

# EUROPEAN UNION' ACTORNESS EFFICIENCY CONCERNING THE PRESENCE OF RUSSIAN FEDERATION IN UKRAINE

Carmen MOLDOVAN\*

## Abstract

*Recently, the European Union decided to extend the sanctions on Russian Federation until July 2021 but there are serious doubts on their efficiency. The present paper aims to analyze the impact of the restrictive measures adopted by the European Union institutions since 2014 against the Russian Federation following the military invasion in Ukraine and the annexation of Crimea, the effects (if any) and outcome of the sanctions applied by the European Union. The situation will be examined from the perspective of notions, principles and specific concepts of International Law on prohibition of the use of force and admissible legitimate reactions to acts contrary to this principle.*

*Keywords:* principles of International Law, state responsibility, countermeasures, use of force

## Introduction

The intrusion of Russian military forces into Ukrainian territory that culminated with the annexation of Crimea was considered by States, academia and other legal entities to be illegal and an act of aggression (according to the definition issued by the United Nations General Assembly in its 3341 Resolution from 1974). The European Union shared the same view and acted accordingly by repeatedly imposing restrictive measures on Russia.

The paper will address the topic of economic sanctions applied to Russian Federation by the EU since 2014 following the military invasion in Ukraine and the illegal annexation of Crimea. The main question to be asked is if these sanctions are efficient or not.

Recently, the Council of the European Union decided to extend the sanctions on Russian Federation until June 2022 (Council of the European Union, 2021) but there are serious doubts on their efficiency. For the purpose of this paper, the situation will be examined from the perspective of notions, principles and specific concepts of International Law on prohibition of the use of force and admissible

---

\* Carmen MOLDOVAN is lecturer PhD at the Faculty of Law, Alexandru Ioan Cuza University in Iași, Romania; e-mail: carmen.moldovan@uaic.ro.

legitimate reactions to acts contrary to this principle and in the context of sanctions or restrictive measures recognized as legitimate and legal by International Law. First and foremost, it must be emphasized the lack of a codification of sanctions in International Law or European law whatsoever, yet there are special bodies at the universal and regional level provided with the competence of applying such measures when they are considered fit. As a general feature, sanctions or restrictive measures may be taken against the State or/and against the individuals having the nationality of the said State. This logic is shared by the United Nation and the European Union, both having special sanctions committee and a procedure for applying the measures decided. Within the United Nations, at the level of the Security Council which is the institution in charge of respect of international peace and security and who can take action to maintain or restore international peace and security in accordance with Chapter VII of the United Nations Charter, the Sanctions Committee and the Consolidated Sanctions List were established (United Nations Security Council, Sanctions, 2021).

Within the European Union, the Council of the European Union has the prerogative to decide the adoption, renewal or lifting the restrictive measures (Council of the European Union, 2003; Council of the European Union, 2004; Council of the European Union, 2018) within its foreign policy framework when it is considered a necessary instrument in case of violation of territorial integrity and state sovereignty.

It must also be underlined that although the notion used at the European Union level is 'restrictive measures' (Helwig *et. al*, 2020) rather than 'sanction', their concrete form excludes the use of force of a means in solving a situation that violates international rules or as a response to the wrongful conduct of a State according to Article 2 paragraph 4 of the United Nations Charter which imperatively states that:

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations.

International responsibility of States for wrongful acts may be established in accordance with the Draft Articles on the Responsibility of States for Internationally Wrongful Acts (International Law Commission, 2001).

According to Article 1 of the Draft Articles

Every internationally wrongful act of a State entails the international responsibility of that State.



Therefore, an act inconsistent with International Law committed by the State or which can be attributed to a State, is the essential condition for responsibility. In this case the concept envisaged is the legal responsibility of the State.

The legal qualification of the facts is not that complicated despite the Russian explanation that in Crimea the right to self-determination was put into practice and given effect. The acts of alleged Russian military forces made the object of an investigation open in November 2016 by the Office of the Prosecutor of the International Criminal Court in the Hague (Office of the Prosecutor of the International Criminal Court, 2020). All these facts describe misconduct of Russia and a violation of International Law principles.

