

## THE LEGAL CAMOUFLAGE OF THE ILLEGAL AND ILLEGITIMATE ANNEXATION OF THE CRIMEAN PENINSULA (2014)

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### **Abstract**

This article aims to analyse the situation that happened in 2014 when the Russian Federation illegally and illegitimately annexed the Crimean Peninsula, proving that in the 21st century the annexation of a part of a democratic state (belonging to a mostly democratic international community) is possible. Claiming its destabilizing actions in the form of "requested aid", the Russian Federation tried to find countless justifications for the annexation of the Crimean Peninsula by creating an interventionist annexation precedent. The research methodology of the article aims at a longitudinal study regarding the justifications that the Russian Federation tried to provide for the illegal and illegitimate annexation of the Crimean Peninsula, with the main method being the documentary analysis based on the specialized literature. The most important two questions of the paper are: „what were the justifications offered by Moscow in favour of the annexation” and „did the legal camouflage that Moscow gave to the illegal and illegitimate annexation of Crimea lead to international recognition?” The attempt to answer these two questions offers the opportunity to analyse the tricks (especially legislative) that the Russian Federation will use on the international level regarding the annexation of Crimea.

**Keywords:**

Annexation; Crimean Peninsula; legal camouflage; Russian Federation.

**1. THE EVOLUTION OF SITUATION IN CRIMEA**

The Ukrainian territory has been of interest to the Russian state since its inception due to its positioning that allows direct connection with Europe. Vladimir Putin's main motivation for the actions in 2014 was to defend the Russian population on the territory of Ukraine, considering Ukraine to be "Russian land" (Hroch 1985). Where does this expression come from and what are the origins of Ukrainian identity? Ukrainian identity is considered to be the product of the nation-building process carried out by the intelligentsia of the 19th century; according to the scheme presented by Miroslav Hroch, the nation-building process has 3 phases: phase A – of cultural interest, where a small group of intellectuals discovers the common cultural heritage and tries to promote it through art and writings; phase B – of the national agitation, where a thick layer of the intelligentsia tries to impress the culture-based identity on the masses; phase C – of mass nationalist mobilization, where nationalist activists have political demands supported by popular movements (Hroch 1985). The Ukrainian problem consisted in the fact that the "national awakening" was not fully realized, suffering several delays due to Russian interventions through policies of a Russifying nature in the mid-19th century. A return to this period was attempted in the 20s under Bolshevik influences but then abandoned in the 1930s by the reorientation of policies towards mass Russification.

However, says Mykola Riabchuk, there were parts of the Russian territory, especially in the western part that were under Habsburg rule, where phase B was complete and thus the identity process could also extend to the east, but with difficulty. When Stalin annexed the western Ukrainian territory to the Ukrainian Socialist Republic after the Second World War, he created a hybrid entity where the majority considered themselves "Ukrainians" but gave this term different meanings: if the Westerners considered Russia as "the significant other"

rejecting the legacy the Soviet Union, Eastern Ukrainians considered themselves to be "little Russians." (Riabchuk 2015). After the collapse of the USSR in 1991, these two thoughts merged within the same state, where they had to coexist, reaching conflicts regarding belonging to a certain culture. The "two Ukraines" with different sense of belonging and with different legacies represented fertile ground for Russian destabilizing actions over time, with the Russian Federation turning this weakness into a means of manipulation. Of course, the inability of the Ukrainian authorities to implement policies to reduce or control "regionalization" was also a determining factor. The phrase "two Ukraines" should be understood in metaphorical and not necessarily geographical terms, with a population that has passed the three phases in terms of identity and a population that has remained stuck at the level of phase B and still open to nationalism; these two will be unevenly dispersed on Ukrainian territory, a "modern Ukrainianism" (national) and a "pre-modern Ukrainianism" (local) which the Russian Federation will use to destabilize the government in Kyiv. The capacity of the Ukrainian state immediately after 1991 to implement viable policies it turned out disastrous, with "Baltic-style de-Sovietization and Belarusian-style re-Sovietization" having adverse consequences for Ukraine's future from two perspectives, as Mykola Riabchuk says: first, this policy was enough tempting for local leaders to unite popular dissatisfaction with their economic and social failures towards the "centre" which "favours the other group", located either in the east or in the west (Galicia - inhabited by nationalists and ruled by the Americans or Donbass - inhabited by homo sovieticus and controlled by the local mafia); secondly, it led to an immobilization of the local electorate against the "other" (either east or west) not being able to start the process of assimilating the pre-national into the modern Ukrainian identity or to find common projects (Riabchuk 2015). Such a tense situation at the level of the population will be used by the Russian Federation to its own advantage, thus succeeding in destabilizing de facto (Bobick 2014). Ukrainian state, making the East-West separation a reality and expanding its sphere of influence in Eastern Europe. After studying three variables assumed to have a defining impact on the situation in Ukraine, Lowell W. Barrington (Examining rival theories of demographic influences on political support: The

power 2002, 455-491) obtained the following results: regional divisions represent one of the most important variables when discussing the situation in Ukraine because their positioning undoubtedly affects the way of thinking and perception of implemented policies, ethnicity was not used so much by political leaders to define the situation, nor was the spoken language; consequently, regionalization is a key factor in the process of understanding the situation.

