

Founded in June 1950

RIA

UDK 327
ISSN 0486-6096

THE REVIEW OF INTERNATIONAL AFFAIRS

BELGRADE, VOL. LXV, No. 1155–1156, JULY–DECEMBER 2014

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THE INSTITUTE OF INTERNATIONAL POLITICS AND ECONOMICS

The Review of International Affairs

ISSN 0486-6096

UDK 327

VOL. LXV, No. 1155–1156, JULY–DECEMBER 2014

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Published quarterly

Publisher

Institute of International Politics and Economics,

Belgrade, Makedonska 25

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BiFS doo, Books and Periodicals, Supilova 10

11000 Belgrade, Serbia,

Tel/fax: +381 11 20 84 229

E-mail: bfsbooks@sezampro.rs

Printed by

Mala knjiga, Novi Sad

The Review of International Affairs

Vol. LXV, No. 1155–1156, July–December 2014

UDK 327 ISSN 0486-6096

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INTERNATIONAL RELATIONS

UDC: 327::911.3(477)
Biblid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 5–20
Original Scientific Paper

UKRAINIAN CONFLICT – BETWEEN GEOPOLITICS AND INTERNATIONAL LAW

Nenad AVRAMOVIĆ¹
Miloš MARKOVIĆ²

Abstract: Ethnic, religious, political and economic contradictions accumulated for years were triggered by Ukraine's gaining independence and additionally accelerated by transitional stratification of the society and the economic crisis. On the other hand, in a geostrategic sense, Ukraine is considered to be the centre of Eurasian space, so its military neutrality is a condition for the national safety of Russia. In the paper, the authors analyse internal controversies of the divided Ukraine, catalytic contribution of Euro-Atlantic Western countries headed by the United States, the EU and the NATO to the conflict sharpening as well as Russia's tendency to maintain geostrategic supremacy and retain its national security. Internal contradictions had first escalated into demonstrations and then followed a coup d'état by Euro-Atlantists who caused unrest among the pro-Russian population in the eastern, industrial part of the country by restricting their rights. The referendum on independence and Crimean secession ensued following the Kosovo precedent, then followed the accession to Russia and next the proclamation of Donetsk and Luhansk People's Republics. By not acknowledging the people's right to self-determination, the interim regime in Kiev supported by a great majority of Western countries initiated a military action and practically led to a civil war in the country.

The international legal arguments of the pro-Russian east come down to ensuring the collective right of people to self-determination affirmed in practice

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and by the International United Nations Court of Justice; on the other hand, the pro-Atlantist West relies on the principle of sovereignty and territorial integrity of the country. At the same time, every event is used for media manipulation, especially by Western countries' media, with the aim of establishing geostrategic predominance over the Ukrainian territory. With the current balance of power, political escalations and a possible accession of Ukraine to the NATO are undoubtedly leading to a new cold war.

The paper offers a brief analysis of the Ukrainian crisis aiming to present its causes through a historical approach and through the conflict of geostrategic interests of the opposed parties its possible consequences. The cause-effect analysis is completed with jurisprudent international practice, which demonstrates all the relativity of the international legal order and its determination by political interests of powerful countries.

Key words: Ukrainian crisis, geopolitics, national security, right to self-determination, contradictions, Euromaidanists, international law.

INTRODUCTION

Since November 2013, the Ukrainian crisis (which started out with Euromaidanists' "democratic demonstrations" and has up to date evolved into a civil war between the pro-European west and the pro-Russian east of the country) has caused a range of negative consequences at the national, but also at the international level.

After the bloody break-up of former Socialist Federal Republic of Yugoslavia in the 1990s, the Ukrainian crisis is the conflict that, since the time of Berlin Wall demolition, has to the greatest extent shaken up the European system of security and even the world system. Aside from the national conflict, the crisis in Ukraine has also created tensions in relations between the United States of America and the European Union on one side and Russia on the other. The aggravation of international relations is reflected on a political, economic, security and geostrategic plan, whereas contemporary international relations are turning into a new cold war chill.

Following the chronology beginning with the Maidan demonstrations there is no doubt that the suggested thesis is correct.

However, the analysis of the Ukrainian crisis proceeding from the reason of its occurrence withholds the answer to the question on its causes which also have their roots in international relations, namely the geostrategic interests of the leading world powers – the USA and the Russian Federation. The historical roots of Ukrainian conflict, which is a conflict between the pro-Western "official" government and the pro-Russian advocates of the country's federalization (or, as the official Ukrainian authorities call them, Russian separatists, even terrorists), lie in the legal system and

the system of government of the Russian Empire and then in its legal successor, the USSR. The inner political, ethnic and religious antagonisms between the west and the east of Ukraine, which developed for centuries, were encouraged from the outside in order to realize the geostrategic project of westernization of Ukraine and involve it into Euro-Atlantic integrations.

The Maidan demonstrations had resulted in a violent change of legitimately and legally elected government; the legal vacuum was used by citizens of Crimea and Sevastopol who first voted for secession through a referendum and afterwards for the accession to Russia. Later proclamations of Luhansk and Donetsk autonomous republics added fuel to the fire intensifying the conflict between the pro-Russian east of Ukraine and the pro-Western government to the verge of a civil war outbreak.

All subsequent descriptions of the Ukrainian events have been based on various presentations and interpretations of general principles of both domestic and international law internationalizing the crisis and leading to the polarization of attitudes of the scientific and professional public, mostly dictated by the geopolitical interests of the conflicted parties.

In that way “The Ukrainian conflict is a continuation of the tendency of the international legal order permanent relativization that started in the last decade of the second millennium with the (ab)use of the NATO armed forces and its assault on the Federal Republic of Yugoslavia, contrary to the United Nations Charter (Avramović and Alavuk, 2014, p. 207).

In the rest of the paper we will try to present the argument in favour of the above-mentioned hypotheses with the objective risk of being proved wrong by the future events.