### **1. The acts of Russian Federation and their legal qualification**

The situation in Crimea escalated very quickly in 2014 following pro-Russian protests in the Republic of Crimea after the change of the Ukrainian President. Russian military troops were already present in Crimea on the basis of an agreement between Russia and Ukraine allowing the presence of Russian Sea Fleet in Crimea. Key locations in Crimea were seized on February 27 and 28 by armed militia under the justification of an invitation from the former Ukrainian President, local authorities of the Republic of Crimea and for the protection of nationals (Harris and Sivakumaran, 2015). The following events in Crimea took place in a great speed. Thus, on 16<sup>th</sup> March 2014, a referendum was held in Crimea presenting the only two choices: to become part of Russia or to restore the 1992 Crimean constitution, which would allow the Crimean assembly to decide with whom Crimea will establish relations; remain a part of Ukraine was not an envisaged option. included among the choices. Actually, the only choice was to become a part of the Russian Federation and this was the vote expressed by more than 90 percent of the voters (McGee, 2014, p. 2). Taking into consideration the history of Crimea that belonged to Russia until 1954 when it was transferred to Ukraine, the fact that about 58 percent of the population is ethnically Russian and that on 6<sup>th</sup> March 2014 the Supreme Council in Crimea voted to become part of Russia, the outcome of the referendum was not actually surprising. Therefore, the legal debate on its legally and its truthful character is challenging both from a theoretical and a practical perspective. The referendum was considered a 'sham' and a forced act supported by the presence of military forces in Crimea qualified as an occupation (United States Mission to the OSCE, 2015).

As it appears from the speech of the Ambassador Churkin of the Russian Federation to the United Nations, during a Security Council debate „, the legitimately elected authorities of the Republic of Crimea have asked the President of Russia to help them to restore clam in Crimea. Such assistance is entirely legitimate under Russian law, given the extraordinary situation in Ukraine and the threat posed to Russian citizens, our compatriots, and the Black Sea fleet of the Russian Federation in Ukraine. The President of Russia therefore went before the Federation Council to request that the Russian armed forces be permitted to deploy



in the territory of Ukraine until the civic and political situation there has been normalized” (United Nations Security Council, 2014).

The Russian narrative on legitimizing its presence in the Ukrainian territory and the annexation of Crimea was centered on the right of self-determination of peoples, enshrined by the United Nations Charter and recognized as a fundamental principle and a rule of general international law, yet its application in this case is debatable. Another point of the Russian legitimization discourse was related to the humanitarian factor, sustaining that the Crimean population was in danger because it did not support the so-called takeover of power in Kiev (Marochkin, 2017; Rotaru, 2016). Having as a starting point the provisions of Article 1 of the Draft Articles and the general rules and principles of International Law, the presence of Russian Federation in Ukraine since 2014 followed by the annexation of Crimea were considered an act of aggression by the United Nations, European Union and widely by scholars.

By *Resolution 68/262 on the territorial integrity of Ukraine* adopted on 27 March 2017, the General Assembly of the United Nations, after recalling the fundamental principles of territorial integrity and prohibition of the use of force and especially Article 2 of the Charter of the United Nations and the 1970 Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (United Nations General Assembly, 1970), the General Assembly

Underscores that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol; (*United Nations General Assembly Resolution 68/262 of 27 March 2014, para. 5*).

In terms of Public International Law, the statement means that there is no legal title for the presence of Russia in Crimea and Sevastopol under the simulation of a referendum. The resolution of the General Assembly is explained by the absence of a resolution at the level of the Security Council, the body of the United Nations with prerogatives set by the United Nations Charter regarding peace and international security (Bennouna, 2017) and where Russia is a permanent member enjoying the special status of veto power according to the provisions of Article 27 of the United Nations Charter (Combacau and Sur, 2016; Moldovan, 2019). Thus, adoption of a resolution on Crimea by the Security Council was blocked (United Nations, 2014).

In this context, only informal Aria-Formula meetings were organized since 2014 by Belgium, Estonia, France, Germany, the United Kingdom, and the United States of America in partnership with Ukraine, and by Russia as well (Security Council Report, 2021).



The presence of Russia in Ukraine and the annexation of Crimea constitutes an act of aggression as defined by the General Assembly Annex to the resolution 3314 adopted on 14 December 1974 (United Nations General Assembly, Resolution 3314/1974; Wilmshurst, 2008).

Thus, according to Article 3 of the said resolution

Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression:

a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof,

and according to Article 5 paragraph 3 of the Annex

No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful.

Therefore, under International Law principle of prohibition of the use of force, Russia lacks any legal grounds for the military presence on the territory of Ukraine and the takeover of Crimea constitutes the consequence of an act of aggression, which is the most serious violation of International Law and gives rise to international responsibility in the wording of Article 5 paragraph 2 of the Annex to the 3314 Resolution.