The tense situation in Ukraine started with the Orange Revolution in 2004 following the presidential elections in which Viktor Yanukovich had won over Viktor Yushchenko; that was the moment when the first suspicions appeared regarding the fraud of the election results in favour of Yanukovich, supported by the power. These movements of the opposition supported by masses of people will be taken over 10 years later when, when there will be massive protests in the country known as Euromaidan (a particularly important role being played by the students). The situation in Crimea is similar to that in Transnistria upon a closer analysis of the actions undertaken by the Russian Federation, the same behaviour pattern being present in both parties. In both cases there was a rapid movement towards a nationalist type of government which somewhat eased the demands of those who felt ethnically or linguistically discriminated against; this threat, coupled with Russian military support, creates the necessary conditions for the creation of a "non-existing nation" (Bobick 2014, 6); the next step is, practically, a legitimization of the newly created power, through a democratic process: the referendum. The Russian Federation has the final role to „stabilize“ the situation at the international level either through a unilateral peace (Transnistria), or through annexation (Crimea), or through international recognition (South Abkhazia and Ossetia (Foltz 2022)).

The eventful unfolding of the situation in Crimea was a fast one following the steps presented above, with the extremely important role of the Russian Federation in supporting the coup, providing military support for it and imposing a unilateral international trajectory for the event. After Yanukovich decided to stop talks on Ukraine's Association Agreement with European Union in exchange for financial aid received from Vladimir Putin, pro-European civil society reacted with massive street protests, with President Yanukovich refusing to budge by announcing that talks would continue regarding the

signing of the „Association Agreement and the Deep and Comprehensive Free Trade Agreement“. Armand Goşu presents in his book "Euro-falia" the chronological development of the events with the necessary explanations for each move coming from the Russian side. In his opinion, the revolution of the Maidan was one in which "public opinion and political opposition found each other (...) a revolution of the middle class not represented either in the structures of power or in the opposition (...) without young people, especially without students, it would have been a Maidan 2.0" (Goşu 2016, 35-36) fighting for an independent, sovereign Ukraine, integrated into the European Union.

Immediately after President Yanukovych's statement, the protests gained momentum, forcing the incumbent president to leave the country and be granted political asylum on Russian territory (establishing an interim government and a new president, Oleksandr Turcinov). Things will evolve on February 23 when Ukraine's Verkhovna Rada will repeal the law on state language policy (TV 2014), which gave Russian the status of a regional language in 13 of Ukraine's 27 administrative regions where the ethnic population represented more than 10%. On February 26, 2014, gunmen and wearing military uniforms without insignia, speaking Russian ("green men") will take control of Sevastopol and Simferopol (Booth 2014) and a day later the building of the Crimean Parliament and the Council of Ministers. While the Western press (The Washington Post) was announcing Russian troop movements in Crimea (Russian army warplanes and trucks), the invading army took control of the international airports in the two cities. The newly appointed commander of the Ukrainian navy, Denis Berezovsky, will defect in early March to the pro-Russian side (and then accused of high treason), but part of the maritime forces will remain loyal to Kiev. In a marathon conference held by Vladimir Putin at the beginning of March, he explained, in his own terms, the situation in Ukraine: "We will not fight with the Ukrainian people. We are fighting for its defense (...) the control of the military objectives in Crimea was not taken by the Russian army, but by the local defense forces (...) (Vladimir Putin 2014)."

In an interview given to the Bloomberg television channel, the vision of Dmitry Medvedev was clear and without violations of international law: "We did not annex any part of Ukraine (...) The population of the Autonomous Republic of

Crimea held a referendum and voted for self-determination and for joining Russia in accordance with the existing procedure (...) They started by proclaiming independence and after that, they asked to join Russia. We satisfied their request. The Russian Constitution was amended so that Crimea could join Russia as the result of a popular vote" (Medvedev 2014). Consequently, once the requirements of international law regarding the possibility of annexation „have been seeming fulfilled”, the internal destabilizing actions of the Russian Federation that ultimately led to the annexation lose their importance in the arguments full of legalisms interpreted in their own way by the Russian Federation.

