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Analysing self-determination: the case of Crimea.

Ukrainian crisis between history and
future

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Abstract

La Crimea è una penisola che si affaccia sul Mar Nero; a nord è collegata all'Ucraina da un sottile istmo, a nord-est è bagnata dalle acque del mare d'Azov, a est lo stretto di Kerch fa da confine con la Russia, mentre a sud e a ovest è bagnata dalle acque del Mar Nero. La sua conformazione geografica si compone di tre differenti zone: abbiamo la zona costiera, dal clima mite e mediterraneo, seguita da una zona montuosa e impervia, più fredda, con molte precipitazioni e un clima più rigido. Infine, la pianura che si estende al nord, verso l'Ucraina, e occupa una gran parte del territorio della Crimea. La pianura è praticamente disabitata, perché flagellata da forti venti. Grazie alla sua posizione geografica, al confine tra Europa ed Asia, Crimea fin dall'antichità ha ospitato molti popoli e culture. Nelle pianure del nord sono transitati per secoli diverse tribù nomadi, dediti alla pastorizia; nelle montagne hanno trovato rifugio i popoli in cerca di protezione; la costa, invece è stata popolata da antiche civiltà di navigatori e mercanti. Situata sul crocevia di civiltà Euroasiatiche, Crimea ha visto il passaggio di molti popoli e molte culture, la nascita e morte di molte città e poi la loro rinascita, costruzione di fortezze difensive e la loro distruzione. Le culture che ci hanno messo piede, hanno lasciato un segno sul loro cammino. Tutte hanno dato qualcosa alla Crimea e hanno formato al loro passaggio la storia e il destino della penisola. Hanno transitato qui le civiltà come quella greca e romana, i mongoli, i turchi e i tatari, genovesi, veneziani ed armeni ed infine, nei tempi più recenti tedeschi, russi e ucraini. Uno dei popoli che è tuttora indissolubilmente legato alla cultura e alla storia della Crimea, sono i Tatari di Crimea. La loro origine non è tuttora molto chiara, anche se sono chiaramente una tribù discendente del Khanato di Crimea, poi diventata vassallo dell'Impero Ottomano. La loro storia ha vissuto momenti di grande gloria durante il Khanato. Le loro ricchezze e conquiste sono tuttora leggendarie, come tuttora leggendarie sono le loro scorribande tra i popoli

slavi alla ricerca di schiavi. L'economia del Khanato, infatti, era basata sul commercio di schiavi e per procurarseli i Tatarsi assaltavano i villaggi slavi prendendone in ostaggio la popolazione, che poi vendevano come schiavi. Pian piano, però i Tatarsi e l'impero Ottomano videro emergere un nemico sempre più forte. Il principato di Moscovia. Sempre più forte e con le armi sempre più all'avanguardia, il principato di Moscovia condusse diverse battaglie espansionistiche e quello che una volta era solo un principato diventò, a poco a poco un impero. L'impero Russo, da sempre acerrimo nemico dell'impero ottomano e del Khanato di Crimea, con a capo Caterina II, conquistò nel 1783 il Khanato di Crimea e lo inglobò al suo interno. Così la storia e il destino legò la Crimea alla Russia. La convivenza tra i russi e i Tatarsi non fu sempre facile, ma il più delle volte essi sono riusciti a trovare un accordo che potesse accontentare ambo le parti. I problemi maggiori sorsero durante la Seconda Guerra Mondiale. I Tatarsi di Crimea furono accusati di aver collaborato con i nazisti tedeschi e furono deportati sotto ordine di Stalin come traditori della patria. In pochi giorni la popolazione dei Tatarsi di Crimea si vide privata di tutto e soprattutto della loro casa, che loro consideravano essere la penisola di Crimea. Molti di loro morirono durante il tragitto per Uzbekistan. Non fu permesso loro di tornare in Crimea per molto, molto tempo.

Nel 1954 il destino della Crimea cambiò ancora. Questa volta, in occasione dei festeggiamenti del trattato di Perejaslav, il capo del partito comunista sovietico, Nikita Chruschov, decise di regalare la Crimea all'Ucraina. Ovviamente ciò avvenne con l'approvazione del Soviet supremo dell'URSS. All'epoca non ci furono grandi problemi e sconvolgimenti, anche perché sia l'Ucraina, che la Russia facevano parte delle repubbliche socialiste sovietiche. Il problema si presentò negli anni '90. Il crollo dell'URSS e la conseguente separazione dell'Ucraina dalla Russia, come stato indipendente, pose di fronte a questi due stati il problema della Crimea.

La Russia non avrebbe mai ceduto il suo sbocco sul mare, tutt'al più che in Crimea c'era la sede della leggendaria Flotta Navale Russa. Si è discusso molto sullo status della Crimea, sia in Russia, che in Ucraina e alcune questioni rimangono tuttora irrisolte. La decisione giunse dopo svariati referendum e discussioni diplomatiche tra i due paesi. La Crimea avrebbe avuto uno status autonomo pur appartenendo territorialmente all'Ucraina. La questione della Flotta del Mar Nero, fu tutt'altro che risolta. Ci sarebbero voluti ancora molti anni per raggiungere un accordo soddisfacente tra i due paesi. Nel 1997 la Russia ha siglato due importantissimi accordi con l'Ucraina: il primo è l'Accordo di Amicizia tra Ucraina e Russia, che prevede il rispetto dei confini tra i due paesi e il rispetto della sovranità dell'Ucraina e non ingerenza negli affari interni. Il secondo accordo regola la distribuzione delle ex navi URSS tra Russia e Ucraina e stabilisce le condizioni per la presenza della Flotta Russa sul suolo Ucraino. Lo stanziamento della Flotta Russa sul suolo Ucraino aveva ovviamente dei rigidissimi limiti sia per quanto riguarda le unità delle truppe che potevano stanziare in Crimea, sia per quanto riguarda l'artiglieria e i mezzi corazzati. La base navale apparteneva all'Ucraina ed era concessa in leasing alla Russia, dietro un compenso annuo. Nonostante gli accordi raggiunti, la pace durò poco e a seconda dell'alternarsi dei presidenti in Ucraina, le relazioni tra i due paesi erano o più rigide o più distese.

La Russia nel frattempo, dopo la disgregazione dell'URSS, si trovò ad affrontare una forte crisi identitaria e dell'unità nazionale. L'economia risentì parecchio il passaggio da un regime totalitario ad un'economia di mercato e come tutti i paesi facenti parte dell'Unione Sovietica, anche la Russia entrò in una forte crisi economica. Grazie però a grandi riserve del gas naturale il paese si riprese in fretta e soprattutto risentì molto meno la crisi economica rispetto agli altri paesi ex Sovietici. Ciononostante, queste crisi portarono, negli ultimi anni, all'insorgere dei sentimenti imperialisti La

Russia sconfitta e umiliata dall'occidente durante la guerra fredda si sentiva un po' messa da parte sulla scena politica internazionale. Il sogno di riconquistare la gloria dei tempi dell'impero Russo si faceva sempre più sentire. Ma, ovviamente, come poteva essere di nuovo grande la Russia senza la Crimea. La Crimea, da quanto fu regalata all'Ucraina da Chruschov, è stata sempre un sassolino nella scarpa per la Russia. Per anni la Russia sognò di riavere la Crimea, in un modo o nell'altro. Purtroppo per l'Ucraina l'occasione si presentò e la Russia la seppe cogliere al volo.

Tra il 2013 e il 2014, in Ucraina si scatenarono manifestazioni di piazza e proteste contro il presidente Yanukovich, il quale si rifiutò di firmare l'accordo di associazione con l'Unione Europea, previsto per la firma durante il summit di Vilnius. La popolazione, dopo lunghe attese e promesse, vide disattese le proprie speranze. Le manifestazioni iniziarono a novembre del 2013 e proseguirono per tutto l'inverno, soprattutto dopo che il governo ordinò alla polizia di disperdere i manifestanti pacifici da piazza Maidan. La polizia fu molto dura e brutale con i manifestanti, mai si era vista un'ondata di tale violenza perpetrata dal governo verso i propri cittadini. Così il popolo decise di occupare la piazza Maidan a Kiev e chiedere le dimissioni del presidente e le elezioni anticipate. Yanukovich decise di non arrendersi e resistere ad oltranza. Ci furono diversi scontri tra i manifestanti e la polizia, che nel mese di febbraio del 2014 sfociarono in scene di guerriglia e si pensò che una guerra civile era alle porte. Yanukovich in preda al panico e alla disperazione decise di fuggire segretamente dal paese, lasciando un vuoto di potere. Durante quei 3/4 giorni di relativa confusione e caos, in Crimea si svolgeva un altro scenario. Degli uomini in divisa, ma senza etichetta di riconoscimento, presero possesso degli uffici amministrativi in Crimea. L'Ucraina accusò subito la Russia di aver fatto entrare le sue truppe sul suolo Ucraino. Solo molti mesi dopo Putin accidentalmente ammise che, i cosiddetti "omini verdi", furono effettivamente dei soldati russi. Nel frattempo gli

uffici governativi in Crimea venivano occupati e le forze armate Ucraine circondate. Anche le strutture aeroportuali e gli accessi che portano dalla Crimea verso l'Ucraina sono state occupate dai militari ignoti. Gli organi di governo della Repubblica Autonoma di Crimea vengono cambiati e arbitrariamente votati per alzata di mano. Tutto si prepara per il Referendum che porterà la Crimea a secedere dall'Ucraina. Finalmente la Russia ha colto la sua grande occasione di riavere la Crimea. Durante il referendum, dichiarato incostituzionale dalle autorità Ucraine e dalla Corte di Giustizia Ucraina, la presenza militare russa non accenna a diminuire. Ovviamente il risultato è schiacciante a favore dell'annessione della Crimea alla Russia. Pochi giorni dopo il referendum, il 18 marzo 2014, la Crimea viene annessa alla Federazione Russa con un accordo bilaterale tra Crimea, come stato indipendente, e la Russia.

La secessione e la conseguente annessione della Crimea alla Russia ha scatenato molte preoccupazioni nella comunità internazionale. Le questioni più importanti che sono sorte a seguito di questi eventi sono di carattere giuridico-internazionale. La Russia per giustificare il suo intervento in Ucraina, che aveva precedentemente negato, si è riferita a svariati principi del diritto internazionale. Il principio più importante tirato in ballo è sicuramente quello dell'autodeterminazione dei popoli. La Russia afferma che la Crimea si sentiva minacciata dagli eventi in piazza Maidan e dal nuovo governo ad interim, che si formò in seguito alla fuga del presidente legittimo. Per questo motivo il popolo di Crimea avrebbe avuto, secondo le autorità Russe, il diritto ad un referendum per decidere liberamente il proprio destino e conseguire così l'autodeterminazione.

Il principio di autodeterminazione è una questione molto spinosa nel diritto internazionale e soprattutto è di abbastanza recente formazione. In origine il suddetto principio servì a favorire la decolonizzazione e quindi venne applicato solo in quei casi. Recentemente questo principio viene

invocato anche dai popoli non soggetti al giogo coloniale, ma semplicemente come un mezzo per conseguire l'indipendenza. In questa tesi si tenterà di analizzare il principio di autodeterminazione posto in relazione al caso della Crimea e ad analizzarne le possibili conseguenze sul diritto internazionale. Prendendo in esame il recente caso sul Kosovo e la sua dichiarazione d'indipendenza si tratteranno le differenze tra il caso del Kosovo e la dichiarazione d'indipendenza della Crimea. Inoltre, prendendo in esame altri principi di diritto internazionale, connessi al caso, si tenterà di spiegare il ragionamento giuridico dietro l'invalidità del referendum in Crimea.

Conseguentemente agli eventi in Crimea, anche le regioni dell'Ucraina dell'est hanno tentato di ripetere lo stesso scenario e di dichiarare indipendenza in seguito ad un referendum. Questo portò ad una guerra tra i militanti separatisti del Donbass e le forze armate Ucraine, che dura ancora.

La tragicità e l'ampiezza dei fatti in questione dovrebbe far riflettere di più la comunità internazionale in modo da evitare in futuro che le violazioni del diritto internazionale possano portare non solo alla secessione, ma anche ad una guerra, come quella in corso nel Donbass.

Introduction

Since the principle of self-determination has always been one of the major issues of the modern international law, it seemed logical for a student of international relations to analyse it a little bit closer. The occasion to study a case happening nowadays seemed perfect. The Crimean claim for self-determination and its consequent secession from Ukraine is, and will be long discussed by a scholars of international law. Nevertheless, the case of Crimea poses new challenges in front of the development of the principle itself and the possible changes in its application.

The Ukrainian crisis originates its roots deep back in history. Ukraine was always a border territory disputed among several empires. It has a fragmented national identity due to its only recent independence. Ukraine was always dominated by one power or another since the collapse of the Kievian Rus. The struggle for national identity is also a struggle for national unity, and the independence that was so difficult reach, resulted in internal disputes and divisions. The Orange revolution of 2004 is a vivid example of this profound national crisis. This crisis of national identity led to the events at Euromaidan and subsequently to that of Crimea.

The complexity of the issue itself could not exclude the analysis of the Ukrainian and Crimean history and their geopolitical context. This dissertation will focus at the first chapter on the background situation of Ukraine, starting from its historic past and continuing with the detailed analysis of the events that led to the protests at Euromaidan in Kiev. The final part of the chapter will focus on how the events evolved and brought to the Crimean referendum.

The chapter two is entirely focused on the analysis of the international law and on explaining its principal concepts in regard to self-determination,

secession and the consequent annexation of Crimea to the Russian Federation. In order to better analyse the case of Crimea will be compared with the recent case of Kosovo.

The third and last chapter will focus on the tragic outcomes and consequences of the Crimean and Ukrainian crisis: the war in Donbass. A large analysis of the international instruments employed, in order to pacifically settle the controversy between separatists of Donbass and Ukraine, will be also presented. Nevertheless, the European Union was crucial in helping during the Ukrainian crisis and in arranging and negotiating during the Minsk peace talks, it showed also all its limits. The response of the EU to this big geopolitical crisis was not strong enough and showed its disunity and limits in its political decision making process.

The conclusion will concentrate in the analysis of the involvement of the Russian Federation and will try to answer the question of why the referendum, the secession and especially annexation were illegal under international law.

1. CHAPTER I Ukrainian Crisis.

1.1. Brief history of Ukraine and Crimea.

Ukraine has always been a border territory, continuously disputed between neighbouring empires throughout the history. “Ukraine”, in fact, means “borderland”.¹ This fact characterised a lot the national history and therefore, also the national unity. The territory of Ukraine was dominated and divided, throughout the centuries, by several empires such as Russian Empire, Austro-Hungarian Empire, and Polish-Lithuanian Commonwealth. This factor prevented the creation of a national identity, and in particular, of a strong political unity, that was necessary to a creation of a nation.

