manifestation of this quality. The most complete definition of the concept of state was given by the ***Montevideo Convention [6],*** which is accepted as reflecting, in general terms, the conditions of statehood in customary international law.

According to this Convention, "the State as international personality must meet the following conditions:

- established territory;
- permanent population;
- government;
- ability to enter in relations with other states"[7].

THE TERRITORY

The main element of the state is **the territory**, through which we understand *the space in which is established a certain human collectivity*. Thus, ***the state territory*** *represents the geographic space made up of terrestrial, aquatic and marine areas, the soil, subsoil and aerial space over which the state exercises its absolute and exclusive sovereignty [8].* Together with the population and with the system of bodies of state power, the territory is one of the natural material prerequisites for the existence and the stability of the state as the original subject of international law. The territory defines the spacial limits of the existence and sovereignty thus establishing a politico-legal notion.

We should mention that, without this item, a number of human beings, no matter how many, would not be able to constitute a state. In other words, the territorial delimitation, determining the exact geographical area over which the power of the state is exercised (its sovereignty) appears as a key feature of the state.

Over the territory, the state exercises a power similar to that exercised on the population, i.e. an authority of public order which does not overlap with the private relations. This confusion has occurred in certain periods, for example, in the feudal system when the monarch considers himself the owner of the Earth. After the dismemberment of feudalism and the formation of national States it is elaborated the idea of territorial supremacy, one of the state's power over the territory, which represents an aspect of sovereignty.

The territorial sovereignty of the state is characterized, on the one hand, through exclusivity, meaning that over a territory one can only exercise the authority of a single state. Only the state, through its own bodies may exercise legislative, the executive and judicial power. Exercising the sovereignty of more states over the same territory would contradict the very concept of sovereignty. On the other hand, territorial sovereignty is characterized *by the plenitude of its*

exercise in the sense that the state is the only one able to determine the extent and nature of its powers that it exercises within the territory of the state [9].

The state needs a territory in order to accomplish its goals of political-state organization. Internally, because of the territory, the state has at its disposal a means to supervise and constrain the individuals, to expel or prohibit them the stay or the departure. Externally, the territory materializes the existence of the state in space and it gives it a base for protection, its resistance being determined by the mastery of the territory.

Specialists in the field consider that, in order to determine the legal nature of the territory in international law, it is necessary to start from the fact that the territory is:

- ○ a space of exercising exclusive sovereign power of the state;
- ○ a performance space of the right of the people to self-determination;
- ○ a subject of permanent sovereignty over national resources and wealth.

A nation, a people cannot exist without territory. This appears as the material expression of the supremacy, the independence and the inviolability of the state and the people that lives there.

The state's territory has two well-defined features:

- first of all, it is stable in the sense that the population that lives on it is placed in a permanent, sedentary way (*homo vagens*, i.e. settling down in order to live there the whole life);
- the territory has a delimited character, precise and fixed boundaries, within which is exercised government activity, and the border marks the point from where local jurisdiction ceases.

According to the international law, it does not mean that a state by expressing its will freely, cannot grant to other states, through international conventions, certain rights to use its territory, within well defined limits and usually on the basis of reciprocity. We refer, in particular, to the right of transit (rail, road, air, etc.). Cooperation with other states or international organizations, which can engage states to refrain, in their territory, from certain activities, such as non-proliferation of nuclear or chemical weapons, to adopt and implement regulations relating to, for example, fighting pollution or the uniform criminalization of certain offences, cannot be considered as limitations on its sovereignty, but the consequences of the manifestasions of will of the state which opts for a specific legal system in a given domain.

State borders *are those real or imagined lines drawn between different points that divide the territory of a state from that of an other state or, as appropriate, of the high seas, extending in height up to the lower limit of extra-atmospheric space and in depth within the Earth up to the reachable limits of modern technology [10].*

In conclusion, the state territory was and is an essential element in the formation and the existence of peoples (nations), in the development of national states in accordance with the principles of self-determination. Moreover, analyzing the question of territory as a constituent part of the state it is necessary to mention that the territorial integrity and inviolability of state borders are not simple rules of international law. Starting from the importance of territory for the existence of the state, therefore from that of subject of international law too, the very states have given to these rules an imperative character enshrined in international law documents as fundamental principles of contemporary public international law. The principle of territorial integrity is to be strictly respected also in the process of self-determination which cannot and should not be confused with separatist movements.