The act of annexation is also a violation of the principles of territorial integrity and sovereignty of Ukraine over Crimea and according to International Law, occupation and acquisition of new territory by use of force is illegal (Dixon, 2013). As already stated by the International Court of Justice, which is the principal judicial body of the United Nations in the *Advisory Opinion on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian territory* from 2004, in such a case the territory does not belong to the conqueror State (International Court of Justice, 2004).

The debates within the Security Council, the body of the United Nations charged with ensuring the international security (Bennouna, 2017) following the February-March 2014 events were really intense and tensioned as both sides have made real efforts to convince the other States of the legality of their arguments.

In 2014 the Minsk Protocol was signed for containing a peace plan for Eastern Ukraine (Mission of Ukraine to the European Union, 2014), but this was really ineffective as the conflict continued in 2015 and at the moment military operations are taking place as it does not present obvious benefits for the Russian Federation (Menkiszak, 2017). On 2019 there were new peace talks and prisoners swap but this was the only progress (European Parliament, 2020). The crux of the conflict is represented by the sovereignty issue of Ukraine over Crimea Peninsula, seen as limited by Russia (Allan, 2020).



Following the 2014 events, the position of Russia was firm, President Putin confirmed that the soldiers present in Crimean Peninsula were Russian following its orders (United States Mission to the OSCE, 2015).

The European Union constantly maintained the same public position not recognizing as legal the continuous presence of Russia on the Ukrainian territory nor the elections held in Crimea (Council of the European Union, 16 March 2020; Council of the European Union, February 2021) and continues to condemn this violation of International Law and therefore the restrictive measures are prolonged (Council of the European Union, June 2021). The European Union supported its priority partner Ukraine since the beginning of the events in Crimea for ensuring its independence, territorial integrity and sovereignty, at least in theory.

Already at the beginning of the process of imposing sanctions on Russia for the presence in Crimea questions on their efficiency were raised (McGee, 2014) and they continue to be topical taking into consideration that the situation hasn't changed, that Russia's attitude is consistent and there is no indication that this will change.

Despite the aim on the sanctions to restore international peace and security and put an end to a situation that violates International Law, their application implies a cost not only for the target State but also for its population and other international actors and this was demonstrated regarding Iraq, former Yugoslavia, Iran, Siria (Giumelli, 2017). Also, Member States may be affected by the sanctions imposed which change their commercial relations with Russia (Giumelli, 2017).

## 2. The meaning and forms of sanctions in International Law

The concept of 'international sanctions' or 'sanctions' is not entirely clear in International Law because it is not codified. It must be underlined the fact that International Law is not based on the idea of sanctions, common to the domestic law and this is the main reason why International Law norms usually lack sanctions from their structure (Moldovan, 2019). This is one reason for which international legal order may be considered an imperfect one, yet at the same time we should bear in mind that violation of a rule does not have the meaning of its non-existence, but is the expression of the subjective attitude of the State towards the assumed obligation and it triggers the mechanism of international responsibility (Cançado Trindade, 2006; Decaux and de Frouville, 2016). However, this feature is also determined by the application of the *pacta sunt servanda* principle that constitutes the basis for the respect and execution of the international obligations assumed by States through international treaties or rules of general international law (Moldovan, 2019).

Through the lenses of Public International Law, non-recognition of a situation or an act considered illegal may also be qualified as a collective sanction (Crawford, 2012; Cassese, 2005). In accordance with this idea, the Resolution

68/262 adopted by the United Nations General Assembly provides the following in its paragraph 6

Calls upon all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

Regarding the terms used in practice and doctrine to designate these measures some observations are in order. Thus, for the measures adopted individually by States the term 'countermeasures' is used, and for those undertaken collectively, the term 'sanctions' is generally used (White and Abass, 2014, p. 537). Regardless of this distinction, essential features are common to both of them.

Taking into consideration the actual status of International Law which prohibits the use of force according to Article 2 paragraph 4 of the United Nations Charter, there is a general acceptance of the possibility of imposing economic sanctions (Curtis Henderson, 1986; Doraev, 2015); the most important and undisputed feature of a sanction to be considered admissible is the exclusion of the use of force. Therefore, the notion includes economic, commercial, financial measures undertaken collectively by states or unilaterally by one state as a response to an illegal conduct and with the aim of persuading that state to stop its behavior contrary to international rules. Terms such as retaliation, reprisals, embargo, restrictive measures, countermeasures are usually used to designate this category.