The history of Ukraine, as those of other Slavic populations, grounds its roots in Kievan Rus’ (850)². The Christianization of which was of crucial importance and was held by prince of Kyiv Vladimir the Great (980-1015) and it took place in 987 in Chersonesus (Crimea), which is believed to be a city of his conversion and consequent marriage with the sister of Byzantine emperor³. After the stability of the Kievan Rus’ came a period of division and instability. Its territories were divided in many independent principalities, while the incursions of Turkic tribes, coming from the east took place. In the meantime, Crimea was dominated by the Mongols of the Golden Horde, who conquered its territories and united all the Turkic-Mongol tribes under the guide of Chinggis Khan. Following the Golden Horde period, came the period of Crimean Khanate, which dominated Crimea and the south-eastern territories of Ukraine. The Crimean Khanate soon was assaulted by the Ottoman Empire and became its vassal. The ties

¹ DORIS WYDRA, *The Crimea Conundrum: The tug of war between Russia and Ukraine on the Questions of Autonomy and self-determination*, International Journal on Minority Rights 10: 111-130, 2004

² PAUL R. MAGOCSI, *This Blessed land: Crimea and the Crimean Tatars*, University of Toronto Press, 2014, p.22

³ IBID. p.23

between the Khanate and the Empire were always strong throughout the years. The economy of the Crimean Khanate was based on the commerce of slaves, who they captured during their raids in the Ukrainian step land, which at the time were under control of Poland, Lithuania and Muscovy⁴. The Nogay tribes, better known as Tatars: “prevented the establishment of solid Slavic settlements in the steppe and provided the Crimean slave markets with a never ending supply of captives.”⁵ The continuous raids provoked a creation of the self-defence groups, that is the Zaporozhian Cossacks.

In the meantime, the western part of Ukraine was dominated by Lithuania and Poland, which soon united into Polish-Lithuanian Commonwealth. This was the moment when first steps towards the division of Ukraine between east and west took place. The creation of Union of Lublin⁶ in 1569, and the consolidation of Muscovy into the Russian Empire established a sort of bipolar influence.

The Union of Lublin was followed by the Union of Brest⁷ (1596), which introduced a new religious union in an already complex geopolitical context. This decision of the separation from the Orthodox Church was perceived as an attempt to erase the Orthodox religion. As a consequence, some Cossacks guided by Hetman Bohdan Khmelnytsky, which remained faithful to the Orthodox religion, seceded, and created an alliance with Muscovy in 1654⁸. The left bank of the river Dnepr was entering into the Russian orbit. After Russian Empress Catherine II conquered Crimea (1783), new entity rose: that was the “New Russia” with its capital city in Odessa. After sometime, the policies of the Russian Empire changed, especially after

⁴ IBID., p.47

⁵ ALAN FISHER, *The Crimean Tatars*, Stanford, California, 1978, p.25

⁶ Union of Lublin: The union of Lithuania and Poland in Polish-Lithuanian Commonwealth

⁷ Union of Brest: was the 1595-96 decision of the Ruthenian Church of Rus', the "Metropolia of Kiev-Halych and all Rus'", to break relations with the Eastern Orthodox Church and to enter into communion with the Pope of Rome.

⁸ Treaty of Perejaslav

the insurrection of Poland in 1863. The introduction of russification policies took force, which determined a raise of Ukrainian national movement, with its centre in Kiev. The first cultural circle of the patriotic movement was born between 1820 and 1830 at the university of Kharkiv, where, for the first time, was build the idea of the connection between the Ukrainian culture and the Ukrainian land. Subsequently some important documents were issued: the decree of Valuev (1863), which denied the existence of Ukrainian language, and the decree of Ems (1876), with which the publication of books in Ukrainian was prohibited. This was the first divide between Ukraine and Russia.

However, the modern idea of Ukraine of geopolitical content was born in the territories which Poland ceded to the Austrian Empire, that was Eastern Galicia. The Ukrainian national conscience grew thanks to Ukrainian-Polish antagonism, which brought around 1890 to the idea of Ukrainian Nation, that was conceived by Ukrainian historian Mykhailo Hrushevsky: “If Ukraine was his people, the Ukrainian state will be wherever they was”⁹.

The confusions and disorders of WWI and Bolshevik revolution of 1917 lead to the creation of two Ukrainian states: Popular Republic of Ukraine, founded in Kiev in November 1917, which was defeated by the Red Army in 1920, in the context of Russian civil war, and Popular Republic of Western Ukraine. The last one was proclaimed in October 1918 with its capital in L’viv, and was defeated by Polish army in April 1919. In the meantime, the Treaty of Brest-Litovsk was signed in 1918, to end Russian commitment in a WWI. Soon after the signature the Treaty of Brest-Litovsk was broke fist by the Ottoman Empire and then by the other States. The western territories, close to the border of Soviet Union with Poland brought

⁹ TH. SNYDER, *The Reconstruction of Nations. Poland, Ukraine, Lithuania, Belarus, 1569-1999*, New Haven-London 2003, Yale University Press, p. 132

to a Russian-Polish war. This conflict was finally settled by the treaty of Riga signed in March of 1921. The treaty ceded territories of Galicia and Volhynia to Poland and established the peace with Russia.

Contemporary with the constitution of the Soviet Union, the Ukrainian Socialist Republic was born in 1922, in a context of a new multinational federal State. The Soviet policy towards Ukraine was that of favouring the developing of Ukrainian ethnicity. Similar policies of favouring the ethnic component were lead in other Soviet Republics. Meanwhile in Galicia and Volhynia, under the Polish rule, were established policies of assimilation of Ukrainian ethnicity to the Polish.

With the collectivization of peasants and the defeat of the, so called “kulaki” a new policy towards the ethnicity was brought into life. The Soviet government decided to abandon the policy, which favoured the development of the ethnic element. In Ukraine it was particularly harsh moment. The collectivization, the deportations and repressive policies towards peasants brought to “Holodomor”¹⁰ of 1932-1933. This caused nearly 3,5 million victims and weakened the Ukrainian structure of rural areas, favouring the russification.

The atrocities of WWII brought even more destruction to the Ukrainian land. Its multicultural, multi-ethnic and multilingual environment was permanently destroyed and many ethnic cleansings took place. The first victims were Jews hit by the Shoah. Then, in 1943, followed the armed conflict between Ukraine and Poland. The deportation and cleansings of ethnic elites by the Soviets and the atrocities perpetrated by the German occupation towards Jews and Rom people made the war even more terrible. From this destruction and chaos emerged an independent Ukrainian Insurgent Army (Upa, 1942). It fought against the Polish people as a radical

¹⁰ Holodomor: famine

reaction to the Polish policies towards the Ukrainian minority, which brought to a lot of victims among the Polish people and a lot of them abandoned the territory of Volhyn, where the main Polish settlements were. In 1939 the Soviet army conquered the territories of Galicia. Even so the Upa army continued to fight for independence of Ukraine against the Soviet army until 1950s. Towards the end of the war, other territories were joined to be a part of Ukrainian Soviet Republic. These were northern Bucovina and Transcarpathia.

In order to strengthen Poland and to create a more homogeneous ethnic population in Galicia, the Soviet Union and Poland agreed to make a population exchange. The Polish from Galicia were moved to Poland, while Ukrainians were moved from Poland to the Soviet Ukraine. These exchanges of population were not without consequences. It was a painful process for both sides.

During the WWII another minority tragedy took place. This was the mass deportation of Crimean Tatars in 1944. The accusation was that of the alliance of Crimean Tatars with the Nazi Germany, so they were considered as traitors of the Motherland. In some extent it was a true, but many Tatars fought also on the Soviet side and many of them formed partisan groups against the German occupant. The order was given by Stalin himself and the deportation began on 18 May of 1944. In less than three days 183,200 Crimean Tatars were resettled in the Uzbek SSR. This day is remembered by the Tatar community as “The Black Day”¹¹. Following the deportation Crimea lost its autonomy and became an oblast within the RSFSR and in 1949, Sevastopol was directly subordinated to Moscow¹². The deportation of Crimean Tatars favoured Russian re-settlement in Crimea. Many Russians

¹¹ PAUL R. MAGOCSI, *This Blessed land: Crimea and the Crimean Tatars*, University of Toronto Press, 2014, p.117

¹² DORIS WYDRA, *The Crimea Conundrum: The tug of war between Russia and Ukraine on the Questions of Autonomy and self-determination*, International Journal on Minority Rights 10: 111-130, 2004

moved permanently to the peninsula. The names of Tatar's cities were changed into Russian ones and every sign of the existence of the Tatar's culture was removed.

The legal status of Crimea was changed again in 1954, when, in the occasion of the 300th anniversary of the Treaty of Pereyaslav, Nikita Khrushchev transferred Crimea from the RSFSR to the Soviet Ukraine. In this way the picture of the Ukrainian territory was completed, creating a complex geopolitical context.

First problems came after the “Perestroika” process and the subsequent dissolution of the Soviet Union. Ukraine declared its independence on 24th August 1991. The independence of Ukraine posed the problem of the status of Crimea. Should it stay within Ukraine or should it be reunited with Russia?

The control over the peninsula was contended by three forces, that were: the regional Parliament in Simferopol, Ukraine's central authorities in Kiev and the Crimean Tatar's national assembly. The leaders in Kiev recognised that Crimea should have a certain degree of autonomy, but should remain under the authority of Ukraine. Crimean Tatars favoured this option, strongly opposing the pro-Russian movements in Crimea. The parliament of Simferopol adopted in 1992 the constitution, which positioned Crimea as an autonomous Republic within Ukraine.

After long uncertainty and some disputes with the Crimean parliament, which was backed by Russia: “In 1995, Ukraine's second president, Leonid Kuchma, issue a decree which cancelled the Crimean constitution, abolished its presidency, and subordinated the Crimean government directly to Ukraine's president”¹³. Moreover, the Ukrainian constitution was adopted in

¹³ PAUL R. MAGOCSI, *This Blessed land: Crimea and the Crimean Tatars*, University of Toronto Press, 2014, p.139

1996, which provided for a centralized state and formally established the Autonomous Republic of Crimea granting Crimea some extent of autonomy, but always subordinated to the Ukrainian central government.

Among the disputes over Crimea, there is that one of the Black Sea Fleet. Ukraine and Russia could not agree over a long time about this issue. Finally, the Ukrainian-Russian Friendship Treaty and Black Sea Fleet Treaty (1997) settled the controversy¹⁴.

The disputes and the misunderstandings over the years between Ukraine and Russia created between these two nations a profound divide. The Soviet period contributed even more to this strong dual contraposition. Even if, the reality of independent Ukraine is more complex, the contraposition East-West is still strong and it plays a crucial role during the periods of crisis, like for example that of Orange Revolution. The crisis of 2013 and the Maidan revolution triggered the never-ending dispute. The future of Crimea was uncertain, Ukraine was going to sign the agreement with the EU and the NATO was coming closer... Russia could not allow this to happen. Moreover, this was the perfect occasion to bring back Crimea, which was unfairly taken, according to Russia, from its Motherland.

1.2. Protests at Euromaidan.

On 21 November 2013 (2013)¹⁵ Ukrainian president Viktor Yanukovich, together with the Ukrainian government, decided to suspend the signature of the Association Agreement with the EU, which should have taken place during Vilnius summit, a few days later. That led, in the evening, to a spontaneous student protest in Main Square in Kiev. The protests started

¹⁴ PAUL R. MAGOCSI, *This Blessed land: Crimea and the Crimean Tatars*, University of Toronto Press, 2014, p.140

¹⁵ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 23/12/2016)

after a Facebook post of Mustafa Nayyem¹⁶, independent journalist, who was disappointed by the actions of Ukrainian president Yanukovich. Thousands of students and young people gathered in Maidan¹⁷ Square (Independence Square) brandishing Ukrainian and European flags. They hoped that the president will change his mind and finally will sign the agreement by the end of the Vilnius summit on 29 November¹⁸. Some of the EU leaders thought, that Yanukovich suspended the Association Agreement because of the pressures from Europe to release Yulia Tymoshenko, his political rival. Others feared that the president withdrew the agreement, because of the pressure from Russian president Putin. “Official reaction in Brussels was one of disappointment, pleading with Yanukovich to reconsider, and emphasising that no doors were being closed”¹⁹.

When the Prime Minister Azarov, in order to calm the population, announced that, the decision to suspend the EU Association Agreement doesn't mean that Ukraine will enter the Eurasian Economic Union (EAEU). The majority didn't understand in detail this two agreements, but what was clear for them, is the fact that one will open the doors to Europe, while the other will throw Ukraine into the Russian political and economic jaws²⁰.

The protests grew even more between 21st and 29th and on 26th a heating tent was installed²¹ in order to allow the continuation of protests throughout the cold days of winter.

¹⁶ <http://uk.businessinsider.com/heres-how-facebook-kicked-off-the-euromaidan-revolution-2015-7?r=US&IR=T> (last accessed 23/12/2016)

¹⁷ Maidan: see glossary at page 30

¹⁸ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 23/12/2016)

¹⁹ <https://www.theguardian.com/world/2013/nov/22/russia-ukraine-eu-pact-lithuania>

²⁰ Andrei Kurkov, *Diari Ucraini*, Keller Editore, 2014

²¹ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 23/12/2016)

The wave of disappointment was not confined to Kiev. The protest spread in many cities throughout Ukraine.

Along with the anti-government and pro EU protest a tent of the Regional Party of Yanukovych was installed in Michajlovskaja square, in order to support the Ukrainian president²².

The clue event, that changed all of the following events, happened during the night of November 30th. At 4 am in the morning Berkut troops²³ attacked the half sleeping protesters beating everyone from young to old. Many students disappeared after their arrests. Another group of protesters was trapped in Michajlovskaja square, where a monk in Michajlovkij monastery offered them a shelter²⁴. This day was defined by the Ukrainian writer Andrei Kurkov as “bloody Saturday”²⁵. c'è una nota che può confermarlo? The thing that changed everything was the violence used by the police. The protests transformed from only the pro EU agreement towards the protests against the brutal violence used by the authorities. The unprecedented violence of the police brought, the following day, around 500,000 people to protest to Maidan Nezalezhnosti²⁶. They were demonstrating against the corruption of authorities, against the monopoly of the mass media, against the brutal violence of “berkut” police and against the President Yanukovych, demanding his resignation.

Some clashes between protesters and police occurred close to the Administration of the President. According to the Department of Health, by

²² ANDREI KURKOV, *Diari Ucraini*, Keller Editore, 2014

²³ BERKUT: SPECIAL RIOT POLICE UNITS

²⁴ ANDREI KURKOV, *Diari Ucraini*, Keller Editore, 2014

²⁵ ANDREI KURKOV, *Diari Ucraini*, Keller Editore, 2014

²⁶ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 23/12/2016)

the end of the second day of clashes, 109 protesters were hospitalized with 165 injured²⁷. Demonstrators had also seized Kiev City Hall.

The following days the occupation of Maidan Nezalezhnosti and the protest continued with thousands and thousands of people attending.

Despite that, Yanukovych went to Sochi in order to discuss a “Strategic Agreement” about economic policies and gas supplies with Vladimir Putin, that provoked more discontent among the demonstrators.

As the anger grew, president Yanukovych decided to hold a roundtable meeting with three former presidents in order to try to solve the ongoing crisis. Moreover, the High Representative of the Union for Foreign Affairs and Security Policy for the European Union, Catherine Ashton, held meetings on 10th and 11th December to support the way out of the political crisis²⁸. Finally, the meeting between the president, representatives of the government and the leaders of the opposition was held. During the meeting was agreed upon an amnesty for the demonstrators detained and nine people were released by the court the next day.