UKRAINIAN ANTAGONISMS

The internal social contradictions in Ukraine are manifested through ethnic, religious, (geo) political and economic differences, which intensified especially after the USSR split and Ukraine gained independence in 1992. Ethnic discrepancies were not diminished even by the fact that Ukraine was a part of the common country for almost three and a half centuries, first in the Russian Empire³ and then the Soviet Union. Moreover, the Ukrainians and the Russians had belonged to the same national corpus before the Ukrainian nation was formed and even today, they together + constitute about 95% of the country’s total population.

³ In the Russian Empire and until the great October Revolution in 1917, the term Russian people implied the Great Russians (today’s Russians), the Small Russians (today’s Ukrainians) and the Belarusians who exist till this day under that name. The Ukrainians were officially accepted as a nation in the USSR.

In the whole Ukraine today, the Ukrainians comprise 77% of the population, the Russians about 18% and all the rest 5%. However, the Russian language is spoken by 40-50% of the total population; nevertheless, this information is not quite reliable as 67% of the Ukrainians declare that they speak Russian at home. In addition, 20% of the population consider themselves the Russians, whereas 25% are only formally registered as the Ukrainians (they speak in plain Russian and their parents are in most cases the Russians). The Russian population forms a majority in eight areas of eastern, industrial part of the country (Sakan, 2014).

Although the Ukrainian nation had been created and built along with the Russian nation, the historical circumstances and occupation (first by the Mongols, then by Poland, Sweden, Lithuania, and in the new century by Austria-Hungary, when mainly western parts of the country were not a part of the imperial Russia) led to a slow creation the Ukrainian national habitus. This kind of national division could not be neutralized even by the fact that the Russian state was born on the territory of Ukraine; the fact is that the Russian national identity was also confirmed there and Christianity was accepted as the ruling religion.

The new national identity was created on religious differences as well as on Western civilizational and cultural values. The imposing of Catholicism to the Orthodox population caused resistance and their turning to Russia, but a part of the population accepted the union with the Pope, namely the Orthodox ceremonies and the Pope as the head of all Christians. This is how the Uniate or the Greek Catholic Church was created. Its members⁴ populated Galicia and the city of Lviv which was thought to be the bastion of the Ukrainian nationalism. Nevertheless, the religious disunity of the Ukrainian population is also present among Orthodox Christians who are divided into three groups.⁵ The division of the country into the pro-European west and the pro-Russian east becomes evident on the account of religious orientation of Ukraine's population alone.

The ethnic and religious composition of the population in Ukraine is a product of historical and social changes in the region, but it is also a constitutive element of the (geo)political milieu both in the past and today. At the same time, many political and state-law solutions which Ukraine "inherited" after the break-up of imperial

⁴ There are five million Uniats in Ukraine, mainly inhabitants of Galicia, whereas the other group consists of the Rusyns or the Ruthenians who live in the Carpathian regions and in Vojvodina in small part as well.

⁵ 18 million believers belong to the first group, half of whom are ethnical Russians of the Ukrainian Orthodox Church which is a part of the Moscow Patriarchate with the Russian and Old Church Slavonic liturgical language. Believers of the unrecognized Uniate Orthodox Church of the Kiev Patriarchate belong to the second group. Established in 1995 it gathers about 17 million believers in the western and central part of Ukraine and the liturgical language is Ukrainian. The third group are four million believers of the also unrecognized Autocephalous Ukrainian Orthodox Church in the west of the country, which was established in 1919 as a reaction to the socialist revolution.

Russia and the USSR were passed in a situation with different constellation of relations nationally and internationally. Thus, during the existence of the USSR the territories of Galicia were annexed to the country to the detriment of Poland, the region of Bukovina and a part of Bessarabia were taken from Romania and Transcarpathia from Czechoslovakia. All of these territories went to Ukraine as a socialist republic belonging to the Soviet Union. In 1954, the Crimean area fell to Ukraine to manage it as its administrative area; this was done by the unconstitutional decision of the Presidium of the Supreme Soviet of the USSR.⁶ The decision was contrary to the Constitution of the Federation and the Constitutions of the Republic of Russia and Ukraine. The Constitution of the RSFSR specified that for the borders of the republic to be changed, namely for the secession of part of republic's territory, it was necessary to provide an agreement of citizens of both the Russian Republic and Crimea, which in the mentioned case failed to be fulfilled.

The city of Sevastopol had similar *de iure* faith, although since its foundation in 1784 it had been under the direct competence of the Russian Emperor, i.e. Russian Republic and at the same time, it was the headquarters of the Russian Black Sea Fleet. All that, including the fact that Crimea and Sevastopol were populated by the predominantly Russian population, which was naturally oriented towards the cultural and national values of the mother country, Russia, was not an obstacle for them to become *de facto* a constituent part of the independent Republic of Ukraine. Nevertheless, given its geostrategic position and the fact that the one who controls Crimea also controls both the Black Sea and the Caspian region, the influence of Moscow on the status of Sevastopol was predominant in the last two and a half centuries.

Therefore, the internal social contradictions are a consequence of heterogeneity of the Ukrainian regions on the ethical, religious, political and cultural level, but also on the level of economic development. The Eastern Ukrainian regions represent industrial and raw material resources of the country, whereas the prosperity of the south is traditionally based on potentials for natural and relaxation tourism. Those regions are economic potentials of the country and they *de facto* feed the rest of the Ukraine, so its possible secession would signify the cessation of donations to the poor western regions. Consequently, the political domination of the country's western regions and "Euro-Atlantists" exponentially strengthens secessionist ambitions of the "pro-Russian" east building instability and realistically making the division of the country a certain option.

The mentioned internal opposites are enough by themselves to cause a social crisis in an unstable, poor Ukraine shaken by transition. To what extent was the

⁶ The Supreme Soviet made a decision on the transfer of Crimea at the suggestion of USSR General Secretary of CP Nikita Khrushchev (a Ukrainian functionary) with the aim of celebrating the 300th anniversary of Eastern Ukraine's unification with the Russian Empire.