The Draft Articles on State Responsibility defines only the notion of countermeasures which may be undertaken by the injured State by an illegal act, in Article 49 which reads as follows

1. An injured State may only take countermeasures against a State which is responsible for an internationally wrongful act in order to induce that State to comply with its obligations under part two.
2. Countermeasures are limited to the non-performance for the time being of international obligations of the State taking the measures towards the responsible State.
3. Countermeasures shall, as far as possible, be taken in such a way as to permit the resumption of performance of the obligations in question.

The concept of countermeasures implies measures that would be considered contrary to the international obligations of the injured State according to international law rules and towards the author State, if they were not the reaction to an internationally wrongful act aiming to obtain cessation of this conduct and reparation of the prejudice (International Law Commission, Draft articles on Responsibility of States for Internationally Wrongful Acts, with commentaries, 2001). Countermeasures are subject to limitations meaning that they cannot affect





obligations arising from essential principles such as prohibition of the use of force, protection of fundamental rights, respect of international humanitarian law, jus cogens and must comply with the principle of proportionality, according to Articles 50 and 51 of the Draft Article on State Responsibility.

Previously, the notion of countermeasures was used in a 1978 arbitral award in the *Air Services Agreement Case*, between France and the United States of America (Arbitral Tribunal, *Air Services Agreement Case*, 1978, para. 81) in the following terms:

(...) If a situation arises which, in one State's view, results in the violation of an international obligation by another State, the first State is entitled, within the limits set by the general rules of international law pertaining to the use of armed force, to affirm its rights through „counter-measures.

In recent years, the term was used to replace reprisals which is strongly connected to the concept of armed reprisals now prohibited by International Law.

The imposition of sanctions or restrictive measures with the aim to persuade the author State to end the conduct inconsistent with International Law rules is supported by the principle to settle international differences exclusively by peaceful means (Dcaux and de Frouville, 2016; Selejan-Guțan and Crăciunean, 2014) also an essential principle of International Law and a result of its evolution and progressive development.

Article 41 of the United Nations Charter provides the competences of the Security Council to impose sanctions or any other measures it considers fit in cases of acts of aggression or that constitute a threat to peace, in the following wording

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

From the text we can observe the discretionary power of the Security Council in this matter and the fact that they exclude the use of force, in accordance with the fundamental principles of International Law. In case that these measures prove unsuccessful or inadequate, the Security Council may undertake those provided by Article 42 of the United Nations Charter.

### 3. Types or restrictive measures undertaken by the European Union

The European Union does not recognize the annexation of Crimea and Sevastopol by the Russian Federation as a lawful act and continues to condemn this





violation of international law, in line with the declaration by the High Representative for Foreign Affairs and Security Policy on behalf of the European Union on 25 February 2021.

From the perspective of International Law, economic sanctions were used since the Cold War and in recent years sanctions have become an increasingly popular tool of foreign policy, not only at the multilateral level of the United Nations, but also regionally (at the European Union level in particular) and unilaterally.

The nature of the measures imposed has also changed: from comprehensive sanctions regimes (discredited since Iraq in the 1990s) to ‘targeted’ or ‘smart’ sanctions (Kondoch, 2016; Warren, 2017; Happold and Eden, 2019), directed at specific individuals or entities (through asset freezes and travel bans) or prohibiting particular activities (arms embargoes and export ban of goods).

There is a wide range of sanctions constantly imposed against Russia by the European Union since 2014 as part of its Common Foreign and Security Policy (Council of the European Union, *Council Decision 2014/145/CFSP*, OJ L 78/16, 2014) yet they are narrow in scope (Korhonen, 2019) aiming either sectors of the Russian economy such as finance, energy, defense, dual-use goods, individuals or entities responsible for undermining Ukraine’s territorial integrity, sovereignty and independence, business in Crimea and Sevastopol, diplomatic measures and restrictions on economic cooperation (Council of the European Union, 2021).

On 21 June 2021, the Council of the European Union decided to renew sanctions against Russia for the annexation of Crimea and Sevastopol until 23 June 2022 (Council of the European Union, 2021). The restrictive measures adopted by the European Union against Russia are subject to a renewal in precise time frames (every six months or 12 months) considering the specific type of sanction applied.

The sanctions against individuals and entities are currently targeting 177 natural persons and 48 legal entities substantially controlled by Russia and considered responsible for undermining Ukraine’s territorial integrity, sovereignty and independence. The individuals are in general politicians and members of the self-proclaimed governments of Crimea, Donezk and Luhansk (Council of the European Union, 2021). In concrete terms, the measures undertaken towards them presuppose that the EU based assets of those sanctioned are frozen, that the EU operators are prohibited from making funds available to those sanctioned and also the prohibition of those concerned to travel to the European Union. These types of measures are renewed every six months.