The month of March comes with controversial elements for the environment of international relations. In a desperate cry for control, the new Crimean Prime Minister, Sergei Aksionov (The Telegraph 2014), will ask the Russian Federation for "assistance in ensuring peace and stability on the territory of Crimea" declaring that the security forces "will take orders directly from me. Those who do not comply, resign" and will announce "a referendum on expanding autonomy on March 30." (Aksionov 2014) The first reaction will come from US President, Barack Obama, who will publicly declare that this "Crimea crisis" must be resolved peacefully and "reaffirm the United States' strong support for the new government and our commitment to the sovereignty, territorial integrity, and democratic future of Ukraine" (Obama 2014), recalling what will take place in the next period, especially from a financial point of view: "there will be costs for any military intervention in Ukraine" (Obama 2014).

The Russian Federation will immediately react to the request for help from the Crimean Prime Minister through the request that Vladimir Putin will make to the Upper House of the Russian Federation parliament with a view to the use of the Russian armed forces on the territory of Ukraine: "Considering that the extraordinary situation taking place in Ukraine threatens the lives of citizens of the Russian Federation and the fact that our armed forces are deployed in accordance with an international agreement on the territory of Ukraine (the Autonomous Republic of Crimea), based on art. 102 para. (1) lit. g of the Constitution of the Russian Federation request the Council of the Russian Federation for permission to use the armed forces of the Russian Federation on

the territory of Ukraine to normalize the socio-political situation in this country." (Putin, en.kremlin.ru 2014). Upon this request, Vladimir Putin will unanimously obtain the approval of the Chamber for the deployment of Russian military troops on Ukrainian territory (BBC.com 2014). In reality, the reins of institutional control are held by Vladimir Putin, the unanimous vote obtained by the president's request is not surprising. This request made by Putin was only a facade, a mimicry of the democratic process to give legitimacy to a decision already taken by him, considering that the "green men" were on Ukrainian territory since February continuing the destabilization process Ukraine's internal affairs.

NATO will summon the Russian Federation to stop supporting the separatists on Ukrainian territory through the voice of Secretary General, Anders Fogh Rasmussen. The Ukrainian authorities will withdraw their military guard ships from Crimea by moving them to the ports of Odessa and Mariupol and the Ukrainian infantry (base on the ground from Privilnoye) will be surrounded by unidentified soldiers who arrived in trucks registered with Russian license plates. On March 6, 2014, members of the Supreme Council of the Autonomous Republic of Crimea will vote to support a referendum on the status of the region; more precisely, the official exit of Crimea from Ukraine and its accession to the Russian Federation (BBC.com 2014) so that, on March 11, the Crimean parliament adopts a declaration of independence from Ukraine. The consolidation of this decision will be made on March 16, 2014, when the referendum will be held on the accession of Crimea to the Russian Federation, the official results showing that 97% of the votes were in favour of joining Russia; in this referendum, supervision from international observers was not accepted. In May, however, after investigations, the main Ukrainian news site TSN.ua stated that the site of the Council for Civil Society and Human Rights of the Russian presidency published a report (quickly deleted by the authorities) that specified the real results of referendum: only 30% of Crimea's population participated in the referendum and of these only 15% voted for annexation (Gregory 2014). Two days later, on March 18, 2014, Vladimir Putin will initiate the annexation procedure for Crimea (which complied with the Constitution regarding the stipulation that the application for annexation must come from the

territory to be annexed) by notifying the Russian state authorities of the Council's intentions of the State of Crimea and the Legislative Assembly of Sevastopol regarding the insertion of the Crimean territory as a federated state into the Russian Federation (Myers 2022).

An "interstate" agreement will be concluded regarding the annexation which will enter into force, according to the law, at the time of ratification by the Federal Authority, but it was applied *de facto* from the moment of signing. Respecting the democratic course of the procedure, Vladimir Putin will send on March 18, 2014 a request addressed to the Constitutional Court of Russia regarding the verification of the constitutionality of the accession agreement and on March 19 the Constitutional Court will declare its conformity; on the same day, Putin will send the agreement to the State Duma (in which he holds the majority) for ratification, which will pass the procedure on March 20 with only one vote against. On March 21, 2014, the Federation Council will also ratify the agreement, a federal constitutional law was adopted stipulating the annexation of Crimea and Sevastopol to the Russian Federation, signed by President Putin, creating the Crimean Federal District on the same day. On April 11, 2014, the constitutions of the Federal Republic of Crimea and the federal city of Sevastopol will be adopted, being also integrated into the Constitution of the Russian Federation.

This fervour in speeding up the steps to annex the two territories highlighted, on the one hand, the ease and fluidity of decision-making within the Russian Federation regarding subjects of national interest, and on the other hand, the difficult coordination and collaboration between states at the level of response to the actions of the Russian Federation. Vladimir Putin proved to the international political scene that his regime of super-presidentialism exceeds democratic rigidity in terms of the way of action and reaction in case of a critical situation and proved, once again, that power in the Russian state is concentrated in the hands of the president and the narrow circle close ones. The attempt to minimally respect international provisions is seen as a form of legitimization of the actions taken by Moscow in the case of the illegal and illegitimate annexation of Crimea.