THE POPULATION

The human dimension is one of the constituent elements of the state and it is a criterion for the definition of this concept. As a component element of the state, ***the population*** *is made up of all of the inhabitants of a territory, forming a comparably strong and organised community by the internal laws of the state, in order to be able to subsist, through its own resources, and to form the rationale and the substance of a state.* That is, before anything, the state is a human community and

it cannot exist without population, as there can be no territory or no government. Hypothetically, the total disappearance of the population of a state – through emigration or other reasons – leads to the disappearance of that State.

In linguistic terms, ***the population of a state is defined as all the inhabitants of that state [11].*** If we accept the general meaning of this definition, we understand that *the population of a country includes all the individuals who live on its territory [12]*. But, in legal terms, this definition presents a double inconvenience:

- ✓ on the one hand, it is too broad because it includes also the foreigners who have residence in one state, but who have not given up their national origin and who cannot be considered as "constituent elements" of the state;
- ✓ on the other hand, it excludes its own citizens, setteled down in other countries, but who continue to participate in the political life of the state of origin.

There must be a stable and permanent legal bond between individuals and tate expressed through citizenship. Thus, as a constituent part of the state, the population consists of all individuals bound by state citizenship [13]. It comprises the totality of the citizens of a state from which the overwhelming majority reside in the territory of that state, but some of them are in other states. On the territory of a state, together with its own citizens can also reside foreigners, either on a generally permanent basis (citizens of other states but residing in the state of residence, persons without citizenship and refugees), or temporarily (tourists, business people, etc.).

The population within the boundaries of a state, whether it is related to it permanently (citizens) or only temporarily (foreigners), is subject to the domestic law of that state, on the basis of its sovereignty. The legal status of each category of persons forming the population is established by the internal laws of that state (as argues I.M. Abode) with the exception of certain categories, over which the jurisdiction of the State is limited (for example, persons with diplomatic status) [14].

At the same time, ***some issues regarding the population*** *are the subject of international cooperation (human rights, diplomatic protection, the legal status of stateless persons and bipatrizilor, the legal system of refugees etc.).* Although exclusive and discretionary, the exercise of its duties is carried out with consideration of two postulates:

- ✓ the system of nationals must not make irreversible violations of fundamental human rights, and
- ✓ the system of foreigners must not damage their interests or that of their state of origin and it must not be biased.

At the same time, any state seeks to ensure a system as proper as possible for its citizens who live permanently or temporarily in the territory of other states.Of those mentioned, it follows that any state, in terms of the exercise of its powers over the population, has a double quality: as state of origin and as receiving state. From here arises the need for compatibility of the different national systems regarding the population. Finally, we conclude that the population is the basic element of the state. It cannot be subject to changes from the outside and it is independent in its existence.

THE GOVERNMENT

The third element, which contributes to the existence of the state is ***the government***. The state, as a political-social body cannot be made up only of the population and territory, but there must, on this territory, exist a political organisation that controls the territory and to which the population that inhabits it should, effectively, be subject to.

In this sense, a state involves the bringing together of its constituents – territory and population in the context of an organized society with a government able to provide external and internal functions, as well as the establishment of a real judicial and material order. Thus, the third element is represented by the existence of a governmental mechanism, of a system of bodies exercising authority in that entity, organizing and representing it in international relations.

The forms of the exercise of power, the separation between the legislative, the executive and the judicial powers, the structure of their bodies and the definite means by which they show their authority, differ from one state to another. There are no established conditions, in respect of the nature or form of government, the population is the one that decides what form of government it prefers to have: monarchy or republic.

