



Territorial Integrity of Ukraine in the View of International Law

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Abstract

The purpose of this paper, among others, is precisely to understand the causes of this conflict of the use of force by Russian forces in the territory of Ukraine and to understand what can be done and what should be the response that the international community, and in this case the UN represents, must give this new challenge that history is facing. Today, Europe is experiencing the most serious geopolitical crisis that the Balkans has experienced since the collapse of the Federal Republic of Yugoslavia in the 1990s. Just a little over a year and a half ago, Russian President Vladimir Putin submitted a request to the Council of the Russian Federation asking for permission to use armed force due to the emergency situation in Ukraine and the ongoing threat to citizens and thus the Forces Russian armed forces were deployed in its territory, in particular in the Autonomous Republic of Crimea and then in the entire territory of Ukraine. For us Europeans, who watch this crisis with special attention, not only because of the geographical proximity but also because of the unpredictability of its results, it is still very difficult to fully understand what is happening in Ukraine today. That is why I think it is necessary to review several stages together, which will show us how this crisis at the eastern doors of our house, if it was not preventable, was at least predictable. The principles of "sovereignty" and "self-determination" are two of the basic norms of international law, but sometimes they contradict themselves and the main debate presented in this topic is which principle limits the other, so we have tried to answer we find in the assessment of each case. State sovereignty is no longer an absolute concept as it is directly related to the respect of human rights. Self-determination continues to be a radical concept of this time, and its application depends on a case-by-case basis, taking into account various historical and current factors.

Keywords: Sovereignty, Self-determination, International Community, Force, Autonomy, Crisis

1. Introduction

Today, Europe is experiencing the most serious geopolitical crisis that the Balkans have experienced since the collapse of the Federal Republic of Yugoslavia in the 1990s. Just a little over a year ago, Russian President Vladimir Putin submitted a request to the Council of the Russian Federation seeking permission to the use of armed force in connection with the emergency situation in Ukraine and the ongoing threat to citizens and as a result the Russian armed forces were deployed on its territory, in particular in the Autonomous Republic of Crimea. The purpose of this topic, among others, is precisely to understand the causes of this conflict and to understand what can be done and what should be the response

that the international community, and in this case the UN that represents it, should give to this challenge of cloud with which history is facing. For us Europeans, who watch this crisis with special attention, not only because of the geographical proximity but also because of the unpredictability of its results, it is still very difficult to fully understand what is happening in Ukraine today.

That is why I think it is necessary to review several stages together, which will show us how this crisis at the eastern doors of our house, if it was not preventable, was at least predictable. But before we analyze the crisis of Ukraine and its territorial integrity in order to better understand this topic, I think to start the study from the case of Crimea since the history of Crimea is early, it has become a matter of politics and international law almost in the same historical period, precisely at the moment when the Ottoman Empire began to crumble to go towards total collapse. At the end of the 19th century and the beginning of the 20th century, several peoples, regions and countries geographically inside, outside, or on the borders of the Empire, began to wake up and think that this great historical event was a good opportunity for to gain autonomy, independence, why not, even to separate and gain territories from the neighbors.

The First Balkan War (1912-1913) and the Russo-Turkish Wars (1700), were in themselves dramas with great consequences for the peoples, while those events left behind great conflicts between the states of the region. In the historical sense, Crimea is a province located in a geographical region with complex and ethnic problems, where state borders do not at all correspond to the ethnic, cultural and linguistic distribution of the population, where communities with heterogeneous religious beliefs coexist, where neighboring countries have territorial claims towards the neighbor and precisely for these reasons and in these situations, Crimea has often become the object and source of conflicts, violence, and wars. Historically, Crimea has had problems related to the Sovereignty and self-determination of its peoples, but its wishes and aspirations constantly clashed with the agenda and nationalist and annexation projects of its neighbors, namely Russia. The objectives of Russian policy and strategy in the Crimea region may be oriented and in love with the equalization of cases, but Russian interests cannot deny the development of international relations, democracy and the legitimate right of the peoples of sovereign states to decide on the destinies of theirs. This is justice and its non-respect can only be called trade with the people's interests, because history proves that while their suffering, violence, persecution and destinies are similar, the origin of the conflict, the political, diplomatic, military developments and the solutions are different.

The principles of "sovereignty" and "self-determination" are two of the basic norms of international law, but sometimes they contradict themselves and the main debate presented in this topic is which principle limits the other, so we have tried to answer we find in the assessment of each case. State sovereignty is no longer an absolute concept as it is directly related to the respect of human rights. Self-determination continues to be a radical concept of this time, and its application depends on a case-by-case basis, taking into account various historical and current factors. Crimea has been the arena of clashes between East and West, South and North, and all this because of its geographical position. During the Ottoman rule Crimea possessed an extended autonomy, until 1774 when the Crimean Tatar Khanate signed the agreement that changed the course of events and the region was separated from the Ottoman Empire and maintained the same autonomy, but this time under the banner of the Russian Empire.

The latter, in 1783, occupied the entire peninsula and abrogated the extended autonomy enjoyed by the natives. In the 20th century, the territory of Crimea again became the arena of fighting, where the last stand of the White Army against the Red Army was marked. The Red Army won the battle and the surrender of the White Army was followed by a massacre, with at least 50,000 soldiers and civilians believed to have been shot and hanged within days. In February 1945, the Yalta Conference takes place in Crimea, a meeting between Roosevelt, Churchill and Stalin. On June 30, 1945, the autonomy of Crimea was abrogated again and the region was recognized as a Russian province, while on February 19, 1954, the Supreme Soviet Presidium decided to transfer the administration of the province from Russia to Ukraine.