## 2.REPORTING THE EVENTS IN CRIMEA TO INTERNATIONAL LAW AND ATTEMPTS TO LEGITIMIZE THE ACTIONS

With regard to the legal validity of the Crimean referendum, by the resolution adopted in March 2014, the United Nations declared it "invalid" and unable to form the basis of a new alteration in terms of status changes, referring in particular to the „Budapest Memorandum” and the „Helsinki Final Act” but also to the „Treaty of Friendship, Cooperation and Partnership” concluded between the Russian Federation and Ukraine in 1997 (Nations 2014). The Russian Federation supported the validity of this referendum; and, more than that, Vladimir Putin will reaffirm on every occasion "if there is an area where Russia could be a leader—it is in asserting the norms of international law" (Putin, en.kremlin.ru 2014). Of course, support for this resolution was divided, with states such as Armenia, Belarus, Bolivia, Cuba, North Korea, Nicaragua, Sudan, Syria, Venezuela and Zimbabwe supporting Russia's view of non-recognition, and although the resolution was passed with the votes of 100 states, 58 states abstained and 24 did not vote (by not showing up, for example China, Argentina, Brazil, India) (United Nations 2014).

Principles related to territorial integrity and the principle of the prohibition of the use of force are contained in the Helsinki Final Act, but also in the UN Charter, Article 2, paragraph 4, as well as in other international bilateral or multilateral documents that the Russian Federation is accused by the international community of having violated. The argument of the Russian Federation was as follows: the treaties are void because they were concluded with a previous government, with a "legitimate authority of the Ukrainian state" (Allison 2014) they lose their value with the changes of the Ukrainian government. The Budapest Memorandum signed in 1994 began to be discussed with the Ukrainian crisis, stipulating security guarantees from the US, Great Britain and Russia offered to Ukraine as a result of its renunciation of Soviet-era nuclear weapons and its accession to the Treaty on The non-proliferation of nuclear weapons and "respect for the independence, sovereignty and existing

borders of Ukraine " (The Budapest Memorandum 1994), reaffirming that "the United States of America, the Russian Federation, as well as the United Kingdom of Great Britain and Northern Ireland, reaffirm their obligation to refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons shall ever be used against Ukraine except in self-defence or otherwise in accordance with the Charter of the United Nations." (The Budapest Memorandum 1994). Although at first Moscow's involvement in the destabilization of Ukraine was a disputed matter, with March 2014 and the annexation of Crimea it was clear that the Russian Federation had not complied with any of the provisions of the treaty; Ukraine was not a threat to Russia, so it cannot be argued that it acted in "self-defence" nor was it delegated by the UN Security Council "to intervene in Ukraine and, moreover, to annex Crimea" (Yost 2015).

On the same note, the Treaty of Friendship, Cooperation and Partnership between the Russian Federation and Ukraine from 1997 continues, in which it is stipulated that the parties "will build mutually beneficial relations based on the principle of mutual respect for their sovereign equality, territorial integrity, inviolability of borders, the peaceful settlement of disputes, the non-use of force or the threat of force (...) the non-intervention in internal affairs, the conscientious fulfilment of assumed international obligations and other norms recognized by international law." (Treaty of Friendship 1995).

As a result, the Russian Federation not only violated the internal legal order of Ukraine through the unconstitutional procedures (Allison 2014, 1258) supported by Yanukovich (the declaration of independence and the referendum), but also the international treaties it had concluded with Ukraine. The deployment of Russian military troops on the territory of a sovereign and independent state cannot be legitimized even by the request of the Ukrainian president, as the Russian Federation does not have a mandate from the United Nations to intervene. That is why the "illegal and illegitimate annexation of Crimea" is discussed: illegal, i.e. not in accordance with the law stipulating the inviolability of the borders and territory of a state, not recognized by law, not approved by the authorities of the sovereign state (Kyiv authorities), activity carried out in secret (referring not to the quick process of a few days of annexation, but to the

destabilization actions carried out for the purpose of annexation) and illegitimate, that is, unfounded, not having a sufficiently well-argued legal basis for involvement, which is not justified, which does not have the conditions required by law. The link between international law and Russia's intervention in Ukraine is extremely interesting from several perspectives: international law is a limit but also provides free-hand for action for Russia, the gaps in international law and the possibility of interpreting its provisions are both a way of justification as well as a restriction invoke the law, get bound by the law and most importantly, "legal rhetoric can frame policy options." (Borgen 2014).