For this item to be considered met, in international relations, the plan requires that the exercise of this authority to be exclusive and effective:

- ***exclusive***, meaning the lack of other authorities which should be subject to the same population and the same territory;
- ***effective***, meaning the real achievement of power over the other two elements.

It should be noted that ***the government*** *is the element that gives the shape and the proper character of the state, ensuring its territorial and political integrity at the same time being awarded the function of accomplishing the implementation of the laws of the State [15].*

The notion of executive power often merges with the enforcement of laws. The enforcement of laws is the duty of all subjects of law, all authorities, whether or not possessing a public character. However, when we look at the executive we must mention that in this phrase continues the notion of power, which means the ability to enforce a behaviour. Thus, in the enforcement of laws and the rules established in the state there must be a body invested with the power to enforce a behaviour.

In order to enforce the laws one needs to organize their execution, the preparation of the material-financial background, the organizational and the methodical one. To this end, the government has the power of a function whose provisions are binding on all subjects of law.

THE SOVEREIGNTY

The meeting of the three elements: population, territory and government, constitute the premise, but does not lead directly to the recognition as a State of a given entity, nor does it explain this quality in the sense of the international law. These elements characterise the state politically and socially, but the doctrine shows that the criterion of the existence of the state should be an element of legal order – the sovereignty. Thus, sovereignty is the defining element of the state's existence (an essential feature of state's power) manifesting itself with the advent of it, being as old as the state itself and inseparable from it. We will give more details on the concept of sovereignty in international law in chapter II of the present work.

In the specific literature, ***sovereignty*** was defined as "*the unique, thorough and indivisible supremacy, of the state's power within the limits of the territorial borders and its independence in relation to any other power" [16].*

Sovereignty is manifested in the independence of the state in all fields of political, economic, social and cultural life etc. and it materializes in establishing and carrying out its own internal and external independent policy. The two sides of the sovereignty constitute a whole, giving the expression of the indissoluble link between the internal and the external policy of the state.

Sovereignty has the following **essential features**:

- exclusivity,
- original and plenary character
- indivisibility
- inalienability

The exclusivity is manifested by the fact that the territory of a state can be subjected only to a single sovereignty [17]. The original and plenary character is determined by the fact that ***sovereignty belongs to the state and it is not assigned from outside***, and the prerogatives of state's power cover all fields of activity: political, economic, social etc.

The inalienability *represents the fact that sovereignty cannot be abandoned or given up to other states or international organizations.*

The mutual respect of sovereignty and national independence in relations between states, in the process of collaboration and cooperation between them, represents the sine qua non condition of normal viable relations, a climate of peace and understanding between nations.

Aspects of the quality of subject of international law of states with complex structure

The State, as social phenomenon, has known ,in its historical development, various forms. From the point of view of international law, states are classified according to their structure, as well as according to the duties the bodies that represent them have in international relations [18].

According to their structure, states are classified in:

• unitary states, (prevalent in the organization of European states) and

• composite states (represent the association between two or more states).

The unitary state is a simple state unit, with a single public authority and full proficiency. It is characterized by the existence of a single body system of the supreme power, of the administration and justice. Even if a unitary state is divided into territorial units, or if they know a higher or lower degree of local autonomy, they are not likely to produce changes in its structure. The vast majority of world states are organized as unitary states (Romania, Bulgaria, Hungary, Poland, etc.). In international relations, the state appears as unique subject of international law.

The composite states *represent associations between two or more states*. Throughout history, the composite states have experienced a variety of forms of association, starting with simple or traditional types: "personal unions" and "real unions" and continuing with federations and confederations.

We should mention that, from the point of view of the international law, there are no differences between states as subjects of this law, be they unitary or composite states. This is because, regardless of their structure, the states are subjects of international law and are equal in rights. However, in the case of a composite state one can raise problems concerning the determination of the subject of international law and its legal capacity. So, it is necessary to establish, if only the composite state has the quality of subject of international law or this quality belongs also to the states that make up that state, as well as the limits of their capacity.