Ukrainian conflict accelerated by the international subjects from the east and the west of the country with their activities?

GEOSTRATEGIC INTERESTS OF THE USA AND RUSSIA

Situated in Eastern Europe Ukraine has a favourable geographical position and the territory of 603,700 km² (before the secession of Crimea and Sevastopol) inhabited by just under 50 million people.

Ukraine borders Moldova, Romania, Hungary, Slovakia and Poland in the west, Belarus in the north and Russia in the northeast, east and southeast. Ukraine has the access to the Black Sea and the Sea of Azov as well as the Danube's estuary (Petrović, 2012).

Considering that fact that it gained its independence after the breakup of the USSR in 1992 as a member of the Commonwealth of Independent States together with other former Soviet republics, Ukraine, too, was under dominant political, economic and even security influence of the Russian Federation. The reason for this lies in the complementarity of economies, energy dependence on Russia, co-dependence of infrastructure, common cultural and linguistic heritage, historical bonds, single ethnic origin... and, of course, geostrategic-security concept inherited from the period of the Cold War. Theorists of geopolitics consider Ukraine to be a geopolitical centre of the Eurasian region.

As far back as the 19th century, the unifier and the first chancellor of Germany Otto von Bismarck stated: "Russia's strength can be undermined only if Ukraine is separated. The ones who want to do this, not only do they have to separate them, but they have to confront Ukraine with Russia, make two parts of one people into bitter enemies and watch as a brother kills a brother. In order to achieve this it is necessary to find and raise traitors among the national elite and with their help change self-possession of a great nation to such an extent that they hate all that is Russian, that they hate their lineage without even being aware of it. Time will do the rest" (Pravda, 2014).

The roots of this statement are certainly to be sought in the history of the Middle Ages and expansionist politics of catholic Lithuania and Poland which had occupied the south-eastern Russian lands and "produced" Galician Uniats as well as the "Ukrainian" orientation to the national corpus of the Russian nation. These realities, of course, have been taken over by the creators of the USA contemporary geopolitics, too.

Ukraine, nonetheless, a new, important space on the Eurasian chessboard, represents a geopolitical headquarters because its sole existence as an independent state helps Russia's transformation. Russia without Ukraine is not a European empire any more. Russia without Ukraine can still fight for an imperial status, but then, it would become mainly an Asian imperial country which would most likely be involved

in exhausting conflicts with nationally awakened inhabitants of Asia who would get revengeful for the loss of their recently gained independence and who would also get support from their friendly states in the south. China would also most probably oppose the restoration of the Russian dominance over Central Asia due to its increasingly strong interests in new independent countries in the region. However, if Moscow regained control over Ukraine with its 52 million people, vast resources as well as the access to the Black Sea, it would automatically regain all the necessary means to become a great imperial power connecting Europe and Asia. The loss of Ukraine's independence would have direct consequences on central Europe, which would turn Poland into geopolitical headquarters on the eastern border of united Europe (Bžežinski, 2001, p. 7).

The Russian domination over the post-Soviet region is, therefore, the basis of the national security strategy of the country which is defined by the Concept of National Security from 1993, altered and amended by the decree of the Russian Federation President in 2000. The Concept and Military Doctrine of the Russian Federation, also from 2000, defined basic issues of national security and the most important directions of the state policy. In the documents specified, Russia is defined as a Eurasian country whose interests are in Europe, central Asia, Transcaucasia, the Asia-Pacific region and the Near East; jeopardizing these interests as well as weakening integration processes in the Commonwealth of Independent States is a threat to its national security.

The Concept of National Security was declared null and void in 2010 by passing the Strategy of National Security of the Russian Federation.

According to the Strategy, the determining factor in Russia's relations with the NATO remains non-acceptance of the alliance's military infrastructure expansion towards the Russian borders, which together with the attempt of assigning a global function to the NATO represents a violation of international law. The emphasis is placed on the fact that the development of global and regional stability is essentially endangered in the case of deployment of elements of the US Global Missile Defence System in Europe. ...Russia's National Security Strategy states that, in the long-term perspective, special attention of international politics "will be concentrated on taking control over sources of energy resources", specifically in the Near East, in the region of the Barents Sea and other regions of the Arctic, in the basin of the Caspian Sea and Central Asia (Perišić, 2010, p. 114).

In the last decade, foreign-policy declarations of leading Russian statesmen, especially President Putin,⁷ have proceeded from the basic principles of the National Security Strategy, which directly confronts global territorial pretensions of security

⁷ Thus, at the 42nd Conference on Security held in Munich in 2007, first President of the Russian Federation Vladimir Putin criticized building of a unipolar world order behind which were the United States as well as the NATO's global expansion and its aggressive military actions which were against international law.

operations of NATO, the USA and the European Union, too, whose 22 states are at the same time members of the North Atlantic Treaty.

Namely, after the collapse of the USSR and the Warsaw Pact “instead of dissolving the NATO, the Treaty was promoted by a unilateral act, the Declaration of Peace and Cooperation, into ‘an agent of change’ in the post-Cold War period and it was assigned the key role in building a ‘new order’ in Europe” (Avramov and Kreća, 2008, p. 268).

Both foreign policy declarations of US representatives and NATO high administrative officials were, of course, in accordance with the interests of the Atlantists headed by the USA, although the interests of the leading EU member states (Germany and France) were frequently in disaccord with the global interests of the North Atlantic Treaty.

Responding to Putin’s address, Bush⁸ insisted on recognizing the unilaterally declared independence of Kosovo in February 2008 through the action plans for admitting Ukraine and Georgia to the NATO membership at the summit in Bucharest in April the same year – an initiative fiercely disputed by Germany and France; he also continued with the plans for deploying a global missile defence system in Poland and the Czech Republic (Lukyanov, 2009, p. 122).