Although Moscow will mime the entire democratic process of annexation, the international states will not recognize the new federal state and the city within the federal state. Moscow's argumentation for the actions started in Crimea will go through several stages: from the attempt to legitimize the actions in Crimea domestically to support Vladimir Putin's leadership at the political level and at the level of Russian society, dressed in disinformation and partial truths, to attempts at international legitimation, exploiting the very weapons of the West - the loose interpretations given to international law and liberal discourse in a background of instability, those "grey areas" that are easy to exploit (the alleged threats to the Russian-speaking population). The Russian Federation had three main motivations regarding the justifying speech for the actions started in Crimea, used to different degrees at the domestic and international level depending on the target audience to which it was addressed: 1. protecting Russian citizens located on the territory of Ukraine, 2. intervention based on invitation (aid requested by Yanukovich) and 3. humanitarian intervention (bringing up the precedent of Kosovo) (Krisch 2014).

The legal camouflage in Roy Allison's (Allison 2014, 1261-1264) view that the Russian Federation will use will stretch in several directions. The first of them is that the interim government that was established after the flight of Yanukovich from the country is illegal, unrepresentative because it was based on a coup d'état in reaching power, an opinion officially supported by the Russian foreign minister, Sergey Lavrov, in the annual speech at the United Nations where he proposed a statement regarding: "non-recognition of a coup as a method of the change of power." (Lavrov 2014). From Moscow's perspective, Yanukovich was

still de jure president of Ukraine, the legal impeachment procedure not taking place (a third of the votes cast in the Verkhovna Rada and the submission of the case to the Ukrainian Constitutional Court for analysis). Another argument put forward by Moscow in support of this view was the failure to comply with the agreement signed by Yanukovych and the Ukrainian opposition that provided for a unitary national government to commit to constitutional reforms and the restoration of the 1996 Constitution. However, Yanukovych will be the one to violate the terms of this agreement by leaving the country and leaving Ukraine in the midst of crisis with the dysfunctional presidential institution; in this context, the Ukrainian parliament will vote to impeach the president.

The second concerns the violation of the rights of the Russian minority resident in Crimea through a "nationalist-extremist" program promoted by the interim government. There will be exchanges of words between the US and the Russian Federation during the UN Security Council meetings, America claiming that the motivations brought by Moscow are "fabricated" and "trumped up pretext" for intervention and Vitaly Churkin pleading for the elimination of any possibility of taking power by extremists: "extremists in Ukraine must be prevented from taking control of the situation through illegitimate means, the use of violence and open terror." (UN Security Council Meeting, no. 7124 2014). The only argument put forward by Moscow for the so-called „nationalist-extremist program“ is the uninspired decision of the Verkhovna Rada to cancel the law regarding language, but this was not approved by the acting president Oleksandr Turcinov.

The third argument is based on the "direct threat" that Russian military troops stationed in Crimea and the Black Sea Fleet felt. This point was basically an attempt to legitimize actions by creating requirements for self-defence. In the statements that Britain will make through Mark Lyall Grant at the same meeting of the Security Council, the opposite will be shown, specifying that the Russian military forces are the ones that took control of the airports, put pressure on the military leaders for defections and blockaded Ukrainian ports (Allison 2014, 1261-1264). The fourth argument is also related to an "imminent threat" but coming from a potential humanitarian crisis of refugees - here in close connection with the arguments in the cases of Kosovo (1999) and Libya (2012).

And this point was difficult to sustain since the "humanitarian catastrophe" was not happening, there were no refugee flows.

Argument number five is based on article number 61 paragraph 2 of the Constitution of the Russian Federation which concerns the right of the Russian state to protect its citizens and outside its borders. This argument is similar to the one invoked by Vladimir Putin before the Council when obtaining approval for the use of weapons "in the territory of Ukraine pending normalization of the public and political situation in that country." (Putin, Itar-Tass 2014) But considering the fact that Moscow must also obey international law, the supremacy of the constitutional provisions could be used mainly only at the national level. The last argument used by the Russians was that of the invitation made by President Yanukovych and the Prime Minister of the Autonomous Republic of Crimea, Sergey Aksyonov, to the Russian Federation to provide military assistance in order to stabilize and protect Ukraine. As a theatrical work spread over several days, V.Churkin will present on March 1 Foreign Minister Lavrov's vision regarding "unknown armed men from Kyiv" confronting "self-defense groups" and that in this tumultuous scenario the request for help was addressed by the president (UN Security Council Meeting, no. 7124 2014) so that, two days later, at the meeting on March 3, the letter from Yanukovych requesting the intervention of the Russian armed forces to restore peace, law, order and stability and to defend the population would be presented Ukrainian. The next day, Vladimir Putin will intervene arguing this action in an interview that if the population of the southern and eastern regions of Ukraine: "ask us for help (...) we retain the right to use all available means to protect those people." (Putin, Novo-Ogaryovo 2014)