For a better understanding of the real concept of the notionof state, we consider necessary to state the following ***forms of composite states***, namely:

- the personal union
- the real union
- the confederation and
- the federation.

The personal union *represents the association between two states having as head of state or monarch the same person*. This kind of union was an association between two sovereign states which continued to remain completely autonomous, but which were ruled by a single monarch. The personal union refers to the international situation of two countries that, although, in theory, were distinct from each other, they happen to have, in fact, the same sovereign.

This union of states is characterized by "the union ensured by the monarch" and does not involve "the structural union" of the component states. Outside of this element, we must mention that states remain, legally, distinct subjects of international law. Such unions have been created in the past, when the sovereign of a state became at the same time and the sovereign of another country, by choice [19] or game of succession [20].

The personal union thus created does not become the subject of international law. Each member state of the union keeps its international legal personality, keeping also its own legislation, administration and justice, concluding treaties in its name, having diplomatic representations. The union is precarious and it will dissolve as soon as the coincidence that created it disappears. In some cases, the personal union can represent a precursory stage of creating a real union. The personal union of states does not involve any fusion of the international activity of the associated states. Accordingly, the legal relations that are established between the two states are international law relations and can be covered by the treaty.

The real union *represents the association of two or more states, with the same monarch as well as the joint body of representation in the sphere of international relations and in other areas of general interest (economic, finance, etc.)[21].* In terms of the constitutional, the legislative and the administrative, each of the member states of the union constitutes a distinct unit. Essentially, the real union is characterized by the parallel political-legal organization of the two states. It is asserted, especially in the foreign field, and this, practically, leads to a unified foreign policy. In such a union, the international personality of both the union and the states, depends entirely on the internal arrangements of the member states and third states ' attitude towards it. Even if the real union has some common features with the personal union [22], its own features are defining it as a distinct institution. The real union represents a desired and determined union, and not only a casual one. Therefore it is the tightest and most sustainable of all.

The Confederation *is an association of two or more states, in which the states retain their independence and the quality of subject of international law, creating at the same time common bodies with limited powers in areas of general interest*. The member states of this association retain their legislative and executive bodies. The Confederation of states is formed on the basis of a treaty in which are mentioned the common prerogatives, usually in defence, finance and foreign policy. Distribution of competences is done by this federal pact, which is usually uneven. Thus, the essential skills remain at the component states, while the Confederation has competence limited to the administration of interests, expressly declared common. In case of uncertainty, the competence of the confederate states shall be presumed. The states that are associated in the Confederation shall create a joint body, called diet or congress [23]. Diet is only one central mechanism, which takes the form of a deliberative assembly of a diplomatic kind. Governments give to their representatives some imperative instructions to vote. Each delegation has one vote or the same number of votes.

The federation *represents a complex structure made up of several states that do not have the quality of state, within the meaning of the international law, but only the federal state has the quality of subject of international law [24].*

Unlike the confederation, the federal state works on the basis of its own constitution as internal act. The relations between the federal states are ratios of national law and not international law reports, as in the case of the confederation. The federal state has federal state bodies, expressing its own will and competence, which it imposes as authority that overlaps the component states.

The constitutional organization of federal state is submitted to some certainties in terms of the structure of state bodies and the distribution of state powers. Thus, legislative and judicial bodies have a predetermined character. The legislative body is bicameral, the lower House represents the local population, and the superior House ensures an equal representation of the states. In respect of the judicial review, it must be mentioned that in all the federal states, there is a Supreme Court (Supreme Court) which solves any disputes between the federal state and the member states or between member states themselves.

THEORETICAL AND PRACTICAL PROBLEMS OF THE QUALITY OF SUBJECT OF INTERNATIONAL LAW – CASE STUDY – THE SITUATION OF PALESTINE

1947: the United Kingdom shall notify the United Nations Organization (UNO) to withdraw from the palestinian territory, which it administrates according to the system of mandates established by **The Society of Nations Treaty**. By resolution No. 181 of November 29, 1947, the United Nations Organization General Assembly has recommended division of the territory of Palestine into two States – Arabian and Israeli – to compile an economic union. Whereas the Palestinians Arabs refused this solution, on 14 May 1948, Israel has unilaterally proclaimed the independence. Following the wars in 1949, the "ten-day war" in June 1967 and the Yom Kippur war of October 1973, Israel occupies the Gaza Strip, the West, the West Bank and the Golan Heights.