The European Union imposed restrictions on business in Crimea and Sevastopol as well, consisting in import ban on goods from the territory, export ban on certain goods and technologies, ban on tourism services in Crimea and Sevastopol. These measures are renewed every 12 months.

Diplomatic measures are also in place in the form of suspension of the regular EU-Russia summits and the suspension of Russian presence at the G8 meetings. The scope of measures is completed by the restrictions on economic cooperation consisting in non-granting new loans to Russia by the European



Investment Bank (EIB) and by the European Bank for Reconstruction and Development (EBRD).

In practical terms, it is prohibited to purchase or sell, or provide brokering or assistance in relation to transferable securities and money-market instruments with a maturity exceeding 30 days, if these have been issued by certain banks or certain companies from the energy and defense sectors after September 12, 2014- applies to securities and instruments issued by one of the following banks or companies: Sberbank, VTB Bank, Gazprombank, Vnesheconombank (VEB), Rosselkhozbank OPK Oboronprom, United Aircraft Corporation, Uralvagonzavod, Rosneft, Transneft or Gazprom Neft; there is also a prohibition to grant new loans or credit to the banks and companies listed above with a maturity exceeding 30 days. Restrictive measures also include an arms embargo, and military items may no longer be supplied to Russia.

All in all, the entire possible arsenal of restrictive measures was set against Russia. The ultimate goal of the restrictive measures undertaken against Russia is to weaken Russia's economy in the hope that this will constitute a significant pressure point of pressure for reinstating the previous legal order by reversing the annexation of Crimea and withdrawing Russian troops from Ukraine (Warren, 2017).

The outcome of the sanctions applied against Russia by the European Union is not entirely clear. Financial evolution of Russian Federation - the foreign funding of Russian banks in particular has been affected by financial sanctions. Economic growth decelerated since 2015, but the imposition of sanctions had no impact on Russian domestic politics (Wang, 2015) nor its international one and the prospects are far off.

#### 4. Legal proceedings instituted by Ukraine

In addition to all diplomatic efforts and recourse to international organizations, Ukraine has lodged applications against the Russian Federation before the European Court on Human Rights and the International Court of Justice, both of them still pending. The rulings delivered by these international courts should provide at least a partial solution to the situation in Crimea.

The Ukrainian Government complained before the European Court of Human Rights that Russia was responsible for an administrative practice of human-rights violations and invoked several provisions of the European Convention - Article 2 (right to life), Article 3 (prohibition of inhuman treatment and torture), Article 5 (right to liberty and security), Article 6 (right to a fair trial), Article 8 (right to respect for private life), Article 9 (freedom of religion), Article 10 (freedom of expression) and Article 11 (freedom of assembly), Article 14 (prohibition of discrimination), Article 1 of Protocol No. 1 (protection of property), Article 2 of Protocol No. 1 (right to education) and Article 2 of Protocol No. 4 (freedom of movement).



By a ruling of the Grand Chamber, delivered on December 2020, the European Court of Human Rights (ECHR, Grand Chamber 16 December 2020) declared the application of Ukraine partially admissible and a judgement on merits will follow. Concerning the jurisdiction issue, analyzed according to Article 1 of the European Convention on Human Rights, the Strasbourg Court found that the Russian Federation has jurisdiction over Crimea (meaning Autonomous Republic of Crimea and the City of Sevastopol) as from 27 February 2014 on the basis of effective control that it exercised therein. The significant elements considered by the Strasbourg Court were the size and strength of the increased Russian military presence in Crimea and the lack the Ukrainian authorities' consent.

It should be noted that the analysis of the Strasbourg Court is limited to the provisions of the European Convention on Human Rights and thus the Court cannot dispose on the violations of international obligations determined by the fundamental principles of Public International Law.

The procedure instituted before the International Court of Justice on 16 January 2017 on the *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination on all Forms of Racial Discrimination* (International Court of Justice, 2017). The current procedural stage is that of the filling of the Counter-Memorial by the Russian Federation, already extended several times (International Court of Justice, 2021). The application of Ukraine contains a very detailed presentation of the facts and the actions committed by the Russian Federation or under its control. The Judgement of 8 November 2019 on the preliminary objections submitted by Russia rejected them by a majority and found that the Court has jurisdiction in relation to the claims submitted by the Applicant State (International Court of Justice, 2019). Yet, a judgment on the merits of the case will not be delivered any time soon and until then the present situation will continue.