The culmination of tensions in relations between the USA and Russia as well as with the EU was reached during the six-day war between Russia and Georgia in August 2008 and later Russia’s recognition of Abkhazia and South Ossetia’s independence. This conflict put the relations of the USA, Russia and Europe at the lowest level since the end of the Cold War (Jović Lazić, 2010, p. 312).

Such a reaction by the Russian Federation was unimaginable in the last decade of the 20th century as after the dissolution of the USSR the disintegration was transferred to Russia which in an uncontrolled course of the society and economy transition started to undermine both the foundations of the state and national identity of the country. Economic and financial consolidation of the Russian Federation in the first years of the third millennium strengthened the national identity and international positions of the country accordingly, indicating the return to the global political scene.

Nevertheless, the conflict between Russia and Georgia revealed Russia’s readiness to employ military resources if it estimates that the country’s vital security interests in the neighbourhood are jeopardized (Huterer, 2010, p. 5).

The end of the Cold War obviously initiated an era of unipolar dominance of the USA and the development of the new world order whose protection was based on military force of the North Atlantic Treaty, which not infrequently operate out

⁸ President of the USA George W. Bush, the 43rd president of the United States of America who was the head of state for two mandates since 2001 until 2009.

of a framework of law and contrary to international law. A typical example is the NATO's illegitimate and illegal armed intervention in the Federal Republic of Yugoslavia in 1999. "It violated international principles stipulated far back in the Treaty of Westphalia referring to non-interference in internal issues of sovereign countries. The North Atlantic Treaty's aggression on the FR of Yugoslavia was merely a folding screen for achieving the USA's foreign policy goals" (Avramović, 2009, p. 1023). Kosovo's "precedent" was justified as a "humanitarian intervention" and not the doctrine of interventionism of naked military force against a sovereign country, which in reality it was.

With these events the era of inconsistencies in international law started and it was dictated by global interventionism. Exporting democracy by dictating cultural and civilization matrices in accordance with one's own criteria and interests was continued by bringing order to Afghanistan (2001), Iraq (2003), Libya (2011), Venezuela, Syria, Ukraine... This led to a selective and interests-determined interpretation of international legal norms and creation of the policy of double standards which lead to disintegration of the international legal order (Avramović and Alavuk, 2014, p. 215).

Encouraged by this precedent, in August 2008 Russia acknowledged the independence of South Ossetia and Abkhazia, the regions with mainly Russian population which separated from Georgia in 1990 and 1992 respectively, with the political and military support of the great power mentioned above. Russia also supported Transdniestria which seceded from Moldova in 1992 accepting stationing of 1,500 Russian soldiers. (Ivošević, 2014)

Let us also mention that Kosovo declared its independence in 2008, while under the protectorate of the United Nations the act that has been recognized *de iure* by 100 countries in the world up to date; this has additionally shaken the foundations of international law. This mostly extorted practice is returning as a boomerang to its original "creators" through territorial metamorphosis and reshaping of borders on the European continent, of which the most recent example is Ukraine.

DEMONSTRATIONS AND CRIMEA SECESSION

Internal contradictions in Ukraine, corruption and deterioration of the standard of living escalated in demonstrations of Eurofanatics in Kiev as a reaction to President Viktor Yanukovich's decision to decline the European Union Association Agreement and renew talks about concluding agreement with Russia on the membership in the Union State and Eurasian Economic Union.⁹

⁹ The European Union offered Ukraine membership in the said international organization and its help with maintaining its weary economy and jeopardized social standard of citizens. On the other hand, the Russian Federation offered it favourable credits that amounted to 15 billion euros and gas delivery for a price three times lower than for other buyers.

The seed of the “Orange Revolution” from 2004 sprouted again and Ukrainian Euro-Atlantists immediately received an open international support from the USA and the EU, so the radicalization of protests followed dictated by the political demands and an open anti-Russian attitude. Not accidentally at all, the moment of Maidan demonstrations coincided with the Winter Olympic Games which were being held at the time in Russian Sochi and was supposed to shade it. The instrumentalised protests of Euromaidanists were also favoured by both inadequate and inappropriate reaction of the official legitimate authorities of Ukraine, so extremists of the pro-fascist Right Sector¹⁰ led “democrats” in the occupation of public institutions including military barracks. The radicalization of the conflict resulted in the first victims on both sides and further aggravation of the conflict.

For a long time there was a lot of talk about the experiment of forced European integration tearing Ukraine apart. However, Euro-integrators got caught up in it quite a bit and brought Ukraine to the brink of war. Therefore, the question here is not whether Ukraine will be attacked anymore, but – how and at what cost (Leontjev, 2014).

To speak of the Western mentors being screenwriters of Maidan is also the fact that the Ukrainian leadership with Yanukovich at its head was not pro-Russian in its orientation, although they won the elections owing to the electorate from the east of the country. “Until that moment, the only pro-Russian moves of Yanukovich’s regime had been giving the Russian language the status of a “regional language” in 2012 and taking away the status of a hero from Ukrainian fascist Stepan Bandera (which was, indeed, required from Ukraine by Poland and Israel). Apart from this, Russia’s and Ukraine’s relations were tense, whereas on the economic and energy plan we can speak about an open sabotage of the Russian policy...” (Tanasić, 2014).