1964: The Palestinian National Charter proclaims the right of Palestinian arab people on the territory of Palestine, as was delimited under the British mandates, and the right to determine the fate of the once they have obtained the liberation of their motherland, in accordance with the aspirations and on the basis of their agreement.

1967: It is adopted the Resolution No. 242 of 22 November 1967, in accordance with which: "the Security Council, Asserts its continuous concern over the seriousness of the situation in the Middle East, Stressing the inadmissibility of acquiring territories by use of force and the need to work for a fair and lasting peace, so that each state in the region can live in safety, Pointing out that all the member statest, through the acceptance of the Charter of the United Nations have committed themselves to act in accordance with article 2 of the Charter,

1. Asserts that complying with the principles of the Charter requires the establishment of a just and lasting peace in the Middle East which must also take into account the application of the following principles:

(i) the withdrawal of Israeli armed forces from the territories occupied in the recent conflict;

(ii) the waiving of any claim or proclamation of beligerence situation and the respect for the sovereignty, the territorial integrity and the political independence of every state in the area, as well as asserting their right to live in peace within internationally recognized and guaranteed borders, outside of any threats or acts of violence".

1970: the United Nations Organization General Assembly adopted resolution No. 2625 – the statement on the principles of international law concerning friendly relations and cooperation between states, in which it stipulates that all peoples have the right to determine their political status, in complete freedom and without any external interference.

November 15, 1988: The Declaration in Algiers, the Organisation for the Liberation of Palestine (O.L.P) proclaims the establishment of the palestinian state, "despite of the historical injustices imposed on the Arab Palestinian people that has deprived it from its right to self-determination after the adoption of Resolution No. 181/1947 of the General Assembly that recommends dividing Palestine into two states, one Arab and one Jewish ... this resolution provides international legality conditions, that guarantee the palestinian people's right to sovereignty and independence."

1993*: the Oslo-Washington agreements*:

9 sepetembrie 1993-O.E.P. recognizes the state of Israel and its right to exist, and Israel recognizes O.E.P as representative of the Palestinan people.

September 13, 1993- The Declaration of principles for interim autonomy agreements, at the initiative of the United States of America and the Russian Federation. In article 1 of the Declaration it is stated that "the objective of Israelo-Palestinian negotiations is the achievement of a permanent arrangement on the basis of Resolution No. 242 and 338 of the United Nations Organization Security Council.". The Declaration establishes a system of autonomy for the Palestinians from Gaza and the West Bank for a period of 5 years, during which it will finalise the negotiations for the establishment of a final status. The agreements authorize the creation of a Palestinian Authority, an entity that has certain tasks that they perform on a restricted area.

1994: **The Resolution No. 904** adopted on 18 March 1994 by the Security Council of the United Nations Organizations: "the Security Council, deeply affected by the awful massacre committed against Palestinian believers gathered for prayer in the mosque of Abraham in Hebron on 25 February 1994, during the sacred month of Ramadamului, deeply concerned about the situation of the Palestinian victims in the occupied Palestinian territory, as a consequence of this massacre which highlights the need to provide protection and safety for the Palestinian people, Determined to overcome the negative effects of this massacre on the peace process, Taking into account with satisfaction the efforts made to guarantee the normal continuation of the peace process and inviting all the concerned parties to continue their efforts in this regard, [...], Recalling its relevant resolutions, which state that the Fourth Geneva Convention of 12 august 1949 is applicable to the territories occupied by Israel in June 1967, including Jerusalem, as well as Israel's responsibility in this regard,

1. Strongly condemns the massacre in Hebron and its consequences[...]
2. Requests Israel, the occupying power, to continue to adopt and implement the measures in order to prevent unlawful acts of violence from the Israeli colonies;
3.[…]

1.Challenges the initiators of the peace process, the United States of America and the Russian Federation to continue thier efforts in order to strengthen this process and to provide the necessary support in the implementation of the above-mentioned measures;

2. Reaffirms its support for the peace process in progress and requires the implementation without delay of the Declaration of Principles signed by the Israeli Government and the Palestine Liberation Organization in Washington on 13 September 1993."