The previous meeting with Putin brought on 17th December, to the signature of Ukrainian-Russian action plan, with which Russia bought 15 billion of Ukrainian debt and lowered the cost of natural gas supplies²⁹.

The protests that continued throughout the whole December with the organization of some concerts, some poetry readings and some leaders of the opposition parties came to speak on the stage of the Euromaidan. During the January nothing big happened till the 16th-17th of the month, when

²⁷ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 23/12/2016)

²⁸ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

²⁹ <http://www.bbc.com/news/world-middle-east-26248275>

Yanukovych and the Party of Regions passed the anti-protest laws, which criminalized all methods employed during the protests.

The protest then escalated and clashes with the berkut occurred between 19th and 21st of January on Hrushevskoho street close to the governmental buildings. During these days of riots and disorders police killed three people. First victim was Sergey Nigoyan³⁰ an Armenian Euromaidan activist, who was born in Ukraine. The police also shot the other two protesters during the clashes of those days. It was permitted to the police to use harsher methods in order to stop the escalating violence. The president also awarded some police figures with medals for their service in the conflict³¹.

Finally, on 27th of January the Ukraine's Parliament repeals the anti-protest laws in order to try to stop the two moths' anti-government protest. The next day, Yanukovych accepts the resignation of Ukrainian's Prime Minister Azarov, subsequently offering the vacancy to an opposition leader, Arseniy Yatsenyuk, who refused it. The talks with the opposition enter into a period of impasse, because of demands of the resignation of Yanukovych and early elections.

³⁰ <http://www.eng.kavkaz-uzel.eu/articles/27077/>

³¹ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

1.3. The final battle. February 2014

In February everything seemed to calm down, with the protests de-escalating after more than 200 demonstrators were released under the amnesty law, with the promise to leave the occupied buildings and to reduce the barricades. As promised the demonstrators maintain their commitment and de-occupy institutional buildings. Everything seems to calm down and the Prosecutor-General announces that the amnesty law can be put into force

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Suddenly, the violent clashes broke through during the large demonstration on 18 January, when parliament refused to approve the law, which allowed the return to the 2004 Constitution, as, was demanded by the opposition. The situation escalated rapidly and the protesters marched towards the parliament building

Severe violence and the urban warfare followed, with protesters throwing stones and Molotov cocktails at security forces in defence of barricades in Instytut's'ka Street. Berkut police responded shooting at the protesters with plastic ammunitions and throwing stun grenades.³³ There were present also the "titushki"³⁴ (backers of Regional Party and Yanukovych), they were beating the protesters and non-Russian journalists.

In the evening, Instytut's'ka Street was transformed in a battlefield. Numerous injured, burned cars, stones everywhere, blackened buildings. There are also first deaths.

The next morning begins with more clashes and urban warfare. Suddenly, between hotel Ukrajinna and October's palace, the protesters and

³² <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

³³ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

³⁴ Titushki: see glossary at page 32

the police were reached by sniper's fire. Nobody knew where the fire was coming from and by the end of the day at least 75 deaths were confirmed³⁵.



Figure 1- Map of Euromaidan (LOCATELLI & DE SANCTIS, 2014)³⁶

February 21st in order to try to stop the bloody political crisis the president together with the opposition and under the control of EU ministers were working all the previous night on an agreement. Finally, the agreement was signed with the promise to hold presidential elections before the end of the year and to return to the 2004 Constitution, which limited the presidential powers. Government troops retreated from Maidan square.

Several oppositional groups declared their disagreement with the freshly signed deal, demanding to set the elections immediately. At that point, a lot of defence forces and police passed to the side of Maidan, sustaining protesters.

The next day, 22nd of February, the president Yanukovich escaped to Kharkiv first and from there through Crimea fled to Russia.

³⁵ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

³⁶ <http://www.limesonline.com/gli-scontri-a-kiev-e-la-battaglia-per-lucraina-nel-contesto/58230>

Following the presidential fled the self-defence of Maidan occupied the Parliament (Rada), the administration centre of the president and the Ministry of Internal Affairs. Ukrainian parliament declares Yanukovych deselected and appoints new presidential elections on 25th May 2014³⁷. Yanukovych refuses to step down and calls the ongoing developments a coup.

The new interim government has to be appointed until the election take place. On 23 February, Oleksandr Turchynov was appointed as interim president and on 26th Maidan's council agrees on the name of Arsenij Yatsenyk as interim prime minister. In the following days the others ministers were appointed by Yatsenyk and on 27th of February a new interim government is confirmed by the parliament.

The EU recognises and accepts the new government as legitimate, but Russia do not. Putin accuses the new government to be illegitimate and to govern through 'dictatorial' and 'terrorist' means³⁸. The activist of Maidan are labelled as terrorist that gained power through a coup d'état. Tensions between Ukraine and Russia escalate.

1.4. Towards the Referendum.

After the events in Kiev and the escape of Yanukovych, a wave of protests animated the peninsula of Crimea and some southeastern regions of Ukraine. On 23 February, in the port city of Sevastopol, in Crimea, a pro-Russian and anti-Maidan protest gathered in front of the city Administration building. Demonstrators held a city meeting in the main square in front of the city Administration and elected as a new city leader Aleksey Chaly. They

³⁷ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

³⁸ <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary> (last accessed 26/12/2016)

also established a creation of self-defence forces on voluntary basis, in order to protect the city³⁹. The same day another similar protest took place in Crimea. It was held in the city of Simferopol, the capital city of Crimea. Along with the pro-Russian protests a pro-Ukrainian ones were also held, for the majority by Crimean Tatars. On 26 February 2014, a group of Crimean Tatars (around 10,000) gathered in front of the Parliament (Verhovna Rada) of the Autonomous Republic of Crimea in order to protest against the separation of Crimea from Ukraine. They subsequently clashed with the simultaneous pro-Russian protest-taking place at the same time and at the same place. The clashes provoked several injured and one person died⁴⁰.

On the early morning of 27 February, masked unidentified men with guns seized the government buildings in Simferopol and raised the Russian flags. In the seized building of Crimean Parliament, an extraordinary session was taking place, with no journalists allowed. The prime minister of the Crimean Parliament, Anatoly Mogiliov, appointed by Yanukovich was overthrown and was replaced by Sergei Aksyonov, a businessman close to Kremlin⁴¹. Soon after its election, Aksyonov declared himself a chief of the military forces of Crimea and pushed to anticipate the referendum on the status of the peninsula. A lot of military forces surrendered and pledged allegiance to the pro-Russian government⁴². The referendum was set up on 16 March 2014. Already on 11 March the Crimean Parliament presented a declaration of Independence from Ukraine, stating the following: *“We, the members of the parliament of the Autonomous Republic of Crimea and the Sevastopol City Council, with regard to the charter of the United Nations and a whole range of other international documents and taking into*

³⁹ <http://www.pravda.com.ua/rus/news/2014/02/23/7016000/>

⁴⁰ <https://www.theguardian.com/world/2014/feb/26/ukraine-new-leader-disbands-riot-police-crimea-separatism>

⁴¹ <http://www.reuters.com/article/us-ukraine-crisis-russia-aksyonov-insigh-idUSBREA2B13M20140312>

⁴² <https://www.nytimes.com/2014/03/05/world/europe/crimea-ukraine-russia.html>

consideration the confirmation of the status of Kosovo by the United Nations International Court of Justice on July, 22, 2010, which says that unilateral declaration of independence by a part of the country doesn't violate any international norms"⁴³.

⁴³ <https://www.rt.com/news/crimea-parliament-independence-ukraine-086/>

2. CHAPTER II. International law and Self-determination in Crimea.

2.1. Crimean Referendum, Self-determination and Secession.

The referendum in Crimea took place on 16th March 2014 following a resolution, presented by the Autonomous Republic of Crimea, on the All-Crimean Referendum (hereinafter the Referendum) on March 6, 2014.⁴⁴

The Referendum was declared illegal by the Ukrainian government and by the international community. Moreover, it was held in contravention with the Ukrainian Constitution and the Constitution of the Autonomous Republic of Crimea as well. The Chairman of OSCE declared:

*“BERN, March 11 2014 – In its current form the referendum regarding Crimea scheduled for March 16, 2014, is in contradiction with the Ukrainian Constitution and must be considered illegal, Swiss Foreign Minister and OSCE Chair Didier Burkhalter said”*⁴⁵.

The Referendum question presented two options: “[1] Do you support the reunification of the Crimea with Russia as a subject of the Russian Federation? [2] Do you support the restoration of the Constitution of the Republic of Crimea of 1992 and the status of the Crimea as a part of Ukraine?”⁴⁶ Following the resolution of the Autonomous Republic of Crimea, the interim president of Ukraine, Turchynov, suspended the Crimean resolution on 7 March 2014. Meanwhile a question on the validity of the resolution on the Referendum was also submitted to the Constitutional Court of Ukraine. The Constitutional Court, 14 March 2014, declared:

⁴⁴ Resolution of the Verhovna Rada of the Autonomous Republic of Crimea N. 1702-6/14, On Holding of the All-Crimean Referendum

⁴⁵ <http://www.osce.org/cio/116313>

⁴⁶ <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/19573-rishennya-konstitucijnogo-sudu-v-ukrajini-shhodo-referendumu-v-krimu>

*“unconstitutional the Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea No. 1702-6/14 “On holding of the all-Crimean referendum” dated March 6, 2014.”*⁴⁷

The decision of the Court was based on the structure of the Ukrainian Constitution and on its founding principles. The article 2 of the Constitution provides the territorial unity and indivisibility of the territory of Ukraine.⁴⁸ The first option of the Referendum supposed the secession of Crimea from Ukraine, but it clearly clashes with the fundamental principles of the Constitution. Moreover, Chapter X of the Constitution of Ukraine, with regard to the provisions on the status of the Autonomous Republic of Crimea within Ukraine states at the article 134 that: *“The Autonomous Republic of Crimea is an inseparable constituent part of Ukraine and decides on the issues ascribed to its competence within the limits of authority determined by the Constitution of Ukraine.”*⁴⁹ The article 135(2) adds that: *“Normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and decisions of the Council of Ministers of the Autonomous Republic of Crimea shall not contradict the Constitution and the laws of Ukraine and are adopted in accordance with the Constitution of Ukraine, the laws of Ukraine.”*⁵⁰ The article 73 of the Constitution of Ukraine explicitly forbids holding of a local referendum on the altering of the territory of Ukraine. It states as follows: *“Issues of altering the territory of Ukraine are resolved exclusively by an All-Ukrainian referendum.”* So the all-Crimean referendum on secession is forbidden by the Ukrainian Constitution. It is also forbidden by the Constitution of the Autonomous Republic of Crimea, which at article 28 states that: *“The statutory acts of the Supreme Rada of the*

⁴⁷ <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/19573-rishennya-konstitucijnogo-sudu-v-ukrajini-shhodo-referendumu-v-krimu>

⁴⁸ See Annex Constitution of Ukraine

⁴⁹ see annex constitution of Ukraine

⁵⁰ Ibid.

*Autonomous Republic of Crimea and the Council of Ministers of the Autonomous Republic of Crimea upon any and all matters regarding the powers of the Autonomous Republic of Crimea shall conform to the Constitution of Ukraine and Ukrainian laws.”*⁵¹ Therefore, the non-conformity of the Resolution of the Verhovna Rada of Crimea with the Constitution of Ukraine automatically makes it non-conform to the Constitution of Crimea as well.

The second question raised by the referendum is presented as an alternative to the first option. It does not provide the choice to leave the status quo⁵². This means that the question 2 presented as the alternative to question 1 cannot be considered as valid option. And, even if, the Referendum on achieving more autonomy within Crimea is Constitutionally possible, its outcome is not binding because it can be only a consultative referendum, as the alteration in the Constitution of Crimea should be approved by the Verhovna Rada of Ukraine (article 135 Ukrainian Constitution).

Moreover, the Venice Commission opinion n.º 762/2014 on the compatibility of the Crimean Referendum with the European constitutional principles recalls the Venice Commission’s Code of Good Practice on Referendums (CDL-AD(2007)008rev) in Part III.1 on the Rule of Law:

*“The use of referendums must comply with the legal system as a whole, and especially the procedural rules. In particular, referendums cannot be held if the Constitution or a statute in conformity with the Constitution does not provide for them, for example where the text submitted to a referendum is a matter for Parliament’s exclusive jurisdiction.”*⁵³

⁵¹ Venice Commission, Code of Good Practice on Referendums accessible at [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)002-e)

⁵² [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)002-e)

⁵³ *ibid.*

Hence, the Crimean Referendum, not only clashes with the Constitution of Ukraine, it also contravenes the European constitutional principles and general principles on fair voting, which are embedded in art. 3 of the First Protocol to the European Convention of Human Rights and in art. 25 of the International Covenant on Civil and Political Rights. Moreover, no international observers were present at the moment of the Referendum as the OSCE Chairman excluded such a possibility: *“The Chair also ruled out the possibility of an OSCE observation of the planned referendum of March 16 as the basic criteria for a decision in a constitutional framework was not met.”*⁵⁴

The Referendum was nevertheless held with the argumentation of the self-determination of the Crimean “people”, in response to coup d’état and the takeover of power by the ultra-right political groups in Kiev. Even if, the Referendum did not violate the norms of international law as such, it clashed with international standards on voting and with generally accepted practice of states with regard to referendums.

The results of the Referendum were clear. The 95.5 % of all votes cast, with approximately 83 % of Crimea’s registered voters, expressed support for Crimea to become part of the Russian Federation. The day after the Referendum was held; the Crimean parliament declared the Republic of Crimea to be an independent State and requested the Russian Federation to admit the Republic of Crimea as a new subject with a status of a republic within the Russian Federation.

The justification for the legitimacy of referendum that was used by Crimea and by Russian Federation was a reference to the right to self-determination and the Kosovo declaration of independence was used as a

⁵⁴ <http://www.osce.org/cio/116313>

precedent of International law to justify the declaration of independence and the subsequent secession of Crimea from Ukraine.

2.2. Crimea and Self-determination in international law

The right to self-determination is recognised by several international treaties. The first treaty to contain a principle of self-determination⁵⁵ is the UN charter at articles. 1(2) and 55⁵⁶. Then, it was better specified by International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.^{57,58} Nevertheless, the application of the principle of self-determination remains of difficult interpretation and it should be analysed case by case. It was originally born in order to respond to the process of decolonization and it was widely applied in respect of non-self-governing territories. During the decolonization process two types of self-determination could be identified: the external self-determination and the internal self-determination. The external self-determination could include independence from the mother state, for example, through secession, while the internal self-determination is achieved usually through elections, in order to freely choose the suitable form of government. The debate now is if the right to external self-determination could be applied beyond the context of decolonization. The state practice is generally reluctant to recognize such a right to peoples not subject to colonial domination, alien subjugation and foreign occupation. The main reason of linking self-determination to the process of decolonisation is that of avoiding secession.⁵⁹ The unilateral secession is a clear threat to the territorial

⁵⁵ Carlo Focarelli, *Diritto Internazionale I*, Cedam, 2012; p.48-58

⁵⁶ <http://www.un.org/en/sections/un-charter/chapter-i/index.html>

⁵⁷ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

⁵⁸ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

⁵⁹ Crawford JR, *The Creation of states in international law*. Oxford University Press. Oxford, 2006

integrity of states and allowing such a right could open a “Pandora’s box”⁶⁰. Generally speaking, the right to unilateral secession is limited by the so called “safeguard clause”, present in many different instruments of soft law such as Friendly Relations Declaration⁶¹, the Helsinki Final Act⁶², the Charter of Paris⁶³, and the Vienna Declaration and Programme of Action⁶⁴. The “safeguard clause” emphasizes that the right to self-determination should not pose a threat to territorial integrity of a state, against its will. Haven said that, the self-determination of minorities and other indigenous groups could be achieved throughout the instruments of internal self-determination, such as having its own representatives in the government.