2. Political Movements in the Crimea and the Russian-Turkish Wars

Immediately after the middle of the century XIX joint diplomacy was disintegrated by the ongoing crises in the Near East, causing an important international conflict to arise, which became known as the Crimean War. The Crimean War was a conflict between Russia and the Ottoman Empire and had the support of Great Britain, France as well as Piedmont Sardinia in northern Italy. This has been described as a war of civilization against barbarism, of freedom against tyranny, of self-defense against savage aggression, of Islam or Christianity. 69 The so-called liberal states Great Britain and France were the main colonial powers that actively suppressed freedom and national self-determination in many countries of the world. They fought in the name of preserving the Ottoman Empire, a Muslim state whose government was hardly a liberal model. This has been a war on behalf of the economic and strategic interests of the great powers in

the Middle East. But these arguments are also translated as a kind of fear of Russia⁸⁵.

For two hundred years there was war between Russia and Turkey, every twenty years, as Russia extended its influence at the expense of the Ottoman Empire. The Crimean War was fought to stop Russian expansion and to eliminate the Russian threat to the security and interests of the states of Europe and the Ottoman Empire. The tragedy of this war was that it was unnecessary and had no value. It was considered unnecessary because it did not achieve anything it wanted to achieve and in fact achieved it through peaceful negotiations.

It was worthless because it did not stop Russian expansion, nor did it reduce or stop Russia's ability to pose a threat to other states. The Russo-Turkish Wars, marking a series of wars between Russia and the Ottoman Empire in the 17th and 19th centuries. The wars reflected the decline of the Ottoman Empire and resulted in the gradual southward expansion of Russia's frontier and influence in Ottoman territory. The wars took place in 1676-1681, 1687, 1689, 1695-1696, 1710-1712 (part of the Great Northern War), 1735-1739, 1768-1774, 1787-1791, 1806-1812, 1828-1829, 1853-56 (Crimean War), and 1877-1878. As a result of these wars, Russia was able to expand its European borders south of the Black Sea, southwest of the Prut River, and south of the Caucasus Mountains in Asia."

3. Russia - NATO and Crimea Relations and Contradictions

Relations between the NATO military alliance and the Russian Federation were established in 1991. In 1994 when Russia joined the Partnership for Peace." During the 1990s, both sides signed several important cooperation agreements. The Russia-NATO Council was established in 2002 to deal with security issues and joint projects. Cooperation between Russia and NATO now takes place in several main sectors: the fight against terrorism, military cooperation, cooperation in Afghanistan (including the transportation from Russia of non-military goods of the International Security Assistance Force and the fight against drugs), cooperation industrial. On April 1, 2014, NATO unilaterally decided to suspend the practice of cooperation with the Russian Federation, in response to the Ukraine crisis. Formal contacts and cooperation between Russia and NATO began in 1991, within the framework of the North Atlantic Cooperation Council (later called the Euro-Atlantic Partnership Council) and deepened further, after Russia joined the program of Partnership for Peace on June 22, 1994.⁸⁶

On May 27, 1997, at the NATO summit in Paris, NATO and Russia signed the Founding Act on Mutual Relations, Cooperation and Security. The parties declared that they do not see each other as adversaries, and, "based on a lasting political commitment undertaken at the highest political level, will build together a lasting and comprehensive peace in the Euro-Atlantic area on the principles of democracy and cooperative security". The NATO-Russia Council was established on May 28, 2002 during the 2002 NATO Summit in Rome. The Council has been an official diplomatic tool for dealing with security issues and joint projects between NATO and Russia, which include "consensus building, consultation, joint decisions and joint action"⁸⁷.

Joint decisions and actions⁸⁸, taken under NATO-Russia Council agreements, include the fight against terrorism, military cooperation (joint military exercises and training of cooperation personnel in Afghanistan (Russia has provided training courses for counter-narcotics officials from Afghanistan and Central Asian countries in cooperation with the United Nations), transportation from Russia of non-military goods in support of NATO's ISAF in Afghanistan, industrial cooperation, cooperation in defense interoperability, non-proliferation of weapons, and in other areas.

The heads of state for NATO allies and Russia gave a positive assessment of the achievements of the NATO-Russia Council at the Bucharest summit in April 2008, after both sides have expressed dissatisfaction with the lack of actual content resulting from the council. In January 2009, the Russian envoy to NATO Dimitri Rogozin said that the NATO-Russia Council was "a body where academic discussions took place." An American official said: ". We now want to structure a more practical cooperation, in areas where we can achieve results, instead of insisting on things that will not happen.

"Relations between Russia and NATO were strained in the summer of 2008 due to Russia's war with Georgia. The North Atlantic Council later condemned Russia for recognizing Georgia's regions of South Ossetia and Abkhazia as independent states. Secretary The NATO General stated that Russia's recognition of Abkhazia and South Ossetia was done in violation of numerous UN Security Council resolutions, including those approved by Russia. Russia, on the other hand, insisted that the recognition was obtained based on the situation on the ground, and was in accordance with the

⁸⁵ Norman Rich, *Great power diplomacy, 1814-1914* (1992) New York. "McGraw-Hill" fq. 101.

⁸⁶ <http://www.nato.int/cps/en/matolive/topics/82584.htm> (12 qershor 2015).

⁸⁷ <http://www.nato.int/cps/en/natolive/topics/82584.htm> (12.Qershor 2015).

⁸⁸ <http://www.bits.de/NRANEU/relations.htm> E12 qershor 2015).