The government and the democratically elected president of Ukraine were brought down by the “democratic” opposition in a street overthrow against the legal procedure of impeachment; the Euromaidanian temporary authority abolishes the regional status to the Russian language considering it a foreign language, shortens broadcasts of the Russian television and radio stations and in some areas even cancels them. The reaction of the eastern pro-Russian regions of Ukraine to the violent pro-fascist methods of linguistic and cultural Ukrainization and physical harassment of the pro-Russian population was, at first, adopting the Declaration of Independence of Crimea, and subsequently, holding a referendum for the inhabitants of Crimea region as well as the city of Sevastopol, the secession and accession to the Russian Federation. The plebiscitary expression of self-determination of the Crimean population in March 2014 was not merely an answer to the current political situation, but a democratic expression of the people’s will

¹⁰ The Right Sector is an ultranationalist Ukrainian organization, right-oriented politically, which was especially radical in the “democratic” political unrest which started at Kiev Maidan.

and the correction of the administrative and legal decisions (state and status, it will later be showed) taken in the period of the common state – the Soviet Union.

The Declaration of Independence of the Republic of Crimea was not undoubtedly adopted against the provisions of Ukraine's Constitution, which does not provide for the possibility of secession of Crimea or any other region in Ukraine, or does it provide for the right of people, namely ethnic minorities, of self-determination. The act of secession by the Supreme Council of Crimea called upon international law and the current monistic understanding based on supremacy of international over national law as well as parts of single legal system. Namely, "it is illogical that a state within the borders of its country considers an international rule in which formulating it participated, to be null and void. Therefore, it is impossible to accept the thesis that a rule can be obligatory at the international scale and optional at the national scale or vice versa" (Avramov and Kreća, 2008, p. 45).

As one of legal successors of the USSR, Ukraine has inherited the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights from 1966 which regulate the right to self-determination in Article 1 in the identical way. "All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence" (The International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, 1966).

Thus, the right of the people to self-determination and secession, as a generally accepted principle of international law, takes primacy in application over national regulations. However, this principle is in disaccord with the principle of territorial integrity, namely the wholeness and sovereignty of internationally recognized countries, as one of the postulates of public international law established by the United Nations Charter.

The academic community does not have clear answers on this problematic issue on the right of the peoples to self-determination and secession as the most important segment in a range of collective human rights. Since there is no a broader international political consensus on this issue, there is also no system of clearly differentiated norms of international law by which this matter would be regulated. This legalistic deficit on the international level allows for different attitudes of states towards the use of the same collective human right which further offers possibilities to cause crises and political instability in the world (Veljković and Ambrož, 2010, p. 11)

The Kosovo Declaration of Independence is a classic example of creating a precedent in international law. The decision of self-proclaimed independence of

Kosovo is in opposition to the legal system of Serbia, but also with the Resolution 1244 of the United Nations Security Council, which confirms sovereignty and territorial integrity of the Federal Republic of Yugoslavia. All this, however, did not prevent Western countries led by the USA to recognize Kosovo's independence *de iure*, considering that Kosovo Albanians had a legitimate right to self-determination and secession. It is also a logical sequence of events preceded by the NATO's illegitimate and opposite to international law 78-day armed intervention against the Federal Republic of Yugoslavia¹¹ in 1999. In the West, the Kosovo precedent was justified as a "humanitarian intervention" and not the doctrine of interventionism of naked force against sovereignty, which in reality it was. The Kosovo precedent initiated the era of inconsistencies in international law dictated by global interventionism.

The secession and accession of Crimea and Sevastopol to Russia based on referendum, which the Kosovo precedent lacked, proceeds from the primacy of the right to self-determination and secession relative to the principle of sovereignty and territorial integrity. Western countries headed by the USA, however, do not recognize the results of the referendum and consider Crimea to be annexed by the Russian Federation against international law, while Russian officials accept the international legal arguments based on the Kosovo case confirmed by the Advisory Opinion of the United Nations International Court of Justice.¹² All of the events mentioned above have been followed by an unseen media war whose task is to satanize the opposite side of the Ukrainian conflict. Western media broadcasters lead the way representing the Russian Federation like in the cold war times, "the Empire of Evil" and the main culprit for the conflict.

DONETSK, LUHANSK...

After the coup d'état which was a consequence of the Euromaidan street protests, the interim pro-Western "democratic" authorities tried to make up for the lack of democratic legitimacy by holding the presidential elections. Nonetheless, the election of the pro-West candidate, Ukrainian tycoon Petro Poroshenko, did not diminish social tensions but led to a turn in foreign policy towards the European Union and the NATO and imposed radical measures against supporters of federation in the eastern regions. The Ukrainian conflict deepened and inhabitants

¹¹ In the aerial attacks of the NATO on the Federal Republic of Yugoslavia in 1999 the aviation of Germany also participated, which was not only contrary to international law, but against the German Constitution as well.

¹² At the request of the United Nations General Assembly filed at Serbia's initiative on the occasion of the ethnically motivated decision of the Kosovo Albanians to declare independence and Kosovo's secession in July 2010, the United Nations International Court of Justice gave the opinion by which it claimed that the Declaration of Independence of Kosovo Albanians not contrary to international law.

of the Donetsk and Luhansk regions voted for their independence through the referendums and declared their people's republics.

The Russian Federation recognized the results of the referendums but did not annex the self-proclaimed republics like as it was the case with Crimea and Sevastopol advocating dialogues between the pro-Western authorities in Kiev and representatives of the self-proclaimed republics Donetsk and Luhansk. Russia sees the solution to the Ukrainian crisis in the federalization of the country, military neutrality of Ukraine and more rights for the pro-Russian population in the eastern regions in conformity with international law as well as a new round of elections organized by legitimate, currently overthrown president Yanukovich.

The dialogue between the warring parties is non-existent, but the military conflicts have turned into a real war, or as Western media and the "official" Kiev put it – into an anti-terrorist purge directed against pro-Russian separatists. Western countries are unanimous in not acknowledging the referendums in Crimea, Donetsk and Luhansk, while Russia is accused of provoking and helping "separatists" from the east of Ukraine, so they have unilaterally imposed economic sanctions on them. Considering the current chronology of events, it is very unlikely that any of the Russian suggestions for solving the crisis, which Russia neither provoked nor needs, will be accepted. Moreover, the intensification of the military conflicts, the economic sanctions and a chill in diplomatic relations implies a restoration of the cold war tensions. The division of Ukraine and annexation of the eastern regions to the Russian Federation based on the Crimean model could be a Russian Pyrrhic victory meaning the loss of the rest of Ukraine, now as a good neighbour as well as a brotherly region which was a part of the mutual country for over three centuries.