May 4, 1994: There is an agreement between the state of Israel and O.L.P., the "Gaza-Jericho" agreement, on the arrangements for the exercise of Palestinian autonomy. The Palestinian Authority has, in its field of activity, executive, legislative and judicial powers and responsibilities. The authority has the right to address Palestinian national emblem in the territory of the autonomous authority, to issue passports and postage stamps. It is also given skills in the field of civil status, being allowed to issue ID or residence cards and passports, even if one cannot speak of a Palestinian citizenship within the meaning of the international law, and in the occupied territories the Israeli citizens enjoy immunity from the jurisdiction of the Palestinian authorities.

September 28, 1995: The Interim Agreement at Taba regarding all the measures in order to implement the Palestinian autonomy stipulates that Israel will continue to assume the overall responsibility of the Israelis to protect internal security and public order. O.L.P., as the representative of the palestinian people, has the ability to negotiate and conclude agreements with states and international organizations, but only in the economic and financial development. Israel assumes responsibility for external security and borders control and reserves the right to block the access to the occupied territories placed under Palestinian Authority.

2002: *The Resolution No. 1397* adopted on 12 March 2002 by the Security Council of the United Nations Organization: "the Security Council, [...], attached to the vision in which two states, Israel and Palestine, to live side by side, within the known borders [...]"[25].

CONCLUSIONS

It is undeniable that the problem of the quality of subject of the current international relations has a central place in the doctrine and practice of the international relations and of the international law governing these relationships because the whole motivation of the existence of the public international law is focused on determining the recipients of the principles, the norms and the rules that it contains, in its quality of law of coordination. The notion of subject of law is common to any legal order. It designates the entities that have the ability to participate in legal relationships governed by the specific rules of that legal order and they are therefore entitled to the rights and obligations within it. In the international law the notion of subject of law presents some peculiarities. The subject of national law is the holder of rights and obligations, and its ability to participate in legal relationships is required by law. In the national law it is precisely the law that establishes the subjects of law, regulates their ability to enter into legal relations, determines the extent of the rights that they can exercise and of the obligations undertaken in the framework of these reports. According to the law, subject to the national law are the individuals and the legal entities.

The international law presents, from this respect, features that are determined by the peculiarities of international relations that are subject of legal regulation. The fact that the international relations are carried out with the direct participation of states as independent and equal entities in their rights excludes the existence, in this domain, of a "suprastatal" body, of a "Government" that determines, regulates or gives the quality of subject of international law. This quality belongs to, above all, of the state by virtue of its sovereignty. It can be also part of other

entities (peoples who are fighting for liberation, international organizations, etc.) to the extent and within the limits determined by the member states of the international community.

The relations involving states and other entities with international legal personality are governed by the rules of the international law, and thus obtaining the character of some international law reports, analyzed by classical legal concepts:subject, legal content (rights and obligations) and object. The characteristics of these ratios are determined, however, by the legal situation of the participanting subjects, by their position towards the international law. From this point of view, the state, the main, elementary, original and fundamental subject, possesses this capacity not under the international law or the legal regulation, but by virtue of its sovereignty, under which it participates, by the agreement of will with other states, to the regulatory process, to the creation of the international relations and to the determination of the legal situation of other entities internationally.