Charter of the United Nations, the Helsinki Final Act of the OSCE 1975 and other fundamental international law. Russian media pointed out that the precedent of Kosovo's declaration of independence is a violation and that it should be severely punished by international law⁸⁹.

Relations were further strained in May 2009, when NATO expelled two Russian diplomats on espionage charges. She also added to the tension already created by the proposal for NATO military exercises in Georgia, after Russian President Dmitry Medvedev said that: "The planned NATO exercises in Georgia, no matter how it tries to convince us otherwise, are an open provocation. One cannot conduct exercises in a country where there has been war." Before Russian parliamentary elections in 2011, President Dmitri Medvedev was also quoted as saying that if Russia had not joined the 2008 war in South Ossetia, NATO would have expanded further east. The Russian government says an American proposed system of missile defense in Poland and the Czech Republic could threaten their defenses. Russian Space Force commander Colonel General Vladimir Popovkin stated in 2007 that "Iranian or Korean missile trajectories find it difficult to pass close to the territory of Czech Republic, but any possible launches of Russian ICBMs from the territory of European Russia, or made by the Russian Northern fleet will be monitored by the radar station". However, in 2009, Barack Obama canceled the missile defense project in Poland and The Czech Republic, after Russia threatened the US with a military response, and warned Poland that by agreeing to NATO's anti-missile system, it is exposing itself to a strike or nuclear attack by Russia.

In February 2010, Romania announced that it would sign an agreement with the United States on a missile defense system, which Russia has interpreted as a threat to its national security. The system is expected to be operational in 2015." On June 6, 2011, NATO and Russia participated in their first-ever joint military exercise called "Sky Vigilant 2011". This is only the second joint military venture between the alliance and Russia since the Cold War. Along with it there has been a joint submarine exercise which started on May 30, 2011. In April 2012, there were several protests in Russia over their country's involvement with NATO, mainly by ultranationalists and Left-wing groups

Reuters reported in February 2014 that Russia and NATO have drawn up plans to jointly guard In early March 2014, tensions began to flare between NATO and Russia as Russian troops moved into Crimea to annex territory it claimed was historically Russian.⁹⁰ NATO condemned Russia's actions as a violation of Ukraine's sovereignty, on April 1, 2014, NATO issued a statement through its foreign minister, which, among other things, said: "We have decided to suspend all practical civil and military cooperation between NATO and Russia. Our political dialogue in the NATO-Russia Council can continue, as necessary, at the level of ambassadors and above, to allow us to exchange views, first of all in this crisis." On June 16, 2015, Tass quoted Russian Deputy Foreign Minister Aleksey Meshkov as saying, "All Russia-NATO programs that were previously operational have now been suspended."⁹¹.

3.1 *Russia's ambitions for dominance.*

Both the US and the EU have always kept the situation between Russia and Ukraine under observation. Russia is also increasing its presence and influence elsewhere: the Arctic, a region where melting ice has opened a lane for shipping and real estate worth about \$1 trillion in hydrocarbons. With the opening of two major shipping routes, the North Sea Route and the Northwest Passage, the potential for economic competition is fierce, especially among the eight members of the Arctic Council: Canada, Denmark, Norway, Iceland, Finland, Sweden, Russia, and the United States⁹².

President Putin has made several statements recently regarding Russia's national interests in the Arctic region. Mainly, militarization and preparation of supporting elements for trade routes of ships. The Russian president called for full government funding for "socio-economic development" from 2017-2020, including a system of Russian naval bases that will be "home" to ships and submarines specially designated to protect national interests. which include the protection of Russian oil and gas facilities in the Arctic. Russia is also trying to speed up the construction of more icebreakers to participate in its Arctic strategy. The Russian Federation has recently raised a territorial claim in the Sea of Okhotsk for 52,000 square kilometers, and is currently preparing a request for claims in Arctic waters of about 1.2 million square kilometers. The energy giant owns 43 of the 60 hydrocarbon deposits in the Arctic Circle. With the development of Russian energy companies, the development of hydrocarbon deposits and the expansion of border patrols in the Arctic, Putin is actively pursuing a strong approach to the Arctic region. Russian oil fields, which significantly contribute to the country's income, are declining, forcing Russian oil companies to actively consider the Arctic region, while the US

89 <http://www.bits.de/NRANEU/relations.htm> (12 qershor 2015).

90 qershor 2015) "<http://www.pravda.ru/news/world/22-08-2007/236012-PRO-OI> (15 qershor 2015).

91 <http://joint-exercise.html> (17 qershor 2015)

92 http://www.nato.int/cps/en/natolive/nee5_108501.htm (16 qershor 2015) 82 <http://tasS.ru/en/russia/801076> (16 qershor 2015)

Secretary of Defense called for a peaceful region and stable in the Arctic with international cooperation, the Arctic in turn has been militarized by Russia⁹³.