CONCLUSION

The Russian foreign policy is obviously not expansionistic in its character as the media in the West satanize it, but it is evident that the interests of the Russian Federation threatened by the NATO's expansions towards the east will dictate its future moves. The time before us will show whether the politics of double standards promoted by the USA, NATO as well as most member countries of the European Union will return as a boomerang through the implications of referendums in Catalonia in Spain, Scotland in Great Britain, Venice in Italy... Additionally, it will reveal whether the international world order in the 21st century will stick to the matrix of global expansionism in which the current geostrategic, political, economic or some other reasons will dictate and create legal precedents based on the interests of the stronger. Namely, all political and military tensions straining and a possible accession of Ukraine to the North Atlantic Alliance with the current balance in opposition will undoubtedly lead to a new cold war. The military conflict of the opposing sides is just deepening the division between the east and the west of

Ukraine and at the same time between Ukraine and Russia as well as between Russia, the USA and Euro-Atlantists; hence, establishing peace and a national consensus within Ukraine is in the interest of all and especially of the Ukrainian people who are the only really defeated in the civil war. The consensus that should be reached will have to be recognized by both the unipolar hegemon USA with the NATO members and Russia. Otherwise, Ukraine will remain a constant hotspot of potential conflicts.

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Nenad AVRAMOVIĆ
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UKRAJINSKI KONFLIKT – IZMEĐU GEOPOLITIKE I MEĐUNARODNOG PRAVA

Apstrakt: Etničke, verske, političke i ekonomske protivrečnosti gomilane godinama pokrenute su sticanjem nezavisnosti Ukrajine, a dodatno ubrzane tranzicionim raslojavanjem društva i ekonomskom krizom. Sa druge strane, Ukrajina se u geostrateškom smislu smatra centrom evroazijskog prostora, pa je njena vojna neutralnost uslov nacionalne bezbednosti Rusije. Autori u radu analiziraju unutrašnje kontraverze podeljene Ukrajine i katalitički doprinos zaoštavanju sukoba evroatlantskih država Zapada na čelu sa Sjedinjenim Državama, EU i NATO i težnji Rusije da očuva geostratešku suprematiju i kao uslov nacionalne bezbednosti. Unutrašnje suprotnosti eskalirale su najpre demonstracijama, pa državnim prevratom evroatlantista, koji su uskraćivanjem prava proruskom stanovništvu, izazvali revolt, stanovništva na industrijskom istoku zemlje. Usledio je referendum o nezavisnosti i otcpljenje Krima, po Kosovskom presedanu, pa prisajedinjenje Rusiji, a potom i proglašenje Donjecke i Luganske narodne republike. Ne priznajući pravo naroda na samopredeljenje privremeni režim u Kijevu, podržan od velike većine zapadnih zemalja, pokrenuo je vojnu akciju i praktično proizveo građanski rat u zemlji.

Međunarodno-pravni argumenti proruskog Istoka svode se na obezbeđenje kolektivnog prava naroda na samoopredeljenje, potvrđenog praksom i Međunarodnog suda pravde Ujedinjenih nacija, a proatlantsičkog Zapada na načelo suverenosti i teritorijalnog integriteta zemlje. Istovremeno, svaki događaj se koristi za medijske manipulacije, posebno od strane medija zapadnih zemalja, a sa ciljem uspostavljanja geostrateške prevlasti nad ukrajinskim prostorom. Politička zaoštavanja i eventualno priključenje Ukrajine NATO paktu, nema sumnje, vode, pri sadašnjem odnosu snaga, novom Hladnom ratu.

„Rad predstavlja kratku analizu Ukrajinske krize, koja kroz istorijski pristup treba da predstavi njene uzroke, a kroz sukob geostrateških interesa suprotstavljenih strana, njene moguće posledice. Uzročno-posledična analiza upotpunjena je jurisprudencijom međunarodnom praksom, koja pokazuje svu relativnost međunarodnog pravnog poretka i njegovu uslovljenost političkim interesima moćnih.“

Ključne reči: ukrajinska kriza, geopolitika, nacionalna bezbednost, pravo na samoopredeljenje, protivrečnosti, evromajdanovci, međunarodno pravo.

Received: 17.6.2014.

Revised: 20.8.2014.

Accepted: 25.9.2014.

UDC: 341.61(510+520)
Biblid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 21–36
Original Scientific Paper

THE DIAOYU/SENKAKU ISLANDS DISPUTE AND RELATIONS BETWEEN CHINA AND JAPAN

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Abstract: The Diaoyu/Senkaku Islands dispute occupies a very important place in Sino-Japanese relations. Some of the key factors behind the dispute include the geographical location of the islands (and their distance from Okinawa, Taiwan and mainland China) as well as energy riches in the adjacent seabed. The dispute has also a history stretching over more than a century – from the Treaty of Shimonoseki in 1895 to aftermath of World War II, to the 1969 discovery of energy riches on the seabed adjacent to the islands, the return of Okinawa to Japanese sovereignty and the rise of tensions within previous ten years.

This issue has retained top importance for both Chinese and Japanese authorities as well as capacity of worsening the relations between China and Japan. The strong nationalistic feelings in the Chinese (mainland China and Taiwan) and Japanese public opinion have occasionally exerted influence on decision-making in Beijing and Tokyo (more so in Japan than in China). Within previous ten years, the islands dispute has seen a number of attempts, bilateral and multilateral, at resolving and they have featured different level officials.