Concerning the case of Crimea a question arises: does the “*people*” of the peninsula could claim a right to unilateral secession under international law? In order to answer this question, it should be first determined if the population of Crimea could be referred to as “*people*”. There is no common definition of “*people*” in international law. Nevertheless, some common objectively identifiable characteristics should be present to identify a certain group as “*people*” and as such having a right to self-determination and secession. The members of the group, to be identified as people, should be sharing such characteristics as common ethnic identity, common traditions, linguistic unity, same religious believes.⁶⁵ Moreover, a presence of a subjective element is also important. Such a subjective element refers to “*the belief of being a distinct people distinguishable from other people inhabiting the globe, and the wish to be recognised as such, as well as the wish to maintain, strengthen and develop the group’s identity*”⁶⁶. Another essential

⁶⁰ Cassese, Self-determination of peoples. A legal reappraisal. Cambridge University Press. Cambridge 1995

⁶¹ <http://www.un-documents.net/a25r2625.htm> (last access 07.06.2017)

⁶² <http://www.osce.org/helsinki-final-act?download=true> (last access 07.06.2017)

⁶³ <https://www.oscepa.org/documents/all-documents/documents-1/673-1990-charter-of-paris-for-a-new-europe/file> (last access 07.06.2017)

⁶⁴ <http://www.ohchr.org/EN/ProfessionalInterest/Pages/Vienna.aspx> (last access 07.06.2017)

⁶⁵ <http://unesdoc.unesco.org/images/0008/000851/085152eo.pdf>

⁶⁶ Raic David, Statehood and the law of self-determination. Kluwer Law International, The Hague, 2002

element to identify a group as “*people*” is a particular connection of the group with a certain territory. Even if some groups, such as Crimean Tatars or ethnic Russians, could be identified as “people”, the rest of the population of the peninsula is too diverse to claim the status of “people”. Obviously, the right to self-determination is the right of “peoples”, so if the inhabitants of Crimea could not be identified as “people”, they cannot claim the right to self-determination. Moreover, Crimea has an autonomous status within Ukraine, so it is not subject to colonial rule, nor does it suffer subjugation.

2.2.1. Remedial secession

After the Crimean declaration of independence, Russia claimed that the people in Crimea had a right to remedial secession. The doctrine concerning the existence of such a right is controversial and has emerged only recently. Some scholars, among whom Antonio Cassese, have argued that in the case of a lack or of impossibility to have a meaningful internal self-determination, the severe violation of fundamental human rights or a discriminatory treatment of people could be circumstances under which it is possible to invoke the right to remedial secession.⁶⁷ Nevertheless, even the scholars, proponents of the existence of such a right, are cautious and argue that it should be used as ‘*ultimum remedium*’ (a last resort) as a remedy to severe injustices. In the international law there are not enough State practice, nor sufficient *opinion juris* that could have confirmed the existence of such a right.

In the case of Crimea, the existence of a right to remedial secession⁶⁸ could not be claimed. There is no evidence of the violation of fundamental

⁶⁷ Cassese, *Self-determination of peoples. A legal reappraisal*. Cambridge University Press. Cambridge 1995

⁶⁸ Van den Driest, *Remedial Secession. A right to external self-determination as a remedy to serious injustices ?*, Intersentia, Cambridge, 2013p.107

human rights in Crimea⁶⁹. Moreover, the Autonomous status granted to the peninsula shows that internal self-determination was fully developed. The remedial secession is regarded as *ultimum remedium*⁷⁰ and it means that the eventual disputes on the status of Crimea should have been first solved internally, no such attempts was made, nor claims for major autonomy presented. The ethnic Russians and Russian speaking population of Crimea was not discriminated by the Ukrainian authorities, as claimed by Russian Federation in order to justify its military intervention in Crimea.

2.3. The ICJ Advisory opinion on Kosovo. A precedent?

After Serbia's province of Kosovo issued a unilateral declaration of independence, on 17 February 2008, the reaction of international community was contentious. Some states immediately recognised Kosovo as an independent state. Some others severely opposed Kosovo's independence. The case was brought in front of the United Nations and the General Assembly asked the ICJ (International Court of Justice) for an advisory opinion. The question presented to the ICJ was the following: "*Is the unilateral declaration of independence by the Provisional Institutions of Self-Government of Kosovo in accordance with international law?*"⁷¹. The Court ruled out that the Kosovo's declaration of independence did not violate norms of international law. The advisory opinion on the Court was really narrow, and left many of the question of international law, in regard to the consequences of such declarations, unanswered.

As the Kosovo's advisory opinion was recalled in Crimea's declaration of independence it could be assumed that such a declaration does not violate

⁶⁹ Report on the Human Rights situation in Ukraine, 15 April 2014 accessible at <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/UARports.aspx>

⁷⁰ Van den Driest, Remedial Secession. A right to external self-determination as a remedy to serious injustices ?, Intersentia, Cambridge, 2013, p.113

⁷¹ <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Kos%20A%20RES63%203.pdf>

the norms of international law. Why so the international community, and in particular UN, were of a different opinion this time? What happen differently in Crimea in respect of Kosovo?

In the case of Crimea, Russian military forces backed the process of the declaration of independence and the subsequent referendum on secession. As stated by the ICJ: *“the illegality attached to the declarations of independence thus stemmed not from the unilateral character of these declarations as such, but from the fact that they were, or would have been, connected with the unlawful use of force or other egregious violations of norms of general international law, in particular those of a peremptory character (ius cogens)”*⁷². The presence of Russian military and their active support in Crimea’s attempt at unilateral secession violated the principle of non-intervention and the territorial integrity of Ukraine. Moreover, the authorization by the Russian’s Federation Council to use the military force in Ukraine could be considered as a threat of use of force in violation of article 2(4) of the UN Charter.

In the light of such violations, the declaration of independence and the subsequent referendum, were in clear violation of the norms of peremptory character of international law and as such should be considered illegal.

⁷² <http://www.icj-cij.org/docket/files/141/15987.pdf>

3. CHAPTER III. UKRAINE IN THE AFTERMATH OF ANNEXATION AND FUTURE SCENARIOS.

3.1. Conflict in the East. Donetsk and Luhansk.

After the annexation of Crimea by the Russian Federation, during the months of March and May 2014, in many cities in eastern, central and southern regions of Ukraine several protests took place. These protests were called the “Russian Spring”. The reasons that brought to these protests were the events of the Euromaidan and the subsequent annexation of Crimea. The demonstrations were held under Russian flags and pro-Russian slogans trying to put forward a wide range of requirements such as the federalization of Ukraine or the secession from Ukraine and subsequent annexation to Russia. The request to hold a Crimean like referendum was also made. The protesters that attended these demonstrations were both locals and activists brought from Russia. The largest demonstrations took place in Donetsk, Lugansk, Kharkov, Odessa, Dnipropetrovsk and Zaporizhzhya. Protests often turned into clashes with pro-Ukrainian rallies that continued in the cities at the same time and were held under pro-European slogans and in support of the territorial integrity of Ukraine.

At the beginning of April 2014, pro-Russian activists seriously exacerbated the situation. On 6th April, they seized the SBU building in Luhansk and on 7th they declared the independence of DPR in Donetsk and HPR in Kharkov. After that, the ministry of internal affairs sent special police forces “Jaguar” and on 8th April, they freed the occupied building of regional administration in Kharkov⁷³. Pro-Russian actions no longer took

⁷³ http://censor.net.ua/resonance/386797/arsen_avakov_8_aprelya_ukraina_oderjala_pervuyu_pobedu_my_slomali_hrebet_russkoyi_vesne_i_spasli_harkov (Last accessed 11-02-2017)

place in Zaporizhzhya after the so-called “Egg Sunday”, when the local Cossacks threw eggs on pro-Russian activists⁷⁴. Demonstrations still took place in Odessa until 2nd of May, when the clashes with the pro-Russian activists brought to 49 deaths.

The Prosecutor General of Ukraine declared on 15th May the separatist pro-Russian forces a terrorist association, which terrorized and destabilized the eastern Ukraine⁷⁵.

The interim president of Ukraine, Oleksandr Turchynov, gave the terrorists ultimatum to surrender and to lay down the arms until the 9.00 o'clock of 14th April, promising not to arrest them⁷⁶.

“Для тих, хто не стріляв у наших силовиків, хто складе зброю і покине захоплені адміністративні приміщення до ранку понеділка, я, в підписаному Указі, дав гарантії незастосування проти них відповідного покарання за вчинені дії”, - зазначив він.

Також Турчинов додав: "Ми готові розглядати питання суттєвого розширення повноважень регіонів та широкої реформи місцевого самоврядування, а також оновлення влади на місцях."⁷⁷

[“For those who did not shot our security forces, who will lay down the arms and leave seized administrative buildings before Monday morning, I, in a signed bill, gave guarantees of non-use against them of the appropriate punishment for the committed actions”, - he said.

Turchynov also added: “We are ready to consider significant empowerment of the regions and the wider local government reform with subsequent regional elections.”]

⁷⁴ http://24tv.ua/yayechna_nedilya_u_zaporizhzhya_yak_u_misti_rozganyali_lyubiteliv_leninaa_n660518 (Last accessed 11-02-2017)

⁷⁵ http://www.gp.gov.ua/ua/news.html?_m=publications&_c=view&_t=rec&id=138582

⁷⁶ <http://www.pravda.com.ua/news/2014/04/13/7022273/>

⁷⁷ Ibid.

The so-called “terrorists” did not lay down the arms, so the anti-terrorist operation started and it took place in the oblasts of Luhansk and Donetsk and also at Izyumsky district and the city of Izyum in the Kharkiv region.

“Ми робили все, аби уникнути людських жертв. Але ми готові дати відсіч всім спробам вторгнення, дестабілізації та терористичним діям зі зброєю в руках. РНБО прийняла рішення розпочати широкомасштабну антитерористичну операцію із залученням Збройних Сил України. Ми не дамо Росії повторити кримський сценарій у східному регіоні України”⁷⁸.

[We did everything we could, in order to avoid casualties, but we are ready to oppose all attempts of invasion, destabilization and terrorist actions. NSDC⁷⁹ made a decision to launch a large-scale anti-terrorist operation involving Armed Forces of Ukraine. We will not allow Russia to repeat the Crimean scenario in eastern Ukraine.”]

3.1.1. Sloviansk and Kramatorsk.

May 5 armed pro-Russian militants attempted to break through Ukrainian Security Forces that surrounded the city of Sloviansk. During the special operation, the group of terrorists was liquidated. Because of the special operation, opposition fighters killed 4 people from the Security forces and from Interior Ministry of Ukraine, one man received serious injuries⁸⁰.

16 May, near Kramatorsk, pro-Russian militants attacked the local airfield that was watched by Ukrainian military. After a 20-minutes battle, armed pro-Russian militants attack was repulsed without any casualties⁸¹.

⁷⁸ Ibid.

⁷⁹ National Security and Defence Council of Ukraine

⁸⁰ <http://www.radiosvoboda.org/a/25387281.html>

⁸¹ <http://www.pravda.com.ua/news/2014/05/5/7024431/>

May 18th, pro-Russian militants carried out the shelling of Kramatorsk and attacked five block-posts and the base camp of the Armed Forces of Ukraine near Sloviansk and Kramatorsk⁸².

April 17, 2014 near the city of Sloviansk in Donetsk Oblast sabotage units of the Main Intelligence Directorate of the General Staff of the Armed Forces of the Russian Federation has captured television tower on Mount Karachun, then made its disconnection from the Ukrainian television and established broadcast of the first multiplex digital TV of the Russian Federation⁸³. May 3rd Air Forces of Ukraine has resumed control of the TV tower and organized patrols of the strategic object.

Because of the strategic importance of the mountain, its dominant height over the city and the location of its TV tower, pro-Russian militants in May-June 2014 made repeated attempts to assault it and carried out several shootings of the area.

Between 29 May and 24 June near the mount Karachun, following two bombings by Russian forces, 21 people died. During the night between 30 June and 1st July following the shootings made by Russian Special Forces, the TV tower of mount Karachun was destroyed⁸⁴.

May 11th 2014, according to the Head of Presidential Administration of Ukraine Serhiy Pashinsky, anti-terrorist operation in the cities Krasny Liman, Slavyansk and Kramatorsk in the Donetsk region has reached the final stage. Later on May 15, took place the final stage of the anti-terrorist operation of Ukrainian Security Forces near the village Starovarvarivka, which is near the city of Kramatorsk and in Kramatorsk.

⁸² <http://www.pravda.com.ua/news/2014/05/18/7025691/>

⁸³ <http://www.pravda.com.ua/rus/news/2014/04/17/7022832/>

⁸⁴ <http://www.pravda.com.ua/news/2014/07/1/7030575/>

May 21st, 2014 after being in forefront positions of anti-terrorist operation, interim President of Ukraine Oleksandr Turchynov set the task to the Ukrainian Security Forces "to completely clear the region from terrorists" and "restore peace and tranquillity in the Donetsk and Lugansk regions" ⁸⁵.

June 5th a group of armed militants crossed the border from Russia to Ukraine and attacked a border checkpoint on the side of Marinivka ⁸⁶, resulting in the wounding of five-border serviceman of Ukraine ⁸⁷. In order to prevent the penetration of military units and import of military equipment from the Russian Federation, was involved a joint unit of the State Border Service and of the Armed Forces of Ukraine.

Needing to regain control over the state border of Ukraine, to stop the uncontrolled movement of people from the Russian Federation and preventing further penetration into the territory of Ukraine of the military equipment, the Cabinet of Ministers of Ukraine decided to close eight border crossing points and organized reinforced protection of strategic facilities and patrol of the roads on the state border of Ukraine in Donetsk and Lugansk regions.

On the night of June 17th, in the city of Donetsk region, Snizhne, pro-Russian militants made another smuggling of the military equipment from the Russian Federation. The weaponry consisted of tanks, anti-tank missiles, anti-aircraft missiles, heavy machine guns and mortars. During the smuggling of weapons, near the village Oleksiivske in Donetsk region, pro-Russian militants attacked the Border Protection division of the Armed Forces of Ukraine.