Already in the Arctic there have been powerful warships of Russia's Northern Fleet, strategic bomber patrols, as well as air force exercises. In fact, Russian military forces have been permanently stationed in the Arctic since the summer of 2013⁹⁴. According to a source from the Russian General Staff, a new military command called the Northern Fleet – Joint Strategic Command will be created and tasked with protecting Russian interests in its Arctic territories; a strategy that was adopted in 2009. Moreover, Arctic developers. According to one report,⁹⁵ Putin ordered the head of the Russian arms industry, Deputy Prime Minister Dimitri Rogozin, to focus on efforts to create infrastructure in the Arctic for the deployment of Soonest troops. Rogozin, on the other hand, has stated that all Russian weapons systems can be produced with the special characteristics needed for the extreme cold of the north, and the weapons companies were ready to supply such weapons to the Ministry of Defense." Arctic infrastructure " to which Rogozin refers will include the navy bases and border guards. These bases are part of Putin's aim to strengthen Russian energy companies and military positions in the Arctic region. In 2013, a long-closed base was reopened on the Novosibirsk Islands and is now home to 10 warships and four icebreakers.⁹⁶ A move that the Reuters news agency has called a "show of force". The Ministry of Defense is also planning to build seven landing strips in the Arctic.⁹⁷

Russia's militarization of the Arctic region is just one part of its growing activity around the globe. Deputy Prime Minister Dimitri Rogozin has said that: "It is quite important for us to set objectives for our national interests in this region. If we do not do this, we will lose the battle for resources which means, we will also lose in a great battle for the right to have sovereignty and independence".

In contrast, Alexander Gorban, a representative of the Russian Foreign Ministry is quoted as saying that the "war for resources" in the Arctic will not happen. But what was once a very peaceful region of the world that has provided international cooperation and stability has now turned into a competition for sovereignty and resource claims as evidenced not only by the growing military presence of Russia, but also Canada and the United States. United. Canada has earmarked part of its defense budget for armed ships to patrol its part of the Arctic, while the United States has been planning its own strategy.

In addition to conducting military exercises with other members of the Arctic, the US Navy has proposed a strategy entitled the United States Arctic Navy. Roadmap 2014-2030 which was released in February 2014. National Strategy for the Arctic Region 2013, cited in Arctic. The roadmap offers two specific Navy objectives for the Arctic: advance U.S. security interests and strengthen international cooperation.

According to the strategy, the navy's role will primarily be in support of search and rescue, law enforcement, and civil support operations.⁹⁸. However, this could be achieved in a more militarized strategy depending on the US government's view of Russia's increased military activity in the Arctic region over the coming years. In both cases, the US has lagged behind in Arctic preparation. It has very few operational icebreakers for the Arctic region, where its presence has been seen with nuclear submarines and unmanned aerial vehicles, according to a Reuters article. By 2020, the navy will primarily use its own submarines and have limited air assets in the Arctic area, while its medium- and long-term strategy emphasizes service personnel, surface ships, submarines, and air that will be prepared for Arctic conditions and operations.

Despite its long-term strategy, the United States is already thinking about creating a military presence to compete with Russia, which already has strategies in motion from 2020 onwards. Former Secretary of State Hillary Clinton called for a US-Canadian counterbalance to Russia's Arctic presence, noting "they have aggressively reopened military bases. While the US cannot legitimize Putin's actions in opening military bases, it is even worth it is mentioned that Russia is

93 "US Navy admits it needs massive investment to fight for Arctic sea&ays control," RT, February 28, 2014, accessed April 22, 2014, <http://rt.com/usa/us-navy-arctic-plans-146/> (20 qershor 2015)

94 "Arctic Resources: The fight for the coldest place on Earth heats up," RT, April 15, 2014, accessed April 22, 2014, <http://rt.com/news/arctic-reclamation-resources-race:524/>. (20 qershor 2015)

95 "Russia to create united naval base system for ships, subs in Arctic - Putin," RT, April 22, 2014, <http://rt.com/ne&es/154028-arctic-russia-ships-subs/>. (19 qershor 2015).

96 Nicholas Cunningham, "Russia ships its first Arctic oil. is a boom coming?" *The Christian Science Monitor*, April 21, 2014, <http://www.csmonitor.com/Environment/Energy-Voices/2014/0421/Russia-ships-its-first-Arctic-oil-is-a-boom-coming>. [19 qershor 2015.

97 US Navy admits it needs massive investment to fight for Arctic sea&ays control," RT, February 28, 2014, <http://rt.com/usa/us-navy-arctic-planS-146/>.

98 "Russian military to have special command for Arctic operations," RT, February 17, 2014, accessed April 22, 2014, <http://rt.com/politics/russian-arctic-military-Command-397/>.

developing a strong military presence in a potentially competitive region. Russia's plans to reopen bases and establish a military command in the Arctic prompt the conclusion that Russia wants to be the founding and dominant force in a new region that will host economic competition and shipping lanes, although it operates in a harsh environment that makes it difficult to extract resources⁹⁹.

Although the Arctic holds a significant amount of the world's oil and gas deposits, the extreme environment and remote location make it difficult to produce energy quickly and efficiently. Despite this, the Russian Federation is focused on the development of these areas with the claims that hydrocarbons are in the continental shelf part of the country. In addition, Russia is deploying funds and forces to the Arctic to protect its interests. While the US currently lacks a development of natural resources and exploitation of the Arctic Circle, it wants to display power in the cold region to compete with Russian dominance and potential influence. But with the Defense Department facing ongoing budget cuts, building up a naval force in the Arctic will be slow and difficult. For now, the United States can only show power through nuclear submarines and technology.

4. The Crisis of Ukraine and its Territorial Integrity

4.1 The birth of the Ukrainian crisis-Russian intervention in Crimea and Ukraine

The birth of the Ukrainian crisis dates back to November 2013, when President Viktor Yanukovich and the Ukrainian government announced to the country the abandonment of the important process of reforms (constitutional, economic and institutional) that were the basis and precondition for the signing and subsequent ratification of the agreement of many expected association between Ukraine and the European Union¹⁰⁰, as an essential process for the future integration of the country in the EU. Eastern Europe, from 1991 until today, has actually been the protagonist of an increasingly rapid integration into the EU¹⁰¹; However, the various vicissitudes that have affected Ukraine have shown an uncertain European balance, confirming in this sense the words of Russian President Vladimir Putin who reminded everyone how "peace on the old continent is based on well-defined spheres of influence between NATO and Russia and not simply in the success or failure of the EU project", however noble it may be.