## 5. Recent developments

On June 2019 the Parliamentary Assembly of the Council of Europe decided to restore Russia's voting rights with 118 votes in favor, 62 against and 10 abstentions (Parliamentary Assembly of the Council of Europe, 2019). This situation raises serious questions on the unity of the actors that supported the idea of restrictions against Russia and on the legal qualification of its conduct as well. Previously, the approach of the Parliamentary Assembly of the Council of Europe was substantially condemning the acts of Russia and considered the secession of Crimea and integration into the Russian Federation as 'instigated and incited by the Russian authorities, under the cover of a military intervention' the referendum was unconstitutional and the annexation was illegal and the presence of the troops was considered an unprovoked military aggression against Ukraine' (Parliamentary Assembly of the Council of Europe, Resolution 1988, 2014, paras. 15,16,17).

Moreover, recently on 26 May 2021 President Macron admitted that the sanctions against Russia don't work and added that

With Russia, the policy of progressive sanctions on frozen situations is no longer an effective policy,” „I think that we are at a moment of truth in our relationship with Russia, which should lead us to rethink the ... tension that we decide to put in place.

It is not clear how this statement should be interpreted and if there will be any changes concerning this issue. On the other hand, the French President did not specify any other means of solving this situation and may be interpreted as a precarious balance on the European Union consensus on the matter.

## Conclusions

Despite the general view of States, international organizations and the constant measures undertaken by the European Union in response to the continuous presence of Russia in Crimea and on the Ukrainian territory, violating fundamental principles of International Law and the applications made by Ukraine before the European Court of Human Rights and the International Court of Justice, the Russian Federation appears relentless in its efforts and finds justifications for all its acts submitting rules and principles of International Law.

Crimea is still disputed between Ukraine and Russia and it is unlikely for the situation to change in the foreseeable future. The presence of Russia in Crimea and on Ukrainian territory remains a direct challenge to international security, with serious implications for the international legal order that protects the territorial integrity, unity and sovereignty of all States. The European Union showed its commitment to Ukraine by all actions and all measures adopted. It is difficult to sustain that the restrictive measures or sanctions undertaken against Russia at the international level including the European Union aimed to persuade Russia to change its policy end put an end to its presence in Ukraine but rather establish a balance in its future relations with the European states. Even if the measures at the level of the European Union were undertaken more than 6 years ago, it is clear that the goal was not to reverse the consequences of an illegal act and given the continuous presence of Russia in the Ukrainian territory, the European Union as an international actor failed to obtain effective results.

Faced to this outrageous situation that violates International Law and the rights of the Ukrainian State, the reduced efficiency of the economic and financial sanctions undertaken by the European Union, Ukraine only has the possibility to make use of all peaceful means provided by international rules that appear insufficient at the moment.



## References

- Allan, D. (2020), *The Minsk Conundrum: Western Policy and Russia's War in Eastern Ukraine*, Chatham House Research Paper 20 May 2020.
- Arbitral Tribunal (1978), *Air Service Agreement of 27 March 1946 between the United States of America and France*, Decision of 9 December 1978, Reports of International Arbitral Volume XVIII.
- Bennouna, M. (2017), *Le droit international entre la letter et l'esprit*, Recueil de cours de l'Académie de droit international de la Haye, Tome 383, Leiden/Boston: Brill/Nijhoff. [http://dx.doi.org/10.1163/1875-8096\\_pplrdc\\_A9789004346482\\_01](http://dx.doi.org/10.1163/1875-8096_pplrdc_A9789004346482_01).
- Cançado Trindade, A.A. (2006), *International Law for Humankind. Towards a New Jus Gentium (I)*, General Course on Public International Law, Hague Academy of International Law, Collected Courses, Volume 316, Leiden/Boston: Martinus Nijhoff Publishers.
- Cassese, A. (2005), *International Law*, Second Edition, Oxford: Oxford University Press.
- Combacau, J. and Sur, S. (2016), *Droit international public*, 12<sup>e</sup> edition, Paris: Librairie Générale de Droit et de Jurisprudence.
- Council of the European Union (2003), *Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy*, (15579/03), Brussels, 3 December 2003 (retrieved from <https://data.consilium.europa.eu/doc/document/ST%2015579%202003%20INIT/EN/pdf>).
- Council of the European Union (2004), *Basic principles on the use of restrictive measures (Sanctions)*, (10198/1/04), Brussels, 7 June 2004 (retrieved from <https://data.consilium.europa.eu/doc/document/ST-10198-2004-REV-1/en/pdf>).
- Council of the European Union (2018), *Guidelines on implementation and evaluation of restrictive measures (sanctions) in the framework of the EU Common Foreign and Security Policy*, (5664/18), Brussels, 4 May 2018 (retrieved from <https://data.consilium.europa.eu/doc/document/ST5664-2018-INIT/en/pdf>).
- Council of the European Union (2014), *Council Decision 2014/145/CFSP of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine*, Official Journal of the European Union L 78/16.
- Council of the European Union (2021), *Declaration by the High Representative Josep Borrell Fontelles, on behalf of the European Union, on the Autonomous Republic of Crimea and the city of Sevastopol*, Press Release 16 March 2021.
- Council of the European Union (2021), *Ukraine: Declaration by the High Representative on behalf of the European Union on the illegal annexation of Crimea and Sevastopol*, Press Release, 25 February 2021 (retrieved from <https://www.consilium.europa.eu/en/press/press-releases/2021/02/25/ukraine-declaration-by-the-high-representative-on-behalf-of-the-european-union-on-the-illegal-annexation-of-crimea-and-sevastopol/>).