Provided that all sides involved have enough political will to resolve the dispute, it is possible to foresee potential negotiations and peaceful solution of the dispute, a solution supported by all major powers in the region. The potential negotiations will be difficult from their pre-negotiation phase and will stand chances of success only if the nationalistic elements on both sides are discouraged from using the issue for achieving political gains. In addition, broadening the existing channels of communication between two sides will improve their mutual understanding, vital to the overall improvement of relations.

Keywords: Diaoyu/Senkaku Islands dispute, energy, People's Republic of China, Japan, Sino-Japanese relations

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BACKGROUND OF THE DISPUTE

a) Geographical location and energy riches

The Diaoyu Islands (known in Japan as the Senkaku Islands), located in the East China Sea, consist of five islets and three rocks. All of them are uninhabited; one of the islands hosts an old lighthouse which is currently unmanned. Their area varies between 0.45 square kilometres and 4.32 square kilometres (Al Khalili, 2013). The nearest inhabited Japanese islands are 140km away, Taiwan (or Republic of China) is 170km away, whereas mainland China (or People's Republic of China) is 300km away. They are claimed both by Japan and China; according to the Japanese administrative division, they belong to the Ishigaka Municipality of Okinawa Prefecture, whereas according to the administrative division of Taiwan (also accepted in mainland China) they belong to the Toucheng Township of Yilan County. Official Japan denies the existence of this dispute dismissing any other sovereignty claims and names of these islands (Japan Times, 2011).

The 1969 geological survey made by the United Nations Economic Commission for Asia and the Far East (ECAFE) identified potential oil and gas reserves in the adjacent seabed. According to the estimates made by the Chinese authorities, the quantity of gas that could potentially be found amounts to up to 250 trillion cubic feet (around 7 trillion cubic metres); on the other hand, the estimates made by US experts have stood at 1-2 trillion cubic feet (30-60 billion cubic metres) of natural gas (Basher, 2013). This quantity of gas might be a valuable contribution to further economic growth and development of the Chinese economy, but also to bolstering of economic growth and recovery of the Japanese economy after the 2008 economic crisis.

b) Evolution of the dispute

The Diaoyu (Senkaku) Islands, just like Taiwan, have been an integral part of China since ancient times. However, in pursuit of its imperial expansion in the late 19th century, Japan had waged war with China from 1894 to 1895, a war which is known as the First Sino-Japanese War. The war ended by signing of the Treaty of Shimonoseki in 1895; according to Article 2(b) of that treaty, Taiwan and all adjacent islands (Diaoyu/Senkaku Islands included) fell under the Japanese rule (Treaty of Shimonoseki, 1895). Taiwan and the islands remained under the Japanese rule until 1945.

In 1932, during the Japanese rule over the islands, four of the islands had been sold to a private person, a Japanese national named Tatsushiro Koga; this act has never been recognised by either the Republic of China or the People's Republic of China and it has remained valid only within the Japanese sovereignty claim over the

islands. The islands attracted little international attention in 1945, when Taiwan was returned to China and Okinawa was placed under the US control. The attractiveness of these islands increased significantly after the discovery of oil and natural gas sources in the adjacent seabed in 1969 (Basher, 2013). In 1971, Japan took over the control over Okinawa from the US and became increasingly devoted to defending its sovereignty over the disputed islands; the Chinese authorities (both in Beijing and Taipei) also became increasingly devoted to defending the Chinese sovereignty while simultaneously denouncing the Japanese sovereignty claim. At the same time, China and Japan normalised their relations in 1972; the normalisation treaty stipulated the postponing of the islands dispute resolution for the future.

In 1996, both China and Japan had become parties to the 1982 United Nations Convention of the Law of the Sea. Japan ratified the Convention in June 1996; after that, Japan adopted the Territorial Sea and the Contiguous Zone Act as well as the Exclusive Economic Zone and Continental Shelf Act, both of which were supplemented by the procedure for implementation. It also established an exclusive economic zone around the disputed Diaoyu/Senkaku Islands. China also ratified the Convention in 1996; in the ratification declaration, China reiterated its sovereignty over the territories listed in its 1992 Territorial Waters and their Contiguous Areas Act (with particular reference to the Diaoyu/Senkaku Islands) (Dimitrijevic, 2012, p. 69). At the same time, China determined the precise location of straight baselines (lines that connect base points on the coast and the outermost coastal islands) in order to demarcate the territorial sea and the contiguous zone. These baselines were discarded by the Japanese Government.

During the most recent period of the dispute it is not difficult to notice a pattern of developments. One of the countries claiming the islands as their territory allows exploitation of energy resources to national or foreign energy companies. The representatives of these companies arrive at the location designated for resource exploitation, but exploitation of these resources is halted or aborted after the other claiming country sends patrol boats (or in case of escalation, battleships and fighter jets) in support of its sovereignty claims.

One of the disputed oil and gas fields, Chunxiao (known in Japanese as Shirakaba), was chosen as a site for extraction of moderate quantities of oil and gas by companies the Royal Dutch Shell and Unocal (with the permission from the Chinese government) in 2003. The two companies withdrew from the extraction process after the protests from the Japanese government (Howell, 2012, p. 203). In 2005, Japan authorised one of its oil companies to start the exploration; the operation was aborted after the Chinese Navy sent battleships into the area. In 2008, the collision occurred between the Taiwanese fishing boat *Lian Ho* and the Japanese frigate *Kashiki*, after which the Taiwanese ship was sunk and the captain was arrested by the Japanese (China Post, 2008). The captain was released after the protests in Taipei and the negotiations between Taipei authorities and the Japanese. In addition,

after the investigation ascertained that the Japanese frigate caused the collision, Japan agreed to pay 311 thousand US dollars in compensation (Takahashi, 2010).