The Association Agreement between Ukraine and the European Union was negotiated over five years, from 2007 to 2011, and should have established a broad free trade area, replacing the previous cooperation and partnership agreement between Ukraine and the Union European, of 1998. The Association Agreement is set in a radically changed political context and has as its goal - not very implicitly - to allow for a gradual integration into economic cooperation in the European Union, also ending and Putin's ambition to incorporate it into the Eurasian Customs Union created in 2010 and which is already part of Belarus and Kazakhstan¹⁰². Given President Yanukovich's statement to abandon this project and the position of the Ukrainian government that took this position, a part of the pro-European Ukrainian population immediately took to the streets to protest. Despite the harsh reactions of the Kiev government against the protest in Maidan Square, it was unable to curb the demonstrations and clashes inevitably escalated, transforming the risk of a civil war in Eastern Europe into a reality of sad.

As a result of all this, the Ukrainian Parliament in its plenary session held on February 22, decided to dismiss Yanukovich for inability to take responsibility for his constitutional obligations⁴⁶, and elected an interim president, setting new elections to be held on May 25..

And yet some parliamentarians pointed out that the impeachment of Yanukovich, although it was decided by the Ukrainian Parliament with an overwhelming majority (and 328 votes in favor), did not take place in accordance with the formal procedures laid down in the country's Constitution, in Articles 108 and following it. Needless to say, the impeachment was also challenged by Yanukovich himself who, despite being forced to flee the country to seek refuge in Russia, still continues to proclaim himself the only legitimate President of Ukraine. In addition, a few days after the dismissal of Yanukovich, the Ukrainian Parliament, taking advantage of the right granted to third countries by the article. 12 par. 3 of the Rome Statute which is a signatory but not ratified by Ukraine, adopted a declaration accepting the jurisdiction of the International Criminal Court regarding possible crimes committed on its national territory in the period between November 21, 2013 and February 22, 2014; statement signed by the interim President and sent to the office of

⁹⁹ "Russia to Build Network of Modern Naval Bases in Arctic- Putin," *Riá Novosti*, April 22, 2014, accessed April 22.

¹⁰⁰ A. DEL VECCHIO, *Diritto delle organizzazioni internazionali*, Edizioni Scientifiche Italiane, Napoli, 2012, pp. 19-37

¹⁰¹ Partnership and Cooperation Agreement between the European Communities and their Member State and Ukraine del 14 Giugno 1994, in G.U.C.E., 19 Febbraio 1998, p. 3

¹⁰² E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, LUISS University Press, Roma, 2014, p. 10.

the ICC on April 9.

Also, when we talk about the crisis in Ukraine, we generally refer to the events that have occurred in the country since 2013, and which include the Crimean peninsula as well as the south-eastern regions of the Donbas basin. In reality, however, despite being an expression of the same conflict, Crimea and Donbass represent two distinct fronts; distinction must be preserved as such if we want to understand the legality of the interventions that have been made there. The events are divided, as can be seen, into two phases: on the one hand, the invasion and annexation of Crimea between February and March 2014, and on the other hand, the support of the action (indirect and direct) in favor of the rebels acting from east of the country and that started in April of the same year and intensified during the summer. It is clear that the legal implications in both cases are numerous, but we will focus our attention on those aspects that are more closely related to the provisions of international law regarding the use of force in international relations.

First, the Crimean Crisis in 2014 was a political crisis, and led to the separation of the territory from the rest of Ukraine and its annexation by Russia, as a result of local unrest, and Russian military intervention was ordered in response to the dismissal that was made to President Viktor Yanukovich and his government by the Ukrainian Parliament. While a large number of states (except Russia and some others) were ready to recognize the legitimacy of the new government of Ukraine led by Turchynov, while Crimea has refused to do so, arguing that the change of the executive took place in violation of the Constitution¹⁰³.

The legality of Russian actions in Crimea, and Russian intervention in Ukraine, constitute serious violations of international law. With special reference to the situation in Crimea, there are doubts about the direct Russian involvement carried out, through the use of national troops already in the peninsula - as acknowledged by Putin - through the contribution of new forces coming from Russia. It is a fact that the independence declared by Crimea through the referendum came under Russian military control, which led to the annexation of this territory by Russia. At least the unusual nature of these operations does not prevent us from considering them as a violation of the prohibitions established by international law. In fact, Russia's interventions can be seen not only as a violation of the rules prohibiting the use of force in international relations¹⁰⁴, but also those that stop aggression, as determined by Resolution no. 3314 of the United Nations General Assembly of 1974¹⁰⁵.

This definition of aggression includes in his case the invasion or occupation of the territory of another state, and the use of the armed forces of one state in the territory of another with its consent beyond the time limits provided by the "agreement. In reality, it will it would be difficult to think of the Russian operations carried out in Crimea as a hypothetical armed attack; a circumstance that makes it possible to distinguish the present case from that related to southeastern Ukraine, in which the configuration of an attack by Russia seems to undeniable life. The same applies to the call - with a strong impact and symbolic value - made by the Russian President in the case of Kosovo to support the legitimacy of the Crimean referendum.

Although there is no denying the poor management of the Balkan crisis by many Western countries, the Kosovo-Crimea parallelism holds only up to a certain point. Leaving aside the fact that after the 2008 referendum in Kosovo, Kosovo only gained independence from Serbia without joining any other state, where the declaration of independence was the result of serious and systematic violations of human rights and international law. committed in that territory; violations completely absent in the context of Crimea¹⁰⁶.