- Council of the European Union (2021), Timeline - EU restrictive measures in response to the crisis in Ukraine (retrieved from <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/history-ukraine-crisis/>).
- Council of the European Union (2021), *Russia's illegal annexation of Crimea and Sevastopol: Council renews sanctions for a further year*, Press release 21 June 2021.
- Crawford, J. (2012), *Brownlie's Principles of Public International Law*, 8<sup>th</sup> Edition, Oxford: Oxford University Press. DOI: 10.1093/he/9780199699698.001.0001.
- Curtis Henderson, J. (1986), *Legality Of Economic Sanctions Under International Law: The Case Of Nicaragua*, 43 Wash. & Lee L. Rev. pp. 167-195.
- Decaux, E. and de Frouville, O. (2016), *Droit international public*, 10<sup>e</sup> edition, Paris: Dalloz.
- Dixon, M. (2013), *Textbook on International Law*, 7th ed, Oxford: Oxford University Press.
- Doraev, M. (2015), *The memory effect of economic sanctions against Russia: Opposing approaches to the legality of unilateral sanctions clash again*, University of Pennsylvania Journal of International Law, 37 (1), pp. 355-419.
- European Court of Human Rights, Grand Chamber, Applications nos. 20958/14 and 38334/18 Ukraine v. Russia (Re Crimea), Decision 16 December 2020.
- European Commission, *Restrictive measures (sanctions) An essential tool through which the EU can intervene where necessary to prevent conflict or respond to emerging or current crises* (retrieved from [https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions\\_en](https://ec.europa.eu/info/business-economy-euro/banking-and-finance/international-relations/restrictive-measures-sanctions_en)).
- European Parliament (2020), *Ukraine: The Minsk agreements five years on* (retrieved from [https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS\\_ATA\(2020\)646203\\_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS_ATA(2020)646203_EN.pdf)).
- Giumelli, F. (2017), The redistributive impact of restrictive measures on EU members: Winners and losers from imposing sanctions on Russia, *Journal of Common Market Studies*, 55(5), pp. 1062-1080. <https://doi.org/10.1111/jcms.12548>.
- Happold, M. and Eden, P. (2019), *Economic sanctions and international law*, Oxford: Hart Publishing.
- Harris, D. and Sivakumaran, S. (2015), *Cases and Materials on International Law*, London: Sweet &Maxwell/Thomson Reuters.
- Helwig, N., Jokela, J. and Portela, C. (2020), *Sharpening EU sanctions policy for a geopolitical era*, Helsinki: Prime Minister's Office (retrieved from [https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162257/VNTEAS\\_2020\\_31.pdf](https://julkaisut.valtioneuvosto.fi/bitstream/handle/10024/162257/VNTEAS_2020_31.pdf)).
- International Law Commission (2001), *Draft Articles on the Responsibility of States for Internationally Wrongful Acts*.
- International Law Commission (2001), *Draft Articles on Responsibility of States for Internationally Wrongful Acts, with commentaries*.
- International Court of Justice (2004), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian territory*, Advisory Opinion of 9 July 2004, I.C.J. Reports 2004, p. 136.