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[2] C. Edwin, *Public International Law*, Chemarea Publishing house, Iaşi, 2004, p. 112
[3] I.M. Anghel, *Subjects of international law*, Lumina-Lex Publishing house , Bucharest, 2001, p. 52
[4] G. Hegel, *Philosophy of the principles of law*, IRI Publishing house, Bucharest, 1996, p. 291
[5] Stelian Scăunaş, International public law, All Beck Publishing House, Bucharest, 2002, p. 83
[6] The Convention on the rights and duties of states. Signed at Montevideo on 26 December 1933, in force since 26.12.1934. Source: U.S., Department of State, Publication 1983, *Peace and War*: *United States Foreign Policy*, 1931-1941 (Washington, D.C.: U.S. Government Printing Office, 1943, pp. 198-203). www.academic.brooklyn.cuny.edu.
[7] Article. 1 of the Convention on the rights and duties of states. Signed at Montevideo on 26 December 1933
[8] D. Popescu, A. Năstase, *Public International Law*, Sansa Ltd Publishing house, Bucureşti, 2001, p. 275
[9] In terms of areas of manifestation, the local jurisdiction of the state is virtually unlimited. The state is able to decide to regulate the most diverse fields, in the smallest details, from the constitutional organization to regulations on keeping public order, from the field of economy or of defence, until that of granting citizenship, collection of statistical data, etc. From the point of view of individuals, the state exercises jurisdiction over all persons who are within its territory, both natural persons and legal entities.
[10] The Romanian Constitution of 1991, revised in 2003, art. 3.
[11] The Dictionary of the modern Romanian language. – Bucharest: Petit Larousse illustrated, 1986, p. 825
[12] I.M. Anghel, *Subjects of international law*, Lumina-Lex Publishing house, Bucharest, 2001, p. 71
[13] The Romanian Citizenship Law No. 21/1991, republished in 2000.
[14] Mihai Floroiu, *Elements of private and public international law*, UJ Publishing house, Bucharest, 2011, p. 104
[15] R. Miga-Beşteliu, *Public International Law*, vol. I, Edition 2, C.H. Beck Publishing house, 2010, p. 27
[16] Valentin Constantin, *International Law,* Legal Universe Publishing house, Bucharest, 2010, p. 225.
[17] The Permanent Court of International Justice in the decision given in the Lotus case (1927) noted: "the first and most important ban imposed by the international law on a state is that, in the absence of a furlough contrary rule, it should not exert power in any form in the territory of another state. In this sense, the jurisdiction is, of course, territorial and may not be exercised by a state outside its territory, with the exception of a furlough rule arising from international custom or from a Convention ".
[18] If, in the case of the federation, the foreign policy is the competence of the federal authorities, in the case of the Confederation, the member states retain the quality of subject of the international legal relations.
[19] For example, personal unions between: Poland and Lithuania (1386-1569), in which the common sovereign was chosen each time by the Polish diet, given the inheritance laws of Lithuania; The union between the Netherlands and Luxembourg (1815-1890) was created on the basis of a decision of the Congress of Vienna in 1815. Also, the union between Spain and Germany, when the King of Spain, Charles I, was also the King of Germany – 1519-1556.
[20] For example, the union of Aragon and Castile in 1474 by the marriage of Ferdinand V and Jezebel; the union of Burgundy and the Netherlands with Austria in 1479 as a result of the marriage between Maria, daughter of Charles the bold, with Maximilian of Habsburg.
[21] Dumitru Mazilu, *Public International Law*, 5th Edition-II, vol. I, Lumina Lex Publishing house, Bucharest, 2005, p. 134
[22] For example, the physical identity of the head of state, the union of the two states etc.
[23] Dumitru Mazilu, *Public International Law*, 5th Edition-V-a, vol. I, Lumina Lex Publishing house, Bucharest, 2010, p. 135
[24] As an example of federal States we can mention: Argentina, Austria, Australia, Belgium, Brazil, Canada, Germany, Switzerland, India, Malaysia, Mexico, the U.S.A., Russia, formerly USSR etc.
[25] Beatrice Onica-Jarka, Catrinel Brumar, Daniela-Anca Deteşteanu, *International Public Law*. Specification of seminars, C.H. Beck Publishing house, Bucharest, 2006, p. 12

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