The United Nations General Assembly with Resolution 68/262 emphasized the invalidity of the Crimean referendum and called on all states not to recognize any changes made regarding the status of Crimea. However, for obvious reasons, there has been no response from the Organization's Security Council, for which the only concretely approved measures and sanctions were those of some Western countries, and of a predominantly economic nature. This is not a taboo that the United Nations Security system is not able to function if the peace is threatened or broken by one of its permanent members, What is Russia, a country directly involved in this crisis??

One of the recognized exceptions to the prohibition of the use of force is Article 51 of the United Nations Charter, which allows a state to use force as a response to an armed attack. The provision in fact - as you remember earlier - states that "none of the provisions of this Statute shall prevent the inherent right of individual or collective self-defense if an armed attack occurs against a member of the United Nations, until The Security Council has not taken the necessary measures to maintain peace and security "160. Russia has repeatedly been accused of orchestrating the unrest that has

¹⁰³ M. ARCARI & M. ROSCINI, *International law and the "Crimean conundrum": legal issues arising from the 2014 Russia/Ukraine crisis*, "Questions of International Law", www.qil-qdi.org/, Maggio 2014.

¹⁰⁴ B. CONFORTI, *Diritto internazionale*, cit., pp. 120-121.

¹⁰⁵ La Risoluzione n. 3314 dell'Assemblea Generale delle Nazioni Unite.

¹⁰⁶ M. PEDRAZZI, *La liceità delle operazioni russe in Ucraina*.

erupted in the region since late March, although it has repeatedly denied any involvement. A significant number of Russian citizens and soldiers have fought in this war as volunteers, even the leaders of the DPR and LPR have admitted it. This is a fact, although it is not enough to make us believe that Russia is responsible for an attack against the state of Ukraine. However, the presence of Russian soldiers in the area has gradually increased with the recruitment of open forces in a large number of Russian cities. This increase in Russian forces in Ukraine culminated on August 25, when the Security Service of Ukraine (SBU) confirmed that it had captured a group of Russian paratroopers - this time non-volunteer - on Ukrainian territory, showing their photos and names. To these accusations, Putin's Russia reacted by arguing, in an original and convincing way, that they were Russian fighters who crossed the border "accidentally". We must at this point consider that again coincidentally on August 27, large amounts of Russian military equipment and personnel crossed the border from Russia into southern Donetsk Oblast, an area previously controlled by the Ukrainian government. Faced with this incident, the new Ukrainian President and some Western officials talk about a secret invasion by Russia, which is what in legal language is translated by the term aggression. NATO commander General Nico Tak said on August 28 that more than 1,000 Russian soldiers are operating in the Donbas area¹⁰⁷.

Faced with all this, the EU has imposed new sanctions on Russia and intensified those already introduced in March 2014 as a result of the annexation of the Crimean peninsula. NATO has published statements in which it tries to dispel the accusations made by the Russian government against Ukraine and the reasons supported by Russia to justify its presence in the east of the neighboring country. According to NATO Secretary General Anders Fogh Rasmussen, Russia "led armed attacks without any basis against the legitimacy of the Ukrainian authorities and has continued to use force to occupy the territory of the state"¹⁰⁸.

For its part, the Russian Foreign Ministry has accused the Ukrainian authorities of "blaming the Moscow Government for all its problems"²⁰³. In a statement, Minister Lavrov wrote that "the United States and Europe, and not Russia, are to blame for the destabilization of Ukraine" and that Russia, on the other hand, "is doing everything possible to promote the stabilization of the country".

4.2 The Association Agreement between Ukraine and the EU

The failure to sign the SAA by the Yanukovich government is seen by many as the first cause that led to the Ukrainian Crisis, starting with the first clashes that took place in Kiev Square. The Deep and Comprehensive Free Trade Agreement is primarily an agreement on trade exchanges. We say mainly because the political consequences that the treaty would be destined to produce in Ukraine are also evident, due to the political and social standards and requirements that the Union has imposed as a precondition for final ratification. The agreement allowed Ukraine and other contractors (ie Georgia and Moldova) to enter the European market on easier terms, mainly due to the gradual reduction of customs duties. At the same time, the domestic markets of these countries would have opened the way to European goods, but even more progressively, given that Community exports in terms of quality, size and competitiveness could have created inequalities in some sectors, especially in the food sector which is the one most involved in exchanges at least in the first phase.

So this was the main purpose of the Treaty, to be implemented, however, it required major reforms - as mentioned earlier also political, institutional and social - that these countries of the former Soviet Union were called to adopt. For these reasons, the SAA has been seen by many as a basis or a prelude for a future membership of these countries (Ukraine at the top) in the European Union, eager to expand its borders to the east of the continent. Russia's reactions are actually not hard to understand. President Vladimir Putin, facing the risk that Ukraine could accede to this treaty, actually proceeded for the first time by banning the import of Ukrainian products and then also threatened to increase the price per cubic meter of gas and oil supplies, the main materials exported by Russia - which account for only 80% of total exports and 5.7% of the country's GDP - and of which neighboring Ukraine is the main consumer.