Consequently, the arguments brought forward for the interventions of the Russian Federation on Ukrainian territory were not among the most convincing. As I have already stated, they also represented legitimization for the use of military force, but also a way to strengthen the power of Vladimir Putin, who will win the third term as president of the Russian Federation four years later. In the case of the crisis in Ukraine, international law is a reason for international dispute, asking the question: is international law sufficient to ensure the territorial integrity and sovereignty of a state? Has the Russian Federation set a

precedent in its violation? Although the answer to the first question is debatable, the second clearly presents an affirmative answer, the specialized literature considering the actions of the Russian Federation as a new attempt to expand the sphere of influence and the start of a new "Cold War": "The Russia-Ukraine crisis also impacts real-world policymaking. If international law, or at least the Charter's rule on the use of force, is very weak or non-existent as a tool for restraining state action, then policymakers should not rely on the Charter rule as meaningful protection against aggression." (Ku 2014)

The implications of Vladimir Putin's decision will have repercussions not only at the local level, but also at international one, reshaping the very perception of the ways of interpreting international law to the good of ethnic argument: "Russia, Mr. Putin insists, has a responsibility to protect all Russians abroad, and he gets to decide who is a Russian (...) It is impossible to overstate the degree to which this is a threat not just to Russia's Eastern European and Eurasian neighbours but to the whole post-1945 international order." (Ash 2014). What Putin did in Ukraine, invoking the existence of the Kosovo precedent, will set a precedent in terms of changing the borders of a sovereign state on ethnic and historical grounds affecting the international order itself: "With its aggressive behaviour against a sovereign country, Russia has confirmed its revisionist will concerning the nuclear, European, and international order. It has put in danger one of the elementary principles of nuclear disarmament: it is realistic only if security is guaranteed. How can new phases of American-Russian nuclear disarmament be envisaged in such a context? How can it be argued that a world without nuclear weapons would necessarily be a safer world if elementary respect for the rule of law is not guaranteed?" (Roche 2014).

### **3.THE REACTIONS OF THE INTERNATIONAL SCENE REGARDING THE EVENTS IN CRIMEA**

The Ukrainian crisis will provoke numerous and different reactions in the international arena depending on the interests and the role of the states in the

international arena. As far as the European Union is concerned, it was one of the main actors in the management of this crisis, although there were also elements that restricted the power of the Union over the situation, as Taras Kuzio (Ukraine between a Constrained EU and Assertive Russia 2016, 1-18) also presents three main elements that constrained the margin of actions in the conflict: 1. the EU never supported Ukraine's candidacy, 2. the EU underestimated the Ukrainian leaders (the blind belief that Yanukovich really has pro-European inclinations) and 3. the differences between the two actors: the EU and Russia (it was lost sight of the fact that Russia is an authoritarian state, where the decision is taken by a single leader, while the EU is made up of 28 members, where co-decision involves an arduous and long-lasting process). As a consequence, the three elements significantly reduced the possibility for the European Union to intervene promptly and with a much stronger effect on the Russian-Ukrainian conflict. Of course, with regard to individual EU member states, the preferential policies that the Russian Federation has with them are also discussed.

In an article published in 2016 I.P. Karolewski and M.D. Cross present the role that the European Union had in the Ukraine crisis, analysing its power as a dependent variable, dividing this power into several areas and trying to create an analysis framework. They identified 5 elements that need to be analysed for EU intervention at the crisis level and the explanation of power in international relations: 1. the domain (participating actors; unilateral or cooperative exercise of power) – EU power was exercised in close connection with US policies and those of NATO (after the USA took the decision on March 6, 2014 to impose economic sanctions against Russia, the EU followed closely from March 17, being followed by other NATO member states (Albania) or with potential attribute (Montenegro); the second wave of sanctions imposed by America was on July 17, 2014, and it targeted energy companies and banks in particular, which made the EU also implement a new list of sanctions; therefore, the collaboration between EU member states and the US/ NATO was extremely tight-knit with unanimity regarding the need for sanctions 2. the purpose (the issue at hand, where the actor has the most power) – EU powers are especially in the economic and legal field; in this direction, the EU overestimated the long-

term benefits that Ukraine could have obtained from the free trade area with EU while underestimating the short-term opportunities that Russia could offer. 3. the weight (the probability of influencing the behaviour of other actors by the EU) – the Union had a lot to lose due to the inconsistency of the policies initiated by the states, this being due to the umbilical cord that connects the member states of the Union bilaterally with Russia, being created in this kind of sympathies towards Putin's regime and privileged economic relations; however, there was one event that increased the normative pressure and gave the EU the "weight" it needed by giving Germany a previously non-existent role in blaming – the downing of Malaysian Airlines flight MH17 resulting in the deaths of hundreds of civilians; 4. the costs (both for the EU and for Russia) – represented by the economic sanctions imposed on the Russian Federation which affected the economy by entering into recession at the beginning of 2015 with a decrease in GDP – 2.2% (the effect being felt through the combination of economic sanctions with the drop in the price of oil since 2014), the costs being also for the EU of approx. 155 million euros (only in the food sector); 5. the means (the range of powers used: symbolic, economic, military or diplomatic) (Karolewski, Cross 2016) – at the diplomatic level we will have the Minsk Agreements, economic sanctions, the removal of the Russian Federation from the G8 group (the meetings are held in the G7 format), financial aid (the loan given to Ukraine in the amount of 1.8 billion euros (Euractiv.com 2015)).