- International Court of Justice (2017), *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Application instituting proceedings 16 January 2017.
- International Court of Justice (2019), *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Preliminary Objections Judgment of 8 November 2019.
- International Court of Justice (2021), *Application of the International Convention for the Suppression of the Financing of Terrorism and of the International Convention on the Elimination of All Forms of Racial Discrimination (Ukraine v. Russian Federation)*, Order of 28 June 2021.
- Kondoch, B. (2016), *Sanctions in International Law*, Oxford: Oxford University Press. DOI: 10.1093/OBO/9780199743292-0191.
- Korhonen, I. (2019), *Economic Sanctions on Russia and Their Effects*, CESifo Forum, ifo Institut – Leibniz-Institut für Wirtschaftsforschung an der Universität München, München, 20(04), pp. 19-22.
- Marochkin, S. (2017), *Guest Editor's Note on the Third Anniversary of the Referendum in Crimea*, *Russian Law Journal*, 5(3). <https://doi.org/10.17589/2309-8678-2017-5-3-4-8>.
- McGee, R. W. (2014), Should we impose sanctions on Russia because of the Crimea, *European Journal of Contemporary Economics and Management*, 1(2: December 2014 Edition), pp.1-9.
- Menkiszak, M. (2017), Russia's Minsk Dilemma, *Polish Quarterly of International Affairs*, 26(4), pp. 70-85.
- Mission of Ukraine to the European Union (2014), *Protocol on the results of consultations of the Trilateral Contact Group*, Minsk, 8 September 2014 (retrieved from <https://ukraine-eu.mfa.gov.ua/en/news/27596-protocolon-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014>).
- Moldovan, C. (2019), *Drept internațional public*, ediția a II-a, București: Universul Juridic.
- Office of the Prosecutor of the International Criminal Court (2020), *Statement of the Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination in the situation in Ukraine* (retrieved from <https://www.icc-cpi.int/Pages/item.aspx?name=201211-otp-statement-ukraine>).
- Parliamentary Assembly of the Council of Europe (2014), *Resolution 1988 (2014) on recent developments in Ukraine: threats to the functioning of democratic institutions*, adopted on 9 April 2014.
- Parliamentary Assembly of the Council of Europe (2019), *Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting Resolution 2287 (2019)* (retrieved from <https://pace.coe.int/en/votes/37964>).
- Rotaru, V. (2016), *Russia's Post-Crimea Legitimization Discourse and its Challenges for the EAP Countries, The Easter partnership under strain- time for a rethink? Eurint Conference Proceedings*, pp. 27-44.





- Security Council Report, Ukraine (retrieved from <https://www.securitycouncilreport.org/ukraine/>).
- Selejan-Guțan, B. and Crăciunean, M. (2014), *Drept international public*, Bucharest: Hamangiu.
- United Nations, *Charter of the United Nations*, 1945, 1 UNTS XVI.
- United Nations General Assembly, *Resolution 2625 (XXV)* of 24 October 1970.
- United Nations General Assembly Resolution 68/262 *Territorial integrity of Ukraine*, 27 March 2014 (retrieved from [https://www.securitycouncilreport.org/atf/cf/%7B65BF6CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a\\_res\\_68\\_262.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BF6CF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf)).
- United Nations (2014), *UN Security Council action on Crimea referendum blocked*, 15 March 2014 (retrieved from <https://news.un.org/en/story/2014/03/464002-un-security-council-action-crimea-referendum-blocked>).
- United Nations Security Council (2014), Security Council Sixty-ninth year 7125th meeting Monday, 3 March 2014, New York, S/PV.7125.
- United Nations Security Council (2021), *Sanctions, Subsidiary Organs of the United Nations Security Council, Fact Sheets* (retrieved from <https://www.un.org/securitycouncil/content/committees-working-groups-and-ad-hoc-bodies>).
- United States Mission to the OSCE (2015), *Anniversary of the So-Called “Annexation” of Crimea by the Russian Federation*, As delivered by Ambassador Daniel B. Baer to the Permanent Council, Vienna, March 19, 2015 (retrieved from <https://www.osce.org/files/f/documents/c/0/147801.pdf>).
- Wang, W. (2015). *Impact of western sanctions on Russia in the Ukraine crisis.*, Journal of Politics and Law, 8(2), pp.1-6. DOI:10.5539/jpl.v8n2p1.
- Warren, H. (2017), *The new cold war: novel regulatory takings theory on economic sanctions against exploration and production in Russia*. Houston Journal of International Law, 39(2), pp. 461-487.
- White, N.D. and Abass, A. (2014), *Countermeasures and sanctions*, in: Evans, M.D. (ed.), *International Law*, 4th ed., Oxford: Oxford University Press, pp. 537-562.
- Wilmshurst, E. (2008) *Definition of Aggression General Assembly resolution 3314 (XXIX) 14 December 1974* (retrieved from <https://legal.un.org/avl/ha/da/da.html>).