It should also be considered that this measure, although directed at Ukraine, also extended its effects indirectly to the European Union itself, which depends more than 30% - as already mentioned - on Russia for the import of these resources; without taking into account that other countries such as Greece, Cyprus and Bulgaria are 100% dependent. The Russian President himself, considering these interests "necessary for Russia", used them as a justification for his military intervention in Ukraine. In particular, according to Putin, the Association Agreement would present certain aspects of incompatibility with Ukraine's participation in a treaty concluded in 2011 - which also aimed to create a free trade area

¹⁰⁷ A. IANNUZZI, *Ucraina-Russia, guida al conflitto*.

¹⁰⁸ www.ilpost.it/.

within the Commonwealth of Nations. Independent. This agreement to create a free trade area in Eastern Europe was signed in Moscow in 2011 between Russia, Ukraine, Belarus, Armenia, Kazakhstan, Tajikistan, Kyrgyzstan, Uzbekistan and Moldova. The perceived risk in the case of Ukraine was that the products that would come from the Union area once they entered the market in the Ukrainian and Moldovan market on the basis of the association agreements would be more preferred. For this reason, Russia took those previously stated measures (the ban on imports and the increase in gas prices) in an attempt to push the government of Kiev to refuse to sign any economic integration agreement with the European Union and to suppress those risks that threatened the Russian economy. On November 23, President Viktor Yanukovich announced the abandonment of the project, perhaps unaware of all that this decision would entail.

4.3 Violation of territorial integrity of Ukraine by Russia

Referring to Russia's influence and intervention in Ukraine, we can say that Russian initiatives constitute a violation of a fundamental principle of international law, which prohibits interference in the internal and international affairs of other states. This principle, which is not expressly stated in the Charter of the United Nations, was proclaimed for the first time by the General Assembly only in 1965 and was then further specified given its rather wide and varied content. This principle implies the obligation for a state not to engage in any activity that aims to influence its own interest, the choice and direction of the domestic and international policy of another state; the hypothesis which can occur not only through the use or threat of the use of armed force, but also through the adoption of measures of an economic, political or any other nature. One reason that seems to justify Russian intervention in Crimea - but also in southeastern Turkey - is given by Putin, according to which Russia's intervention is justified by the alleged need to protect the rights and lives of Russian citizens present in those territories in the light of violent repression in the country by the new Government of Kiev¹⁰⁹. Russian Foreign Minister Lavrov has repeatedly demanded Russia's right to intervene militarily in Ukraine by sending its peacekeepers to protect Russian citizens living there. This is justified by the way that the same strategy has already been used by Moscow regarding the intervention made by Russia in 2008 in the Caucasus, Ossetia, to support the independence of South Ossetia and Abkhazia against the efforts of Georgia to regain control of those territories. Russian intervention in the Caucasus was implemented in accordance with Art. 61 of the Russian Constitution of 1993. However, as far as Ukraine is concerned, Russia's intervention is not in accordance with international law, as it does not have the assumption that Ukraine is a major threat to the lives and rights of the Russian minority, which according to the Moscow government, it would justify the necessity of operations on Ukrainian territory. In Ukraine, there have been no - apart from sporadic cases - massive and systematic attacks against the Russian population that make Russia's intervention necessary¹¹⁰. It is also worth noting that President Vladimir Putin in his statement referring to the need to intervene in Ukraine focused on the close historical and no less cultural ties between Ukraine and Russia and that Russia itself has every interest to keep intact. In this regard, Putin recalled a large number of concessions made by Russia to Ukraine as a result of the collapse of the Soviet Union, focusing on the recognition of Crimea, which occurred in 2000, as an integral part of the territory of Ukraine. . This concession, Putin emphasized, was made precisely to maintain good neighborly relations with a "brother", for the good of the country and in the interest of Russian citizens and Russian-speaking residents of Ukraine¹¹¹. This is clearly visible in recent years, with the aim of Ukraine to integrate into the Western sphere of influence, through economic integration with the European Union Association Agreement on the basis of the agreement, the will clearly manifested by the Government of Kiev which wants to gain the status of a future member of NATO, an organization in which Ukraine is not yet a member, but in which several Baltic countries and Eastern Europe have already joined. And this seems to be only one of the most painful points for Putin.

In other words, and finally, the political choices made by Ukraine in recent years at the instigation of Western partners undoubtedly risked undermining the neutrality of a country like Ukraine. That the need to protect Russian interests is a point that really has value only diplomatically, but is nevertheless almost irrelevant in the light of international law. Moreover, it is even less fundamental if it is used to justify violations of obligations arising from the principles and rules of fundamental international law as happened in this case. International law recognizes the legal value of necessity, it is understood as a circumstance capable of excluding the responsibility of the State against an international obligation, only when such behavior represents the last and necessary means to protect an essential interest in the light of a serious and immediate danger, and provided that the act committed in need does not seriously endanger

¹⁰⁹ E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., p. 31.

¹¹⁰ la Risoluzione dell'Assemblea Generale n. 2131 contenente la Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of Their Independence and Sovereignty, adottata il 21 Dicembre 1965.

¹¹¹ E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., p. 38.

an equally essential interest of the State to which it is addressed¹¹².

The reasons given by Putin in support of the legality of its intervention in Crimea are also based on the military action subsequently carried out by Russia in support of the pro-Russian separatists of the eastern regions of Ukraine. In this respect, in fact, the Government of Moscow more than giving excuses was limited only to rejecting the accusation that it had intervened militarily, with the aim of presenting the action and support in favor of the separatists in Donbass in the same way as a humanitarian intervention in favor of civilian populations victims of attacks experienced by the Ukrainian authorities. Faced with this situation where Russia has - and continues - to violate the territorial integrity of Ukraine, the reaction of the international community has so far been quite weak. It is also clear how this stems from the internal impossibility of the United Nations to act; impossible due to the fact that one of the countries directly involved in this crisis is a permanent member of the Security Council, and the adoption of resolutions is therefore excluded from his right to veto it. Even before the General Assembly declared the illegality of the referendum in Crimea and the subsequent annexation by Russia, some states, notably the United States and European Union countries, have unilaterally adopted sanctions that were later strengthened after the armed aggression carried out by Russia in eastern Ukraine as well. At this point, the legality of such measures used by the West can be questioned.