The European Union's response to the crisis in Ukraine therefore aimed at a range of sanctions of several categories. As for the Minsk Agreements of September 2014 and February 2015, they had as their main purpose a ceasefire and the restoration of order in the area. Many states led by Germany were initially against the imposition of sanctions due to their economic relations with the Russian Federation. 8 states (USA, Canada, UK, Poland, Georgia, Turkey, Lithuania and Israel) will provide assistance to Ukraine by supervising the training of Ukrainian military units and the National Guard, through military personnel training sessions larger than those conducted by NATO PfP (Partnership for Peace). Minsk II imposed more obligations on Ukraine than on the separatists, accepting the special status granted to Donetsk and Luhansk regions; Germany and France put pressure on Ukraine to accept agreements that

served Russia's strategic interests: "there is no structured process or legitimate international forum to deal with Russia's aggression against Ukraine." (Socor 2015) The Ukrainian crisis revealed the lack of consensus and vision regarding the Eastern Partnership and the deficient construction of the European Union regarding the resolution of crisis situations, political instability, regime change and violent conflict.

There are 6 reasons why the German-French-led negotiations on the Minsk II accords are unlikely to resolve the Russian-Ukrainian crisis: the constitutional changes that Ukraine must make in relation to the Donetsk and Lugansk autonomous regions (which will be used by Russia as a new form of pressure on Kiev), the number of 12,000 Russian troops in Eastern Ukraine, (Reuters 2015) - (a situation similar to the period of the Red Army), the lack of response from the West to the war crimes in Crimea and Donbas (approximately 90% of the prisoners Ukrainian soldiers and civilians were subjected to inhumane treatment and in 40% of the investigated cases the key roles were played by Russian soldiers (Coynash 2015)), Russia refuses to let Ukraine regain control of the borders (this allows Moscow a continuous flow of arms deliveries, special forces and volunteers, with the GRU and FSB being omnipresent via "humanitarian convoys"), terror campaigns are permanently financed by Russia and illegal arrests are the order of the day (Kuzio 2016, 12-13).

Relations between Germany and the Russian Federation have also gone through a sine wave that has waxed and waned with events and actions taken by Moscow. If at the beginning of the tensions Germany was reluctant to accept the imposition of economic sanctions against the Kremlin, with the unfolding of events and increasingly visible and brutal interventions, it will change its perspective through the voice of Angela Merkel, the policy vis-à-vis Moscow moving from "Ostpolitik" to "a new ice age." (Schepps 2012). But things did not continue on that note, with the German chancellor having regular phone conversations with Vladimir Putin and meetings at the diplomatic level, although the harassment was constantly present (for example, at the meeting that Putin had with Merkel in Milan, he was five hours late (Herszenhorn 2014) and at the G20 meeting in Brisbane, Vladimir Putin left early arguing that he was being treated as a second-rate leader). In a general view, Germany's attitude

towards the Russian-Ukrainian crisis was based on firm condemnation of Russian actions and the imposition of economic sanctions (Forsberg 2016) seen more as a reorientation and not as an accelerated change of perspective in international politics, the same attitude being present and in the case of France.

As for the reaction of the United States of America, it came both from the direction of the government and the direction of the North Atlantic Treaty Alliance. Considering the reduced trade between the US and the Russian Federation of approx. \$40 billion per year (an extremely low percentage compared to the amount recorded in relations with European states) (economist.com 2014) America seems unlikely to be affected by the sanctions it wants to impose on Russia. A second element that provides some leeway comes from the direction of American public opinion indifferent to the conflict, "less than one in five Americans believe it is necessary for America to protect Ukraine." (economist.com 2014). In fact, the American president at the time, Barack Obama, was accused by Republicans that the scourge of the crisis in Ukraine expanded precisely because of his policies. The "weakness" that Barack Obama displays in relation to the friendly relationship between America and the Russian Federation has allowed, in the view of the Republicans, a reinforcement for the expansionist policy of Moscow. From a financial and military point of view, the United States will help Kiev through financial loans and the delivery of weapons. As for the North Atlantic Treaty Alliance, its implications will be limited to the declarative level because Ukraine is not a NATO member state and, therefore, the Alliance cannot invoke the application of Article 5 regarding collective security. What is worth noting in terms of the changes that the Alliance is registering after the Ukrainian crisis is that rethinking the strategy in Eastern Europe. This means: deploying increased military forces in NATO member states, (by finally installing anti-missile shields - the decision regarding the ABMDS was taken before 2014), joint military exercises with the aim of a good coordination and actions at the operational level, but also reiteration of the commitment to ensure international security within the Summits. Although the Alliance itself could not intervene, the member states unilaterally helped Ukraine through armaments and military exercises with the aim of training troops from Kyiv.