⁸⁵ <https://tsn.ua/politika/bilya-kramatorska-rozpochali-finalniy-etap-borotbi-z-terroristami-349676.html>

⁸⁶ http://www.bbc.com/ukrainian/politics/2014/06/140602_lugansk_attack_hk

⁸⁷ <https://www.unian.ua/politics/924469-pentagon-zasudiv-napad-na-luganskiy-prikordonniy-zagin-i-uchast-u-nomu-rosiji.html>

3.1.2. Confrontation in Mariupol

April 16, 2014 at 20.30 am pro-Russian militants armed with automatic weapons, grenades and bags of incendiary mix, in order to capture military equipment, attacked the military unit in the city of Mariupol, Donetsk region. Thanks to Security Forces and to the city Police Department of Ukraine the militant assault was repulsed. Because of the confrontation were killed 3 and wounded 15 people, burned a vehicle and two buildings⁸⁸.

May 9, 2014 dozens of pro-Russian militants and snipers armed with automatic guns, heavy weapons and grenades, blocked the streets and committed attempt to capture the city office of the Interior Ministry of Ukraine and the military unit of the National Guard of Ukraine⁸⁹. Given the scale of the attack, the movement of public transport in the city was stopped and the Armed Forces of Ukraine were involved. As a result of the confrontation were killed 9 and injured 42 people, damaged water supply, building of Mariupol City Council, Prosecutor's building, several military units, residential houses and the building of the city police station was burned to the ground. Among those killed were: 1 soldier of the National Guard of Ukraine, 3 security forces of the territorial defence of Ukraine "Dnepropetrovsk" and "Azov" and 2 employees of Mariupol city department of the Interior Ministry of Ukraine, including the head of Mariupol City Department of Traffic Police Lieutenant Colonel Viktor Sayenko and commander of Dnipropetrovsk battalion of territorial defence, Colonel Sergei Demidenko⁹⁰.

June 13th, at 4:50 am involving soldiers of the National Guard of Ukraine, Ministry of Internal Affairs of Ukraine and Ukraine territorial

⁸⁸ <https://www.unian.ua/politics/908703-separatisti-atakuvali-viyskovu-chastinu-v-mariupoli-vsi-podrobitsi.html>

⁸⁹ <http://ua.korrespondent.net/ukraine/comunity/3377650-bii-za-mariupol-yak-tse-bulo>

⁹⁰ http://gazeta.ua/articles/politics/_v-mariupoli-bilya-upravlinnya-miliciyi-strilyanina-ye-poraneni/556838

defence "Azov" and "Dnepr-1" anti-terrorist operation was launched in order to eliminate all the pro-Russian criminals in Mariupol. During the operation, law enforcement bodies of Ukraine destroyed strongholds of pro-Russian militants eliminated their military equipment, neutralized the attackers themselves and restored control of all the illegally seized buildings of the city⁹¹.

June 2nd, in the city of Lugansk following the explosion at Luhansk Regional Administration building were killed 8 and injured 28 people. There are several versions of events. According to the Prosecutor General of Ukraine, the explosion in the Luhansk regional state administration building was due to MANPADS⁹² missiles launched by pro-Russian militants⁹³. According to the press officer of the ATO (anti-terrorist operation), Alexei Dmytrashkivskiy, the explosion occurred inside the building because of the "inept handling of small arms and explosives," and "fire outside the building, moreover from the plane, did not occur"⁹⁴. OSCE Mission to Ukraine believes that the explosion at Luhansk Regional State Administration was subsequent to an airstrike⁹⁵. According to the pro-Russian militants, Security Forces of Ukraine launched an airstrike on the regional administration building^{96,97}.

3.1.3. The unilateral ceasefire

June 20, 2014 Ukrainian newly elected president Petro Poroshenko ordered forces ATO (anti-terrorist operation) from 22:00 Friday June 20 10:00 am to Thursday 27 June 2014 to unilaterally cease hostilities in the

⁹¹ <http://podrobnosti.ua/980308-mariupol-polnostju-ochischen-ot-terroristov-video.html>

⁹² man-portable air-defence system

⁹³ <https://www.unian.net/politics/924919-prichinoy-vzryiva-v-luganskoy-oga-moglo-stat-popadanie-rakety-iz-pzrk-terroristov-gpu.html>

⁹⁴ <https://www.unian.net/politics/924623-spiker-ato-luganskuyu-oga-vzorvali-iznutri.html>

⁹⁵ <https://www.rbc.ua/rus/news/missiya-obse-v-ukraine-schitaet-cto-luganskaya-oga-byla-obstrelyana-03062014183400>

⁹⁶ <https://ria.ru/world/20140603/1010477931.html>

⁹⁷ <http://www.osce.org/ukraine-smm/119479>

occupied territories of Ukraine and urged military forces to take part in peaceful talks in order to settle the hostilities through the dialogue⁹⁸.

Together with ceasefire, a 15 points plan for peace was presented by the president and a Trilateral contact group was established. The plan stated as follows:

“Peaceful plan of the President of Ukraine on the settlement of the situation in eastern regions of Ukraine

1. Security guarantees for all the participants of negotiations.
2. Amnesty for those who laid down weapons and didn't commit serious crimes.
3. Liberation of hostages.
4. Establishment of 10 km long buffer zone on the Ukrainian-Russian border. Withdrawal of illegal armed formations.
5. Secure corridor for the escape of Russian and Ukrainian mercenaries.
6. Disarmament.
7. Establishment of units for joint patrolling in the structure of the MIA.
8. Liberation of illegally seized administrative premises in Donetsk and Luhansk regions.
9. Restoration of functioning of local government.
10. Restoration of central television and radio broadcasting in Donetsk and Luhansk regions.
11. Decentralization of power (through the election of executive committees, protection of Russian language; draft amendments to the Constitution).

⁹⁸ <http://www.bbc.com/news/world-europe-27948335>

12. Coordination of governors with representatives of the Donbas before the elections (in case of the approval of single candidature, in case of discrepancies – the decision is taken by the President).

13. Early local and parliamentary elections.

14. Program of creating jobs in the region.

15. Restoration of industrial objects and objects of social infrastructure”⁹⁹.

The peace plan aimed, together with a Trilateral contact group, to facilitate the peace talks with the separatist leaders from DPR and LPR. The group included representatives from Russian Federation, Ukraine, Germany and OSCE special representative. To the talks of 23rd of June, in Donetsk, were invited also the separatist leaders. They promised to respect the terms and conditions of newly established ceasefire, but in practice the ceasefire was never respected by separatists.

3.1.4. New confrontations

Given the position of the Russian leadership of ignoring agreements of the Trilateral Contact Group on the peaceful settlement of the situation in the Donetsk and Lugansk regions and the continued trespassing of pro-Russian troops into the territory of Ukraine, July 1st, 2014 security forces of Ukraine launched a full-scale military operation to an active counter-offensive on the entire front line and total isolation of the conflict area from the smuggling of military equipment from the Russian Federation¹⁰⁰.

July 1st, 2014 because of a renewed active phase of anti-terrorist operation, Military Forces of Ukraine started the disposal of the Russian

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<https://web.archive.org/web/20140622072027/http://www.president.gov.ua/en/news/30566.html>

¹⁰⁰ <http://www.rnbo.gov.ua/news/1711.html?PrintVersion>

armed forces in metropolitan area of Kramatorsk and blocked the main operational military camp of Russian Sector “B” in Sloviansk. During the operation, in the north Sloviansk area, Ukrainian Security Forces destroyed a training camp and neutralized 250 Russian militants. During the next days the Armed Forces of Ukraine captured around 200 pro-Russian militants destroyed their bases and ammunition depots in Mikolaivka¹⁰¹ and had taken control of the city and the highway¹⁰² in the eastern outskirts of Sloviansk, thus denying the penetration of militants with weapons¹⁰³. Gradually the ranks of Russian fighters run away through Kramatorsk, Druzhkovka and Kostiantinivka towards Donetsk and Horlivka, mining railroads and road bridges¹⁰⁴. By the end of July, in a joint military operation of National Gard and Armed forces of Ukraine a bunch of cities such as Kreminne, Popasne, Rubizhne, Severodonetsk, Novodruzhesk and Lysychanske were freed from separatist occupation¹⁰⁵.

Simultaneously, were fought battles near Lugansk. The city was occupied by terrorists with military equipment and firing line were set, including positions for shelling of MANPADS. The Ukrainian counteroffensive shot from the town of Oleksandrivka and Metalist village, which were controlled by Ukrainian military¹⁰⁶.

July 17, 2014 in the area controlled by the terrorist organisation DPR, between the villages of Grabove and Rozsipne in Shahtarskij Raion of the Donetsk region a passenger plane Boeing 777 of Malaysia Airlines, flight “MH17” Amsterdam-Kuala Lumpur was shot down. All the 298 people

¹⁰¹ <http://www.pravda.com.ua/news/2014/07/3/7030921/>

¹⁰² http://news.liga.net/news/politics/2399990-sily_ato_vzyali_pod_kontrol_trassu_kharkov_rostov_na_donu.htm

¹⁰³ <http://www.pravda.com.ua/news/2014/07/4/7031000/>

¹⁰⁴ <http://www.pravda.com.ua/news/2014/07/5/7031033/>

¹⁰⁵ <https://tsn.ua/ukrayina/viyskovi-zvilnili-syeverodoneck-vid-teroristiv-360117.html>

¹⁰⁶ http://news.liga.net/news/politics/2412426-v_vostochnykh_rayonakh_luganska_idet_boy_sil_ato_s_boevikami_smi.htm

present on board died¹⁰⁷. Ukrainian Armed Forces accused insurgents of the accident. Russian part tried to blame Ukrainian military for shooting down the plane. Following the investigation conducted during July-September 2014 by Netherlands and a number of international organisations was established that the airplane was downed by “Buk” surface-to-air-missile launched from pro-Russian separatist controlled area. The missile was brought illegally from Russia during the numerous border crossings in order to provide a military equipment for the separatist forces. Russia always denied its involvement in the accident^{108,109}

Since mid-August 2014, Ukrainian security forces offensive in the area of Ilovaik pulled back due to lack of power for the final capture of the city. On the night of 23 to 24 August from Russia to Ukraine in the area, Amvrosiyivka infiltrated 4 battalion tactical groups of the armed forces, which surrounded Ukrainian forces. Fierce battles took place throughout August¹¹⁰.

On the morning of August 29 began the retreat of Ukrainian troops from Ilovaik. Russian troops opened fire on a Ukrainian column when the last one was leaving the area. More than 500 Ukrainian soldiers were killed and hundreds were injured or captured¹¹¹.

During the month of January 2015, the fighting worsened again. An active attack on the airport of Donetsk was resumed on January 15, 2015. The situation worsened after January 19, when the pro-Russian militants managed to blow up the ceiling of the second floor. The defence of the

¹⁰⁷ http://edition.cnn.com/2014/09/09/world/europe/netherlands-ukraine-mh17-report/index.html?hpt=hp_t2

¹⁰⁸ <http://www.malaysiaairlines.com/my/en/site/mh17.html>

¹⁰⁹ <https://www.onderzoeksraad.nl/uploads/phase-docs/1006/debcd724fe7breport-mh17-crash.pdf>

¹¹⁰ <http://www.mil.gov.ua/news/2015/10/19/analiz-illovausk--14354/>

¹¹¹ <http://matios.info/uk/novini/bryfing-golovnogo-vijskovogo-prokurora-anatoliya-matiosa-14-08-2015/>

airport was complicated by the fog and the suppression, by the enemy of radio communications. By January 22 Ukrainian troops were forced to leave the facility¹¹². During the all period of stay of the Ukrainian troops at the Donetsk airport, were killed around 200 and wounded more than 500 soldiers¹¹³.

3.2. Minsk protocol and Minsk agreements.

Minsk Protocol and subsequent Minsk agreements, referred to as Minsk II, were signed in order to guarantee a permanent ceasefire in eastern Ukraine and facilitate talks between Ukrainian government and separatist groups and to alleviate tensions between Ukraine and Russia, which followed the annexation of Crimea by Russian Federation.

The Minsk Protocol talks started in July 2014 by a trilateral contact group on Ukraine composed of the representatives of Ukraine, Russian Federation and OSCE (responsible of monitoring the implementation). The leaders of DPR and LPR also joined the talks¹¹⁴. Since then several meetings took place and the agreement was finally signed on 5 September 2014. The signatories were Ambassador Heidi Tagliavini as OSCE representative, the second president of Ukraine Leonid D. Kuchma, Ambassador of the Russian Federation in Ukraine Mikhail Zurabov, A. V. Zakharchenko as representative of DPR and I.V. Plotnitskiy as representative of LPR¹¹⁵.

The Protocol consisted of 12 points and its provisions included such points as the immediate ceasefire and bilateral cessation of the use of weapons, Special status law for the Donetsk and Luhansk area, the

¹¹² http://ukr.lb.ua/society/2015/01/22/292871_donetskiy_aeroport_zdali_pislya_242.html

¹¹³ http://24tv.ua/ponad_200_ukrayinskih_biytsiv_zaginulo_u_boyah_za_donetskiy_aeroport_vijskoviy_ekspert_n535106

¹¹⁴ <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-548991-Minsk-peace-summit-FINAL.pdf>

¹¹⁵ <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/27596-protocolon-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014>

monitoring of ceasefire and of the Ukrainian-Russian borders by OSCE observers, release of hostages, measures on improving humanitarian situation and favouring an inclusive national dialogue¹¹⁶.

Unfortunately, soon after the Minsk Protocol was signed both parts engaged in hostilities and the ceasefire was broken. In order to try to save the Protocol an additional Memorandum¹¹⁷ was approved on 19 September 2014. The Memorandum served to better implement the provisions of the Protocol and concrete measures to assure its implementation were approved. Among them were the establishing of 30-kilometer buffer zone, banning of the use of mercenaries and heavy weapons¹¹⁸.

Shortly after the signature of the Memorandum the battle for Donetsk airport broke out. The both parts in the conflict accused each other of the continuous violations of the ceasefire. Moreover, on 2 November 2014 in DPR and LPR election were held, provoking a harsh reaction in the international community. Swiss foreign minister and the OSCE Chairman, Didier Burkhalter said that:

“so-called elections outside the framework set by the Ukrainian law, he noted that such action runs counter to the letter and spirit of the Minsk Protocol and would further complicate its implementation”¹¹⁹.

Opposite reaction came from the Russian Federation foreign minister Sergey Lavrov:

“the elections held on November 2 were exactly within the range in which they had been negotiated in Minsk” he said¹²⁰.

¹¹⁶ Ibid.

¹¹⁷ <http://www.osce.org/ru/home/123807?download=true>

¹¹⁸ Ibid.

¹¹⁹ <http://www.osce.org/cio/126242>

¹²⁰ <http://en.interfax.com.ua/news/general/238216.html>

The implementation of a ceasefire and of the Minsk Protocol and Memorandum completely failed and after the victory of the separatist fighters at the Donetsk airport, the DPR leader Alexander Zakharchenko declared that they:

“Will not make any attempts at ceasefire talks any more”¹²¹.

In fact, at the next meeting scheduled for the 31 January 2015 the signatories of DPR and LPR did not show up and the representatives that were present were not prepared to discuss the implementation of provisions. The meeting was adjourned with no results. The declaration of the Chairmanship of the meeting was as follows:

“The participants in the Trilateral Contact Group came to Minsk for consultations with the representatives of certain areas of the Donetsk and Luhansk regions. The TCG had prepared a detailed plan for the concrete implementation of the Minsk Protocol and Memorandum, which continue to be the indispensable basis for any peaceful settlement.