5. Conclusions

Human history is full of the rise and fall of states, and the history of the two regions, both similar and different, attests to this. The solution that Russia gave to the case of Crimea, not only did not find any international support, but on the contrary, the Russian policy encountered opposition and international sanctions. Russia's current behavior in the case of Crimea and following its annexation strategy of Ukraine, proves that it speaks with the argument of force and interprets, or rather, completely ignores international law according to its own wish. But Russia's actions, as in the later cases of Abkhazia and South Ossetia, as well as later in the cases of Crimea in Ukraine, act on the unrealistic pretext of supposedly protecting a population whose rights are being violated. In fact, there is a similarity here, but not in the Russian sense, but in the sense of the bitter situation in the Balkans, when Serbia, in order to create a greater Serbia, used as a pretext for its aggressive policies the fact of the unity of the Serbian minorities living in other countries of the former Yugoslavia with the false argument of the "danger to the Serbs" from Bosniaks, Croats and Albanians. After the independence of Kosovo, Moscow and Putin started talking about "the danger of ethnic Russians in Ukraine", but the international opinion was clear that this Russian propaganda warned of military intervention in the region. Currently, the annexation of Crimea and the situation in Ukraine has met with strong objections from the West, accusing Russia of "violating the UN Charter, violating the sovereignty and territorial integrity of Ukraine" and, in addition to the sanctions, they have called on Moscow to "immediately stop the military activities and withdraw the army to the barracks", although so far the EU and NATO are trying for a political solution.

We have seen how, defending the legitimacy of the referendum that took place in Crimea, Russian President Vladimir Putin has often drawn attention to an important principle of general international law, the so-called principle of self-determination of peoples. This principle has been specifically invoked in support of the declared independence of the Ukrainian peninsula and its subsequent annexation by Russia. Therefore, this principle seems to have played a key role in the crisis in Crimea, and it is then appropriate to determine the content and scope to see whether the people of Crimea can in practice be considered the bearer of this right or not. Today there are a number of international norms that protect ethnic minorities, even if in reality it does not seem that they can be raised as real subjects of international law. More and more often then we speak in practice of "peoples' rights", as the right of peoples to self-determination, or even as the right of peoples to freely dispose of their natural resources. For most of these rights, the term "people" is used prominently and seems to be easily substituted for the term "state" to indicate the actual owner. The application of the principle of self-determination, however, presents considerable difficulties when it comes to territories in which the foreign government, although present with its own armed forces, is supported by a local government from which it has received a request, formal for "help" (as in the aforementioned case of Crimea). It can be said that in this case the principle of self-determination is applied in the sense of imposing the cessation of foreign employment in both Governments²²⁴. The most interesting aspect of the principle under consideration is represented by the close links that exist between it and other internationally recognized imported principles, such as the one that requires respect for the territorial integrity of the state. The scope of application of this principle seems to be quite uncertain; all that can be said is that self-determination should only give way when the local population is not necessarily native but imported from the mother country. We must

¹¹² E. SCISO, *La crisi ucraina e i problemi di sicurezza in Europa*, cit., pp. 43-44.

then guard against interpreting the principle of self-determination as capable of fulfilling the separatist aspirations of the regions. In accordance with par. 4 In fact, the Council, after noting that Ukraine has not authorized the independence referendum in Crimea, declared that "this referendum is not valid and cannot be a legal basis for any change in the status of the peninsula" 293. The next paragraph increases dose stating that "Member States, international organizations and specialized agencies, are called upon not to recognize any change in the status of Crimea on the basis of such a referendum," and that "they must therefore refrain from actions that could be interpreted as an acknowledgment, if only implicit, of this change of status.

Much has been written and said about the crisis in Ukraine, but again it seems that the issue of Ukraine is still far from being resolved. The few interventions that have been implemented in practice have done nothing, but have produced effects that are not hoped for - as seen - the lack of interest shown by the international community, with its focus now concentrated on other fronts of the planet. We have followed step by step the history of this country to understand the deepest roots of the ongoing conflict and they have shown us, confirming how much our past reflects our future. Far from being able to make moral judgments - which I leave to the reader - we have been "juridical" when we have said that what happened in Ukraine constitutes a clear violation of international law. On October 26, Ukraine returned to the polls. The country's new president is Petro Poroshenko, but his victory has not helped the Donbass regions, which abstained from voting and where conflict continues despite repeated promises of a ceasefire. Instead, the statement of the Commissioner for Human Rights of the Council of Europe, Nils Muiznieks is clear: "urgent measures must be taken to ensure that the rights of the populations involved in the conflict in the east of the country are respected." If this is the case today, the situation in Eastern Ukraine, the annexation of Crimea by Russia seems to be a won issue now. As in other cases, the "rest race" policy has once again been victorious, regardless sunscrupulous violations of fundamental international law and injuries to the values and principles on which our community was founded. The Ukrainian crisis shows us that despite all the efforts made so far, relations between states are still governed by the law of the strongest, and how these principles of law are sometimes valued as a success for humanity, rarely finding application in practice. , they produce nothing but a pretext to protect the most expensive interests from time to time in the most powerful countries.

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