A full implementation of the Minsk agreements, however, is a derisory thing as long as Putin remains the president of Russia. The annexation of Crimea led to an increase in the popularity of the newly elected president and a return of Crimea to Ukraine: "would spell the end of Putin's regime and could provoke a nationalist rebellion. The full implementation of the Minsk agreement would require returning control of the border to Ukraine and the withdrawal of Russian occupation forces. If implemented, these two steps would make it impossible for Putin to continue to provide a security guarantee to the Donbas separatists of not allowing Ukraine to retake the enclaves." (Kuzio 2016, 9). Any attempt to resolve the situation diplomatically and through the implementation of international agreements is impossible considering the symbolic load that the annexation of Crimea has for the leadership of the power of the leader from Moscow not only domestically, where Putin has to reassure the circle restricted by friends that his power is continuous and indissoluble, but also externally.

The portfolio of interventionist actions of the Russian Federation will be completed in 2014, in addition to Kosovo and Georgia, with the annexation of the Crimean Peninsula. Moreover, bearing the economic consequences of this annexation as well as international blame, Moscow in 2022 will bring a new war to the stage of international politics and will continue the annexation of Ukrainian territory with February, proving that a new war in the heart of Europe is possible. Unlike 2014, the armed military intervention on the territory of a sovereign, democratic state was carried out without any restraint. If in 2014 we are talking about "green men" and military troops without badges, 8 years later the Russian Federation will intervene directly, with troops and military weapons, with an aggressive character hungry for territorial expansion and proving that the interventionist actions of the past were just a preparation for the 2022 moment. The attempts to justify military intervention become history and for the year 2022 Vladimir Putin will bring to the fore not the power of international treaties but the power of weapons and war.

## 4. CONCLUSIONS

The "umbilical cord" (political and economic) that Vladimir Putin will establish during his first term with the European leaders will prove extremely useful until 2014 and in the immediate following period, especially regarding the doubts that the European leaders had on the necessity of economic sanctions for Moscow. The Georgian precedent represented an extremely valuable lesson for the Kremlin, but not for the European states; The Russian Federation applying the same behavioural pattern in the case of Crimea: the internal destabilization of the regime in Kyiv (by financing corruption and exploiting ethnic tensions), masked military intervention (the "green men" and indirect military subsidies through pretended humanitarian convoys), public evasion of Muscovite political leaders regarding foreign interventions and, finally, military intervention masked by their own interpretations of international law for the purpose of legitimation; but in the case of Crimea, the Russian Federation will go even further until the annexation of the Peninsula, proving to the West that it is incapable of action.

European states and international organizations reacted as expected: trying to debate and create a unified point of view on this issue. But the great disadvantage of the democratic consensus is that of the increased time for the decision, a period that offered the Russian Federation enough time for mobilization and action, since the regime is an authoritarian type and the decision is taken unilaterally without the need for consultation or following a process democratic. The bureaucracy required to fulfil and comply with the provisions of international law, which provides legitimacy for action from the perspective of democratic states, has been a real impediment for the EU, NATO and the US. It is necessary, therefore, to resume what is considered to be "functional democracy" in terms of speed of decision and not only in terms of compliance with international provisions.

The eventful course of events in Crimea highlighted gross violations of international law (the Charter of the United Nations Organization, the Helsinki Agreement, the Budapest Memorandum, the Treaty of Friendship, Cooperation and Partnership) and of Ukrainian constitutional law (by supporting the

referendum declared as illegal and illegitimate and not recognized by the European states nor by the UN). The legal camouflage that the Russian Federation tried to display, as well as the arguments with a legitimizing role, did not stop the European states and the USA from imposing economic sanctions that will affect the Russian economy in the long term. The Minsk agreements and the Berlin plus package - although intended to be a way to remedy the situation - will not be put into practice, Vladimir Putin drawing the essence of his "great leader" power precisely from this archaic thinking of the need to conquer of territory. The lack of consensus and vision, the continued application of obsolete provisions and the non-modification of legal provisions to fit the new realities (hybrid war) will only represent a weak, powerless international, political, economic and military environment that the Russian Federation will use every opportunity it gets to destabilize democratic regimes and expand its sphere of influence.

As a consequence, following the events that took place in 2014 when the Russian Federation illegally and illegitimately annexed the Crimean Peninsula, violating not only the constitutional provisions of the Ukrainian state, but also the provisions of international law, the need to recreate and rethink the term "threat" is being discussed to international security, especially the strategic concept of the North Atlantic Treaty Alliance to be able to face the new threats coming from the hybrid war area, a kind of wake-up call for all member states of the Alliance; this alarm signal that will wake up the international community and especially the European one much too soon (2022) with the start of the new war of the 21st century.

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