Unfortunately, the signatories of these documents from Donetsk and Luhansk did not participate, although they had been personally invited by the Trilateral Contract Group. Their representatives who were present were not in a position to discuss the proposal put forward by the TCG.

The TCG remains open to continuing consultations at any time. In view of the seriously deteriorating situation and growing numbers of casualties, the TCG calls on all actors involved to engage responsibly in the comprehensive implementation of the Minsk documents with no further delays”¹²².

After the collapse of Minsk Protocol and the worsening of the fighting, the international community was very concerned with the ongoing situation

¹²¹ <http://www.bbc.com/news/world-europe-30949527>

¹²² <http://www.osce.org/cio/138331>

in Ukraine. On 7 February 2015 a French president François Hollande and German chancellor Angela Merkel presented a new peace plan in order to solve the renewed conflict. The peace plan was also previously discussed with the Ukrainian president Petro Poroshenko and Russian president Vladimir Putin. The meeting to discuss and implement the new measures was scheduled on 11 February 2015 in Minsk. The participants were: Ukrainian president Petro Poroshenko, Russian president Vladimir Putin, French president François Hollande, German chancellor Angela Merkel, DPR leader Alexander Zakharchenko, LPR leader Igor Plotnitsky and an OSCE representative. The talks went on all night long and on 12 February a new bunch of measures was announced. The measures of the Minsk II agreement were similar to that of the Minsk Protocol, but with some additional points such as: the immediate ceasefire starting 15th February 2015, the bigger buffer zone (at least of 50 kilometres), the withdrawal of heavy weapons from the frontline, monitoring of the process by OSCE, special status for the regions of Donetsk and Luhansk and new elections, the constitutional reform in Ukraine in order to provide more autonomy of self-government to these regions. A continuous dialogue of TCG in order to better implement the provisions of the Minsk II agreement was also established¹²³.

The Minsk II agreement has proved though the time to be ineffective. It had, obviously, limited the conflict, but proved to be useless in order to solve the situation in the conflict area. Ukraine has not regained control over Donetsk and Lugansk until today and the fighting is still continuing.

¹²³ <http://www.osce.org/ru/cio/140221?download=true>

4. Conclusions

To conclude it could be said that Russia violated not only several international treaties, such as the UN Charter¹²⁴ and the Helsinki Final Act¹²⁵, but also some of the most important bi- and multilateral agreements stipulated between Ukraine and Russia. Such agreements had some important provision with regard to the Ukrainian independence and sovereignty. For example, Budapest Memorandum¹²⁶, signed by Russia, Ukraine, USA and United Kingdom reaffirmed the following:

*“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 will ever be used against Ukraine except in self-defence of otherwise in accordance with the Charter of the United Nations”*¹²⁷.

This Memorandum was signed in order to guarantee the security of Ukraine and the respect of its sovereignty and borders in exchange of the voluntary adherence to the Treaty on the Non-Proliferation of Nuclear Weapons.

Another important treaty that has been violated is a Treaty on Friendship, Cooperation, and Partnership between Ukraine and Russia. This treaty states that the parties:

“shall build their mutual relations on the basis of the principles of mutual respect for their sovereign equality, territorial integrity, inviolability of borders, peaceful resolution of disputes, non-use of force or the threat of

¹²⁴ <http://www.un.org/en/charter-united-nations/> (last access 21.06.2017)

¹²⁵ <http://www.osce.org/it/mc/39504> (last access 21.06.2017)

¹²⁶ Budapest Memorandum, 1994, accessible at <https://www.osce.org/mc/39554?download=true> (last access 21.06.2017)

¹²⁷ Budapest Memorandum, para 2. <https://www.osce.org/mc/39554?download=true> (last access 21.06.2017)

force, including economic and other means of pressure, the right of peoples to freely determine their fate, non-interference in internal affairs, observance of human rights and fundamental freedoms, cooperation among states, the conscientious performance of international obligations undertaken, and other generally recognized norms of international law”¹²⁸

The violation concerned also the treaty of the Black Sea Fleet Agreement¹²⁹. This treaty provided for the division of the ex Soviet navy between Russia and Ukraine, and settled the conditions for the presence of the Black Sea Fleet on the territory of Ukraine. The agreement permitted a maximum presence of 25,000 soldiers, who were allowed to stay only on the military bases and don't move on the territory of Ukraine. The soldiers had also the duty to respect the Ukrainian law and sovereignty. During the referendum, however, the Russian troops, that Putin later admitted were present in Crimea¹³⁰, leaved the naval bases and seized several Ukrainian institutions on the peninsula of Crimea. They technically backed the referendum and the following annexation of Crimea to the Russian Federation. Considering these facts, it colud be said that Russia violated the sovereignty of Ukraine and it also violated the prohibition of use of force under the international law and UN Charter art. 2(4).

Even if, de facto, Crimea was annexed to the RF, this has no legal effects on its status under international law. This was also reaffirmed by the UN General Assembly Resolution A/RES/68/262¹³¹. This resolution reaffirmed that the referendum in Crimea is to be considered invalid, and that

¹²⁸ Treaty on Friendship, Cooperation, and Partnership between Russia and Ukraine, 1997, art. 3

¹²⁹ <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/18622-shhodo-porusheny-chinnogo-zakonodavstva-ukrajini-ta-ukrajinsyko-rosijsykih-ugod-vijsykovimi-formuvannyami-chf-rf-na-teritoriji-ukrajini> (last access 21.06.2017)

¹³⁰ <http://nationalpost.com/news/world/vladimir-putin-admits-for-first-time-russian-troops-took-over-crimea-refuses-to-rule-out-intervention-in-donetsk/wcm/0a73c75f-720c-43b9-ae03-d772276589ee> (last access 21.06.2017)

¹³¹ UN General Assembly Resolution A/RES/68/262 accessible at http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf (last access 21.06.2017)

the alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol should have no validity as well. Moreover, at the art. 6 it provides for the obligatory non-recognition mechanism. This article states as follows:

*“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”*¹³².

It is difficult to say what will happen next in regard with Crimea and the conflict in eastern Ukraine. What is more important is that the international community will not tolerate the violations of international law. Especially the violation of the norm that prohibits the use of force or the threat to use force.

¹³² UN General Assembly Resolution A/RES/68/262 art. 6, accessible at http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/a_res_68_262.pdf (last access 21.06.2017)

5. Bibliography

- TCH.ua, 2014. *Військові звільнили Сєверодонецьк від терористів.* [Online]
Available at: <https://tsn.ua/ukrayina/viyskovi-zvilnili-syeverodoneck-vid-teroristiv-360117.html>
[Accessed 19 02 2017].
- TCH.ua, 2014. *Українські силовики оточили щільним кільцем проросійських екстремістів..* [Online]
Available at: <https://tsn.ua/politika/bilya-kramatorska-rozpochali-finalniy-etap-borotbi-z-teroristami-349676.html>
[Accessed 12 02 2017].
- Оперативна інформація Інформаційно-аналітичного центру РНБОУ, 2014. *Рада національної безпеки і оборони України.* [Online]
Available at: <http://www.rnbo.gov.ua/news/1711.html?PrintVersion>
[Accessed 19 02 2017].
- Прес-служба Генеральної прокуратури України, 2014. *Самопроголошені республіки у Донецькій та Луганській областях кваліфіковано як терористичні організації.* [Online]
Available at:
<http://www.gp.gov.ua/ua/news.html? m=publications& c=view& t=rec&id=138582>
[Accessed 12 02 2017].
- Українська правда, 2014. *В Славянське захопили телевышку и крутят российские каналы.* [Online]
Available at: <http://www.pravda.com.ua/rus/news/2014/04/17/7022832/>
[Accessed 12 02 2017].
- Українська правда, 2014. *В Севастополі "Русский блок" формує отряди самооборони, під городом - противотанкові "ежи".* [Online]
Available at: <http://www.pravda.com.ua/rus/news/2014/02/23/7016000/>
[Accessed 19 02 2017].
- Українська правда, 2014. *На Карачуні під Слов'янськом обвалилася телевежа.* [Online]
Available at: <http://www.pravda.com.ua/news/2014/07/1/7030575/>
[Accessed 12 02 2017].
- Українська правда, 2014. *Під Слов'янськом загинули 6 людей, кілька десятків - поранені.* [Online]
Available at: <http://www.pravda.com.ua/news/2014/05/5/7024431/>
[Accessed 19 02 2017].
- Українська правда, 2014. *Під Краматорськом затримали бойовиків, які назвалися російськими журналістами.* [Online]
Available at: <http://www.pravda.com.ua/news/2014/05/18/7025691/>
[Accessed 19 02 2017].

Українська правда, 2014. *Сили АТО заблокували Миколаївку. Є загиблі.* [Online]
Available at: <http://www.pravda.com.ua/news/2014/07/3/7030921/>
[Accessed 19 02 2017].

Українська правда, 2014. *Аваков: Сили АТО підбираються до Слов'янська.*
[Online]
Available at: <http://www.pravda.com.ua/news/2014/07/4/7031000/>
[Accessed 19 02 2017].

Українська правда, 2014. *Турчинов оголосив терористам ультиматум: скласти зброю до ранку.* [Online]
Available at: <http://www.pravda.com.ua/news/2014/04/13/7022273/>
[Accessed 12 02 2017].

Українська правда, 2014. *Терористи утекли зі Слов'янська в Краматорськ.*
[Online]
Available at: <http://www.pravda.com.ua/news/2014/07/5/7031033/>
[Accessed 19 02 2017].

Администрация Президента России, 2014. *Договор между Российской Федерацией и Республикой Крым о принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов.* [Online]
Available at: <http://www.kremlin.ru/events/president/news/20605>
[Accessed 12 02 2017].

Корреспондент.net, 2014. *Бій за Маріуполь: як це було.* [Online]
Available at: <http://ua.korrespondent.net/ukraine/comunity/3377650-bii-za-mariupol-yak-tse-bulo>
[Accessed 12 02 2017].

Интерфакс-Украина, 2014. *Too early to discuss broader monitoring of Ukraine-Russia border - Lavrov.* [Online]
Available at: <http://en.interfax.com.ua/news/general/238216.html>
[Accessed 19 02 2017].

Подробности-ТВ, 2014. *Мариуполь полностью очищен от террористов.* [Online]
Available at: <http://podrobnosti.ua/980308-mariupol-polnostju-ochischen-ot-terroristov-video.html>
[Accessed 12 02 2017].

Васильович, М. А., 2015. *Брифінг Головного військового прокурора Анатолія Матіоса 14.08.2015.* [Online]
Available at: <http://matios.info/uk/novini/bryfing-golovnogo-vijskovogo-prokurora-anatoliya-matiosa-14-08-2015/>
[Accessed 19 02 2017].

Міністерство Оборони України, 2014. *Аналіз бойових дій в районі Іловайська після вторгнення російських військ 24-29 серпня 2014 року.* [Online]
Available at: <http://www.mil.gov.ua/news/2015/10/19/analiz-illovausk--14354/>
[Accessed 19 02 2017].

Бутусов, Ю., 2016. *АРСЕН АВАКОВ: "8 АПРЕЛЯ УКРАИНА ОДЕРЖАЛА ПЕРВУЮ ПОБЕДУ. МЫ СЛОМАЛИ ХРЕБЕТ "РУССКОЙ ВЕСНЕ" И СПАСЛИ ХАРЬКОВ ОТ "ХНР" И ВОЙНЫ".* [Online]
Available at:
http://censor.net.ua/resonance/386797/arsen_avakov_8_aprelya_ukraina_oderjala_pervuyu_pobedu_my_slomali_hrebet_russkoyi_vesne_i_spasli_harkov
[Accessed 11 02 2017].

УНІАН, 2014. *Спікер АТО: Луганську ОГА взорвали изнутри.* [Online]
Available at: <https://www.unian.net/politics/924623-spiker-ato-luganskuyu-oga->

[vzorvali-iznutri.html](#)

[Accessed 12 02 2017].

УНІАН, 2014. *Причиною взрива в Луганській ОГА могло стать попадання ракети из ПЗРК терористов - ГПУ*. [Online]

Available at: [Причиною взрива в Луганській ОГА могло стать попадання ракети из ПЗРК терористов - ГПУ](#)

[Accessed 12 02 2017].

УНІАН, 2014. *Пентагон засудив напад на луганський прикордонний загін і участь у ньому Росії*. [Online]

Available at: <https://www.unian.ua/politics/924469-pentagon-zasudiv-napad-na-luganskiy-prikordonniy-zagin-i-uchast-u-nomu-rosiji.html>

[Accessed 12 02 2017].

УНІАН, 2014. *Сепаратисти атакували військову частину в Маріуполі. Всі подробиці*. [Online]

Available at: <https://www.unian.ua/politics/908703-separatisti-atakuvali-viyskovu-chastinu-v-mariupoli-vsi-podrobitsi.html>

[Accessed 12 02 2017].

ЛІГАБізнесІнформ Інформаційне агентство, 2014. *В восточных районах Луганска идет бой сил АТО с боевиками - СМИ*. [Online]

Available at: <http://news.liga.net/news/politics/2412426-v-vostochnykh-rayonakh-luganska-idet-boy-sil-ato-s-boevikami-smi.htm>

[Accessed 19 02 2017].

ЛІГАБізнесІнформ Інформаційне агентство, 2014. *Силы АТО взяли под контроль трассу Харьков - Ростов-на-Дону*. [Online]

Available at: <http://news.liga.net/news/politics/2399990-sily-ato-vzjali-pod-kontrol-trassu-kharkov-rostov-na-donu.htm>

[Accessed 19 02 2017].

24 TV, 2015. *Понад 200 українських бійців загинуло у боях за донецький аеропорт, — військовий експерт*. [Online]

Available at:

http://24tv.ua/ponad-200-ukrayinskih-biytsiv-zaginulo-u-boyah-za-donetskiy-aeroport-viyskoviy-ekspert_n535106

[Accessed 19 02 2017].

24 TV, 2016. *Яєчна неділя у Запоріжжя: як у місті розганяли любителів Леніна*. [Online]

Available at:

http://24tv.ua/yayechna-nedilya-u-zaporizhzhya-yak-u-misti-rozganyali-lyubiteliv-lenina_n660518

[Accessed 19 02 2017].

Anon., n.d. [Online].

Antonio, C., 1995. *Self-determination of peoples. A legal reappraisal*. Cambridge: Cambridge University Press.

BBC NEWS, 2014. *Ukraine crisis: Timeline*. [Online]

Available at: <http://www.bbc.com/news/world-middle-east-26248275>

[Accessed 12 02 2017].

BBC NEWS, 2015. *Ukraine rebel Zakharchenko 'rejects truce talks'*. [Online]

Available at: <http://www.bbc.com/news/world-europe-30949527>

[Accessed 19 02 2017].

BBC UA, 2014. *Бойовики штурмують Луганський прикордонний загін - є поранені*. [Online]

Available at:

http://www.bbc.com/ukrainian/politics/2014/06/140602_lugansk_attack_hk
[Accessed 12 02 2017].

BURKHALTER, D., 2014. *OSCE Chair says Crimean referendum in its current form is illegal and calls for alternative ways to address the Crimean issue.* [Online]

Available at: <http://www.osce.org/cio/116313>

[Accessed 12 02 2017].

CoE Venice Commission, 2014. *CDL-AD(2014)002-e Opinion on “whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or restoring Crimea’s 19 92 constitution is compatible with constitutional principles” adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014).* [Online]

Available at: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)002-e)

[Accessed 20 02 2017].

CoE, 2014. *CDL-AD(2014)002-e Opinion on “whether the decision taken by the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organise a referendum on becoming a constituent territory of the Russian Federation or restoring Crimea’s 19 92 constitution is compatible with constitutional principles” adopted by the Venice Commission at its 98th Plenary Session (Venice, 21-22 March 2014).*

[Online]

Available at: [http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD\(2014\)002-e](http://www.venice.coe.int/webforms/documents/?pdf=CDL-AD(2014)002-e)

[Accessed 20 02 2017].

David, R., 2002. *Statehood and the law of self-determination.*. Leiden, Boston: Martinus Nijhoff Publishers.

de Carbonnel, A., 2014. *How the separatists delivered Crimea to Moscow.* [Online]

Available at: <http://www.reuters.com/article/us-ukraine-crisis-russia-aksyonov-insight/USBREA2B13M20140312>

[Accessed 20 02 2017].

Dutch Safety Board, 2014. *Crash of Malaysia Airlines flight MH17.* [Online]

Available at: <https://www.onderzoeksraad.nl/uploads/phase-docs/1006/debcd724fe7breport-mh17-crash.pdf>

[Accessed 19 02 2017].

Embassy of Ukraine in the United States of America, 2014. *Judgement of the Constitutional Court of Ukraine on all-Crimean referendum.* [Online]

Available at: <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/19573-rishennya-konstitucijnogo-sudu-v-ukrajini-shhodo-referendumu-v-krimu>

[Accessed 19 02 2017].

European Parliament, 2015. *Minsk peace agreement: still to be consolidated on the ground.* [Online]

Available at: <http://www.europarl.europa.eu/EPRS/EPRS-Briefing-548991-Minsk-peace-summit-FINAL.pdf>

[Accessed 19 02 2017].

FISHER, A., 1978. *The Crimean Tatars.* California: Stanford.

GA, 1966. *International Covenant on Civil and Political Rights.* [Online]

Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx>

[Accessed 20 02 2017].

GA, 1966. *International Covenant on Economic, Social and Cultural Rights.* [Online]

Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx>

[Accessed 20 02 2017].

GAZETA.UA, 2014. *В Маріуполі біля управління міліції стрілянина, є поранені.* [Online]
Available at: <http://gazeta.ua/articles/politics/v-mariupoli-bilya-upravlinnya-miliciyi-strilyanina-ye-poraneni/556838>
[Accessed 12 02 2017].

GLOBSEC POLICY INSTITUTE, 2014. *Remembering Maidan: Timeline.* [Online]
Available at: <http://www.cepolicy.org/publications/remembering-maidan-chronological-summary>
[Accessed 23 12 2016].

Herszenhorn, D. M., 2014. *Crimean Premier Says Ukrainian Military Units Have Started to Surrender.* [Online]
Available at: <https://www.nytimes.com/2014/03/05/world/europe/crimea-ukraine-russia.html>
[Accessed 20 02 2017].

KURKOV, A., 2014. *Diari Ucraini.* s.l.:Keller.

LOCATELLI, N. & DE SANCTIS, A., 2014. *La battaglia per l'Ucraina, nel contesto.* [Online]
Available at: <http://www.limesonline.com/gli-scontri-a-kiev-e-la-battaglia-per-luكرانيا-nel-contesto/58230>
[Accessed 12 02 2017].

MAGOCSI, P. R., 2014. *This Blessed land: Crimea and the Crimean Tatars.* s.l.:University of Toronto Press.

MARTIROSYAN, A., 2014. *Armenian MFA confirms killing of Sergey Nigoyan in Euromaidan in Kiev.* [Online]
Available at: <http://www.eng.kavkaz-uzel.eu/articles/27077/>
[Accessed 12 02 2017].

Ministry of Foreign Affairs of Ukraine, 2014. *PROTOCOL on the results of consultations of the Trilateral Contact Group (Minsk, 05/09/2014).* [Online]
Available at: <http://mfa.gov.ua/en/news-feeds/foreign-offices-news/27596-protocol-on-the-results-of-consultations-of-the-trilateral-contact-group-minsk-05092014>
[Accessed 19 02 2017].

Mullen, J., 2014. *Report: MH17 hit by burst of 'high-energy objects' from outside.* [Online]
Available at: http://edition.cnn.com/2014/09/09/world/europe/netherlands-ukraine-mh17-report/index.html?hpt=hp_t2
[Accessed 19 02 2017].

OSCE, 2014. *Latest news from the OSCE Special Monitoring Mission to Ukraine (SMM).* [Online]
Available at: <http://www.osce.org/ukraine-smm/119479>
[Accessed 12 02 2017].

OSCE, 2014. *Minsk Memorandum.* [Online]
Available at: <http://www.osce.org/ru/home/123807?download=true>
[Accessed 19 02 2017].

OSCE, 2014. *So-called elections not in line with Minsk Protocol, says OSCE Chair, calling for enhanced efforts and dialogue to implement all commitments.* [Online]
Available at: <http://www.osce.org/cio/126242>
[Accessed 19 02 2017].

OSCE, 2015. *Minsk II.* [Online]
Available at: <http://www.osce.org/ru/cio/140221?download=true>
[Accessed 19 02 2017].

OSCE, 2015. *Statement by the Chairmanship on the Trilateral Contact Group consultations in Minsk on 31 January 2015*. [Online]
Available at: <http://www.osce.org/cio/138331>
[Accessed 19 02 2017].

Press Media Malaysia, 2014. *Media Statement & Information on Flight MH17*. [Online]
Available at: <http://www.malaysiaairlines.com/my/en/site/mh17.html>
[Accessed 19 02 2017].

Press office of President, 2014. *In Donbas, Petro Poroshenko presented the peaceful plan on the settlement of the situation in the east of Ukraine*. [Online]
Available at:
<https://web.archive.org/web/20140622072027/http://www.president.gov.ua/en/news/30566.html>
[Accessed 19 02 2017].

PRONIN, A., 2015. Translation taken from , Republic of Crimea: a two-day state issue 1. *Russian Law Journal*, 01 03, Volume III, pp. 137 - 141.

Radio Svoboda, 2014. *Бойовики обстріляли військовий аеродром під Краматорськом – Міноборони*. [Online]
Available at: <http://www.radiosvoboda.org/a/25387281.html>
[Accessed 19 02 2017].

Raič, D., 2002. *Statehood and the Law of Self-Determination*. 1st edition ed. The Hague: Kluwer Law International.

RBC UA, 2014. *Миссия ОБСЕ в Украине считает, что Луганская ОГА была обстреляна ракетами из самолета*. [Online]
Available at: <https://www.rbc.ua/rus/news/missiya-obse-v-ukraine-schitaet-cho-luganskaya-oga-by-la-obstrelyana-03062014183400>
[Accessed 12 02 2017].

RIA RU, 2014. *Власти ЛНР: 8 мирных жителей Луганска погибли, 28 ранены при авиаударе*. [Online]
Available at: <https://ria.ru/world/20140603/1010477931.html>
[Accessed 12 02 2017].

Salem, H., 2014. *Russia puts military on high alert as Crimea protests leave one man dead*. [Online]
Available at: <https://www.theguardian.com/world/2014/feb/26/ukraine-new-leader-disbands-riot-police-crimea-separatism>
[Accessed 20 02 2017].

Salem, H., 2014. *Russia puts military on high alert as Crimea protests leave one man dead*. [Online]
Available at: <https://www.theguardian.com/world/2014/feb/26/ukraine-new-leader-disbands-riot-police-crimea-separatism>
[Accessed 20 02 2017].

SNYDER, T., 2003. *The Reconstruction of Nations. Poland, Ukraine, Lithuania, Belarus, 1569-1999*. New Haven-London: Yale University Press.

SOLDATOV, A. & BOROGAN, I., 2015. *Here's how Facebook kicked off Ukraine's Euromaidan revolution*. [Online]
Available at: <http://uk.businessinsider.com/heres-how-facebook-kicked-off-the-euromaidan-revolution-2015-7?r=US&IR=T>
[Accessed 23 12 2016].

STERN, D., 2014. *Ukraine's President Petro Poroshenko declares ceasefire*. [Online]
Available at: <http://www.bbc.com/news/world-europe-27948335>
[Accessed 12 02 2017].

TRAYNOR, I., 2013. *Russia 'blackmailed Ukraine to ditch EU pact'*. [Online]
Available at: <https://www.theguardian.com/world/2013/nov/22/russia-ukraine-eu-pact-lithuania>
[Accessed 2017 02 12].

Ukr Lb, 2015. *Донецький аеропорт здали після 242 днів оборони*. [Online]
Available at:
http://ukr.lb.ua/society/2015/01/22/292871_donetskiy_aeroport_zdali_pislya_242.html
[Accessed 19 02 2017].

United Nations, 1945. *Charter of the United Nations*. [Online]
Available at: <http://www.un.org/en/sections/un-charter/chapter-i/index.html>
[Accessed 20 02 2017].

WYDRA, D., 2004. The Crimea Conundrum: The tug of war between Russia and Ukraine on the Questions of Autonomy and self-determination. *International Journal on Minority Rights*, I(10), p. 111.

6. Glossary

- **Berkut**

The force was set up in 1992 and had its roots in Omon, the notoriously ruthless Soviet "special-purpose police". Initially, Berkut's primary goal was to fight organised crime, but later it changed to ensuring law and order during "mass events". Ukraine's police is governed by the Interior Ministry, which itself was until recently headed by Vitaly Zakharchenko, a steadfast supporter of toppled President Viktor Yanukovich.¹³³

- **Titushky**

The term "titushki" is of recent origin in the Ukrainian language. The word originated from a fact happened during the demonstrations of 18 May 2013. Some politicians have paid ex athletes in order to provoke some clashes during the pro democracy protests. A guy named Vadim Titushko assaulted some of the journalists and was particularly aggressive. The other journalist were able to film what was happening and bring the video as an evidence in front of the court. From that day on the provocateurs of clashes, paid by the influent politicians, in order to provoke clashes during the opposition demonstrations, were called "titushki".¹³⁴

- **Maidan**

"Maidan" in Ukrainian means square. The term "Maidan" originated from the Persian language and indicates a space open to the public. Its original meaning is that of a space of public, political and social life. In ancient times "maidan" were the place where the public discussions were held, where took place executions and also performances.¹³⁵

¹³³ Andrei Kurkov, *Diari Ucraini*, 2014, Keller editore, p.296; translation and adaptation by O.Ryazanova

¹³⁴ Andrei Kurkov, *Diari Ucraini*, 2014, Keller editore, p.320; translation and adaptation by O.Ryazanova

¹³⁵ Limes, *L'Ucraina tra noi e Putin*, n.4,2014; translation and adaptation by O.Ryazanova

7. Annexes

7.1. Constitution of Ukraine

Strasbourg, 13 March 2014
Opinion 762 / 2014

CDL-REF(2014)012

**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)
CONSTITUTION OF UKRAINE
Text provided by the Ukrainian authorities
on 13 March 2014**

CONSTITUTION OF UKRAINE

Amended by the Law of Ukraine № 2222-VI dated 08.12.2004,
the Law № 2952-VI dated 01.02.2011,
the Law № 586-VII dated 19.09.2013,
and the Law № 742-VII dated 21.02.2014

The Law of Ukraine № 2222-VI dated 08.12.2004

is recognized as such that does not correspond to the Constitution of Ukraine

(is

unconstitutional),

in accordance with the Decision the Constitutional Court of Ukraine

№ 20-пр/2010 dated 30.09.2010 due to infringement of the constitutional
procedure

of its consideration and adoption

The provisions of the Constitution of Ukraine adopted at the fifth session of the

Verkhovna

Rada of Ukraine on 28.06.1996, with amendments and attachments,

contributed by the

Laws of Ukraine № 2222-VI dated 08.12.2004, № 2952-VI dated 01.02.2011,

№ 586-VII

dated 19.09.2013, are recognized to be in force at the territory of Ukraine in

accordance with

the Verkhovna Rada of Ukraine Decree № 750-VII dated 22.02.2014

The Verkhovna Rada of Ukraine, on behalf of the Ukrainian people - citizens of Ukraine of all ethnicities, expressing the sovereign will of the people, based on the centuries-old history of Ukrainian state-building and on the right to self-determination realized by the Ukrainian nation, all the Ukrainian people, providing for the guarantee of human rights and freedoms and of the worthy conditions of human life, caring for the strengthening of civil harmony on Ukrainian soil, striving to develop and strengthen a democratic, social, law-based state, aware of our responsibility before God, our own conscience, past, present and future generations, guided by the Act of Declaration of the Independence of Ukraine of 24 August 1991, approved by the national 1991, vote of 1 December adopts this Constitution — the Fundamental Law of Ukraine

Chapter I

General Principles

Article 2

The sovereignty of Ukraine extends throughout its entire territory.

Ukraine is a unitary state.

The territory of Ukraine within its present border is indivisible and inviolable.

Article 73

Issues of altering the territory of Ukraine are resolved exclusively by an All-Ukrainian referendum.

Chapter IX

Territorial Structure of Ukraine

Article 132

The territorial structure of Ukraine is based on the principles of unity and indivisibility of the state territory, the combination of centralisation and decentralisation in the exercise of state power, and the balanced socio-

economic development of regions that takes into account their historical, economic, ecological, geographical and demographic characteristics, and ethnic and cultural traditions.

Article 133

The system of the administrative and territorial structure of Ukraine is composed of the Autonomous Republic of Crimea, oblasts, districts, cities, city districts, settlements and villages.

Ukraine is composed of the Autonomous Republic of Crimea, Vinnytsia Oblast, Volyn Oblast, Dnipropetrovsk Oblast, Donetsk Oblast, Zhytomyr Oblast, Zakarpattia Oblast, Zaporizhia Oblast, Ivano-Frankivsk Oblast, Kyiv Oblast, Kirovohrad Oblast, Luhansk Oblast, Lviv Oblast, Mykolaiv Oblast, Odesa Oblast, Poltava Oblast, Rivne Oblast, Sumy Oblast, Ternopil Oblast, Kharkiv Oblast, Kherson Oblast, Khmelnytskyi Oblast, Cherkasy Oblast, Chernivtsi Oblast and Chernihiv Oblast, and the Cities of Kyiv and Sevastopol.

The Cities of Kyiv and Sevastopol have special status that is determined by the laws of Ukraine.

Chapter X

Autonomous Republic of Crimea

Article 134

The Autonomous Republic of Crimea is an inseparable constituent part of Ukraine and decides on the issues ascribed to its competence within the limits of authority determined by the Constitution of Ukraine.

Article 135

The Autonomous Republic of Crimea has the Constitution of the Autonomous Republic of Crimea that is adopted by the Verkhovna Rada of the Autonomous Republic of Crimea and approved by the Verkhovna Rada of Ukraine by no less than one-half of the constitutional composition of the Verkhovna Rada of Ukraine.

Normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and decisions of the Council of Ministers of the Autonomous Republic of Crimea shall not contradict the Constitution and the laws of Ukraine and are adopted in accordance with the Constitution of Ukraine, the laws of Ukraine, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, and for their execution.

Article 136

The representative body of the Autonomous Republic of Crimea is the Verkhovna Rada of the Autonomous Republic of Crimea, the deputies of which are elected on the basis of general, equal, direct vote by secret ballot. The term of authority of the Verkhovna Rada of the Autonomous Republic of Crimea, the deputies of which are elected at regular elections, is five years. The suspension of the authority of the Verkhovna Rada of the Autonomous Republic of Crimea has its consequence the suspension of the authorities of deputies.

The next election to the Verkhovna Rada of the Autonomous Republic of Crimea is held on the last Sunday of October of the fifth year of the authority the Verkhovna Rada of the Autonomous Republic of Crimea, elected at regular election.

The Verkhovna Rada of the Autonomous Republic of Crimea adopts decisions and resolutions that are mandatory for execution in the Autonomous Republic of Crimea.

The Council of Ministers of the Autonomous Republic of Crimea is the government of the Autonomous Republic of Crimea. The Head of the Council of Ministers of the Autonomous Republic of Crimea is appointed to office and dismissed from office by the Verkhovna Rada of the Autonomous Republic of Crimea with the consent of the President of Ukraine.

The authority, the procedure for the formation and operation of the Verkhovna Rada of the Autonomous Republic of Crimea and of the Council of Ministers of the Autonomous Republic of Crimea, are determined by the Constitution of Ukraine and the laws of Ukraine, and by normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea on issues ascribed to its competence.

In the Autonomous Republic of Crimea, justice is administered by courts that belong to the unified system of courts of Ukraine.

Article 137

The Autonomous Republic of Crimea exercises normative regulation on the following issues: agriculture and forestry; land reclamation and mining; public works, crafts and trades; charity; city construction and housing management; tourism, hotel business, fairs; museums, libraries, theatres, other cultural establishments, historical and cultural preserves; public transportation, roadways, water supply; hunting and fishing; sanitary and hospital services.

For reasons of nonconformity of normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea with the Constitution of Ukraine and the laws of Ukraine, the President of Ukraine may suspend these normative legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea with a simultaneous appeal to the Constitutional Court of Ukraine in regard to their constitutionality.

Article 138

The competence of the Autonomous Republic of Crimea comprises:

- 1) designating elections of deputies to the Verkhovna Rada of the Autonomous Republic of Crimea, approving the composition of the electoral commission of the Autonomous Republic of Crimea;
- 2) organising and conducting local referendums;
- 3) managing property that belongs to the Autonomous Republic of Crimea;
- 4) elaborating, approving and implementing the budget of the Autonomous Republic of Crimea on the basis of the uniform tax and budget policy of Ukraine;
- 5) elaborating, approving and realising programmes of the Autonomous Republic of Crimea for socio-economic and cultural development, the rational utilisation of nature, and environmental protection in accordance with national programmes;
- 6) recognising the status of localities as resorts; establishing zones for the sanitary protection of resorts;

- 7) participating in ensuring the rights and freedoms of citizens, national harmony, the promotion of the protection of legal order and public security;
- 8) ensuring the operation and development of the state language and national languages and cultures in the Autonomous Republic of Crimea; protection and use of historical monuments;
- 9) participating in the development and realisation of state programmes for the return of deported peoples;
- 10) initiating the introduction of a state of emergency and the establishment of zones of an ecological emergency situation in the Autonomous Republic of Crimea or in its particular areas.

Other powers may also be delegated to the Autonomous Republic of Crimea by the laws of Ukraine.

Article 139

The Representative Office of the President of Ukraine, whose status is determined by the law of Ukraine, operates in the Autonomous Republic of Crimea.

District and oblast councils are bodies of local self-government that represent the common interests of territorial communities of villages, settlements and cities.

The issue of organisation of the administration of city districts lies within the competence of city councils.

Village, settlement and city councils may permit, upon the initiative of residents, the creation of house, street, block and other bodies of popular self-organisation, and to assign them part of their own competence, finances and property.

7.2. Annexation treaty

Российская Федерация и Республика Крым,

основываясь на исторической общности своих народов и учитывая сложившиеся между ними связи,

признавая и подтверждая принцип равноправия и самоопределения народов, закрепленный в Уставе Организации Объединенных Наций, в соответствии с которым все народы имеют неотъемлемое право свободно и без вмешательства извне определять свой политический статус, осуществлять свое экономическое, социальное и культурное развитие, а каждое государство обязано уважать это право,

будучи преисполнены решимости обеспечить уважение и соблюдение достоинства, прав и свобод человека, включая право на жизнь, свободу мысли, совести, вероисповедания и убеждений, всем находящимся в пределах их территорий, без какого бы то ни было различия, в соответствии с общепризнанными принципами и нормами международного права, а также осознавая тесную взаимосвязь других основных принципов международного права, закрепленных, в частности, в Уставе Организации Объединенных Наций и Хельсинкском Заключительном акте Совещания по безопасности и сотрудничеству в Европе, с принципом уважения и соблюдения прав и свобод человека,

выражая общую волю своих народов, неразрывно связанных общностью исторической судьбы, к совместному проживанию в составе демократического федеративного правового государства,

стремясь обеспечить благополучие и процветание своих народов,

основываясь на свободном и добровольном волеизъявлении народов Крыма на общекрымском референдуме, проведенном в Автономной Республике Крым и городе Севастополе 16 марта 2014 года, в ходе которого народы Крыма приняли решение о воссоединении с Россией на правах субъекта Российской Федерации,

принимая во внимание предложение Республики Крым и города с особым статусом Севастополя о принятии в Российскую Федерацию Республики Крым, включая город с особым статусом Севастополь,

заключили настоящий Договор о нижеследующем.

Статья 1

1. Республика Крым считается принятой в Российскую Федерацию с даты подписания настоящего Договора.

2. Принятие Республики Крым в Российскую Федерацию осуществляется в соответствии с Конституцией Российской Федерации, настоящим Договором, Федеральным конституционным законом «О порядке принятия в Российскую Федерацию и образования в ее составе нового субъекта Российской Федерации» и федеральным конституционным законом о принятии в Российскую Федерацию Республики Крым.

Статья 2

Со дня принятия в Российскую Федерацию Республики Крым в составе Российской Федерации образуются новые субъекты – Республика Крым и город федерального значения Севастополь.

Статья 3

1. Российская Федерация гарантирует всем народам, проживающим на территориях Республики Крым и города

федерального значения Севастополя, право на сохранение родного языка, создание условий для его изучения и развития.

2. Государственными языками Республики Крым являются русский, украинский и крымско-татарский языки.

Статья 4

1. Пределы территории Республики Крым и территории города федерального значения Севастополя определяются границами территории Республики Крым и территории города федерального значения Севастополя, существовавшими на день принятия в Российскую Федерацию Республики Крым и образования в составе Российской Федерации новых субъектов.

2. Граница Республики Крым на суше, сопряженная с территорией Украины, является Государственной границей Российской Федерации.

3. Разграничение морских пространств Черного и Азовского морей осуществляется на основе международных договоров Российской Федерации, норм и принципов международного права.

Статья 5

Со дня принятия в Российскую Федерацию Республики Крым и образования в составе Российской Федерации новых субъектов граждане Украины и лица без гражданства, постоянно проживающие на этот день на территории Республики Крым или на территории города федерального значения Севастополя, признаются гражданами Российской Федерации, за исключением лиц, которые в течение одного месяца после этого дня заявят о своем желании сохранить имеющееся у них и (или) их несовершеннолетних детей иное гражданство либо остаться лицами без гражданства.

Статья 6

Со дня принятия в Российскую Федерацию Республики Крым и образования в составе Российской Федерации новых субъектов и до 1 января 2015 года действует переходный период, в течение которого урегулируются вопросы интеграции новых субъектов Российской Федерации в экономическую, финансовую, кредитную и правовую системы Российской Федерации, в систему органов государственной власти Российской Федерации, а также вопросы исполнения воинской обязанности и несения военной службы на территориях Республики Крым и города федерального значения Севастополя.

Статья 7

Граждане Российской Федерации, призванные на военную службу в Республике Крым и городе федерального значения Севастополе, проходят военную службу на территориях Республики Крым и города федерального значения Севастополя до 2016 года включительно.

Статья 8

Выборы в органы государственной власти Республики Крым и в органы государственной власти города федерального значения Севастополя проводятся во второе воскресенье сентября 2015 года. До избрания органов государственной власти Республики Крым и органов государственной власти города федерального значения Севастополя их полномочия осуществляют соответственно Государственный Совет Республики Крым – парламент Республики Крым и Совет министров Республики Крым, Законодательное Собрание города Севастополя.

Статья 9

1. Законодательные и иные нормативные правовые акты Российской Федерации действуют на территориях Республики Крым и города федерального значения Севастополя со дня принятия в Российскую Федерацию Республики Крым и образования в составе

Российской Федерации новых субъектов, если иное не предусмотрено законодательством Российской Федерации.

2. Нормативные правовые акты Автономной Республики Крым и города Севастополя, Республики Крым и города с особым статусом Севастополя действуют на территориях соответственно Республики Крым и города федерального значения Севастополя до окончания переходного периода или до принятия соответствующего нормативного правового акта Российской Федерации и (или) нормативного правового акта Республики Крым, нормативного правового акта Российской Федерации и (или) нормативного правового акта города федерального значения Севастополя.

3. Нормативные правовые акты Автономной Республики Крым и города Севастополя, Республики Крым и города с особым статусом Севастополя, противоречащие Конституции Российской Федерации, не применяются.

Статья 10

Настоящий Договор временно применяется с даты подписания и вступает в силу с даты ратификации (Администрация Президента России, 2014) ¹³⁶

Follows the translation of the treaty.

TREATY BETWEEN THE RUSSIAN FEDERATION AND THE REPUBLIC OF
CRIMEA ON THE ACCEPTANCE OF THE REPUBLIC OF CRIMEA INTO THE
RUSSIAN FEDERATION AND ON CREATION OF NEW FEDERATIVE ENTITIES
WITHIN THE RUSSIAN FEDERATION

The Russian Federation and the Republic of Crimea,

based upon the historical sympathy of their nations and taking into account the international relations established by them,

¹³⁶ <http://www.kremlin.ru/events/president/news/20605>

recognising and confirming the principle of equal rights and self-determination of peoples have the right to freely determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right,

resolving to insure full respect for human rights, including the right to life, freedom of thought, conscience and religion, of all people within their territory, without distinction, and in accordance with generally accepted principles of international law and recognized by the United Nations Charter, Helsinki Declaration of the Security and Co-operation in Europe, with the principle of respect for human rights and freedoms,

expressing the common will of their nations, which are indissolubly linked by the common historical fate, to live jointly in a democratic, federative, legal state,

aspiring to ensure the well-being and prosperity of their nations,

relying on the free and will full declaration of will which was implemented by the nations of Crimea in the referendum that was realized in the Autonomous Republic of Crimea and in the city of Sevastopol on March 16, 2014, over the course of which the people of Crimea decided to reunify with Russia as a Russian federative entity,

taking into consideration the proposal of the Republic of Crimea, including the city with special status Sevastopol, into the Russian Federation, negotiated the current Treaty on the following.

Article 1

1. The Republic of Crimea is considered to have been accepted into the Russian Federation upon the signing of the Treaty.
2. The acceptance of the Republic of Crimea into the Russian Federation is realized in accordance with Constitution of the

Russian Federation, with the present agreement, with the Federal Constitutional Law On the Procedure of the Acceptance into the Russian Federation and on the Creation of the New Federative Entity in its Structure and with federal constitutional law on the acceptance of Crimea into the Russian Federation.

Article 2

The Republic of Crimea and the city with federal status Sevastopol are formed as new federative entities from the date of acceptance of the Republic of Crimea into the Russian Federation.

Article 3

1. The Russian Federation guarantees all peoples inhabiting the Republic of Crimea and the city with federal status Sevastopol the preservation of their native language and the creation of conditions for learning and developing it.
2. Russian, Ukrainian and Crimean Tatar will be the official languages in the Republic of Crimea.

Article 4

1. The boundary lines of the territory of the Republic of Crimea and the city with federal status Sevastopol are defined by the borders of the Republic of Crimea and the city with federal territories existing on the day of the acceptance of the Republic of Crimea into the Russian Federation and creation of new federative entities in its structure.
2. The land border of the Republic of Crimea adjacent to the territory of Ukraine shall be deemed to be the border of the Russian Federation.

3. The delimitation of sea space in the Black Sea and in the Sea of Azov will be based on the Russian Federation's international agreements and on the norms and principles of international law.

Article 5

As of the day of the admission of the Republic of Crimea into Russia and the formation of new federative entities within the Russian Federation, Ukrainian citizens and stateless citizens permanently residing in the Republic of Crimea and the city with federal status Sevastopol are recognized as Russian citizens with the exception of those people who within one month of this day express their wish to retain their current citizenship for themselves and their underage children or to remain persons without citizenship.

Article 6

From the day of acceptance of the Republic of Crimea into the Russian Federation and creation of new federative entities in its structure until January 1, 2015, a transition period is in force to settle all issues relating to the integration of new federative entities into the Russian Federation's economic, financial, credit and legal systems, the public administration system of the Russian Federation, as well as issues relating to conscription and military service on the territories of the Republic of Crimea and the city with federal status Sevastopol.

Article 7

Russian citizens conscripted in the Republic of Crimea and the city with federal status Sevastopol will serve on the territory of the Republic of Crimea and the city with federal status Sevastopol until 2016.

Article 8

Elections to the government bodies of the Republic of Crimea and the government bodies of Sevastopol as a city holding federal status shall be held on the second Sunday of September 2015. Before the elections, the Crimean State Council and Sevastopol's Legislative Assembly will perform the functions of these government bodies.

Article 9

1. Legislative and other regulatory legal acts of the Russian Federation are in force on the territories of the Republic of Crimea and the city with federal status Sevastopol, from the day of acceptance of the Republic of Crimea into the Russian Federation and creation of new federative entities in its structure, if not otherwise stipulated in the legislation of the Russian Federation.
2. Regulatory legal acts of the Autonomous Republic of Crimea and of the city Sevastopol as well as Republic of Crimea and of the city with federal status Sevastopol, respectively, until the end of the transition period or until acceptance of a special regulatory legal act of the Russian Federation and/or regulatory legal act of the city with federal status Sevastopol.
3. Regulatory legal acts of the Autonomous Republic of Crimea and of the city Sevastopol as well as regulatory legal acts of the Republic of Crimea and of the city with federal status Sevastopol, which are in contravention of the Constitution of the Russian Federation, have no effect.

Article 10

The agreement herein applies provisionally from the date of signature and will be affective from the date of ratification. (PRONIN, 2015)¹³⁷

March 18, 2014

¹³⁷ Translation taken from Anatoly Pronin, Republic of Crimea: a two-day state, Russian Law Journal, volume III (2015) issue 1