The year 2010 was also marked by an incident. The Japanese patrol boat *Yonakumi* ordered a Chinese fishing boat to end fishing operations in the disputed waters; the Chinese fishing boat then hit the stern of *Yonakumi* and collided with another Japanese patrol boat, *Mizuki*. Then followed the Japanese pursuit after the Chinese boat, after which 22 Japanese sailors went on board of that boat and her captain was arrested (Wallace, 2010). This led to an exchange of protest notes between China and Japan (Agence France Presse, 2010). Soon afterwards, ministerial-level contacts between China and Japan were suspended, in addition to several thousand Chinese tourists cancelling their trips to Japan. The Chinese captain was released, but Japanese cities saw the outburst of protests because of this decision and the public impression was that Japan was weak and unable to withstand pressures from abroad. Then Prime Minister of Japan Naoto Kan also suffered consequences when the public support for his administration dropped to 50% (Nishikawa, 2010). This incident probably influenced the plans (formulated during the US President Barack Obama's visit to Japan in 2010) for a joint naval exercise between the US and Japanese naval forces (a simulation of the so-called liberation of the disputed islands soon after the alleged Chinese invasion) (Hsu, 2010).

Even in 2011, the tensions were high. During that year, a Taiwanese fishing boat adjacent to the disputed islands encountered four Japanese patrol boats, which established a blockade around the Taiwanese boat. It was released only after Taipei authorities had sent five patrol boats in order to break through the Japanese blockade (CNA, 2011). The Chinese and Japanese governments expressed hope to continue the negotiations, even though the enthusiasm for negotiations had experienced a decline after the Japanese fishing boats entered the disputed waters in order to do fishing (one of these ships was property of a senior official of the Japanese conservatives). At the same time when Japanese fishing boats entered the disputed waters, Japanese foreign minister Takeaki Matsumoto was visiting Beijing (Sun, Liu, 2011).

In January 2012, four members of the Assembly of Ishigaka Municipality, part of the Okinawa Prefecture, landed on one of the disputed islands. According to the Japanese administrative division, the Diaoyu (or Senkaku) Islands belong to the Ishigaka Municipality; however, Tokyo authorities advice the population to stay away from these islands in order not to provoke reactions from the Chinese authorities and to seek permission from the Japanese government if they intend to visit them. In a similar way, a group of Chinese activists from Hong Kong intended to land on the islands, but they were prevented by the Chinese coast guard (Japan Times, 2012).

However, one of the most serious threats to Sino-Japanese relations since their normalisation in 1972 happened in September of 2012. In the 1970s, within the

Japanese legal system four of the disputed islands formerly owned by Tatsushiro Koga changed their owners – the new owners became Kunioki Kurihara and his sister. The Japanese Government was renting three of them for some time until September 2012, when it decided to buy them from the Kurihara family. The fourth island, as of 2013, remained rented by the Japanese Ministry of Defence; the US Air Force was using it as a practice bombing range for aircraft until 1978 (Al Khalili, 2013). In 2012, Shintaro Ishihara, then Governor of Tokyo, announced intention to buy the islands from the Kurihara family in order to develop them and strengthen the Japanese control over them. In an attempt to prevent the expected outrage from the Chinese side and damage to the Japanese interests in China, the Japanese government paid almost 30 million US dollars to Kunioki Kurihara for three of the islands, thus nationalising them (Perlez, 2012). The reaction from the Chinese side was still fierce. In addition to the expressions of condemnation and outrage by the Chinese officials, the Chinese authorities responded by dispatching a number of maritime law enforcement ships to the islands and the adjacent waters. Also during September, the public outrage of Chinese citizens resulted in massive anti-Japanese demonstrations, during which the Japanese embassy in Beijing was stoned and the Chinese offices of Honda, Toyota and Nissan decided to temporarily halt their operations. On 19 October 2012, the Chinese authorities held maritime exercise near the Zhoushan Island in the Zhejiang Province as a simulation of China's response to a collision between Chinese government ships and other countries' law enforcement vessels. This exercise included PLA Navy ships (charged with protection and medical aid) as well as government ships (charged with search and rescue operations) (Fravel, 2012). The message conveyed to the Japanese authorities by this exercise was China's determination to defend its sovereignty and maritime interests, especially concerning the islands dispute; in addition, the escalation of the dispute would be imminent if the potential incident involved a Chinese government ship (especially a PLA Navy vessel).

In November 2013, the Chinese authorities established the Air Defence Identification Zone in the East China Sea, a zone that also included the airspace of the Diaoyu (Senkaku) Islands. Its purpose was stated to be a timely identification, monitoring, control and reaction to aircraft entering the area due to potential air threats (Ministry of Defence of the People's Republic of China, 2013). The Chinese government's aim was said to be safeguarding the state sovereignty, territorial land and air security and maintaining flight order in line with the UN Charter and other international laws and customs. A statement by Yang Yujun, spokesman of the Ministry of Defence, revealed the concern of the Chinese Government about the fact that the easternmost point of the Zone was so close to China that a combat aircraft could soon reach China's territorial airspace from the point; air security and sufficient early-warning time for responsive measures influenced the Chinese

authorities' decision to identify aircraft flying through the area, to assess their intentions and examine their identities. Mr Yang made an indirect reference to the Japanese Air Defence Identification Zone, established in 1969; the shortest distance from the Japanese zone to the Chinese mainland is also 130 km. Finally, Mr Yang's statement offered reassurance to the international air liners as their flights would not be affected in any way by the zone.

This decision was met with protests from Chinese maritime neighbours and some major powers. Japanese Prime Minister Shinzo Abe expressed serious Japanese concerns over the air defence identification zone set up by China in the East China Sea (Xinhua, 2013). Particularly unacceptable to the Japanese Government was the inclusion of the disputed islands into the zone. Japan warned that the zone would trigger more unpredictable events in the region. In response to the Japanese side, the Chinese authorities discarded Japan's criticism as baseless (as the zone respects international law and does not disturb the freedom of flight) asserting that Japan should stop hampering China's territorial sovereignty, which stretched over the islands. On the other hand, US Air Force dispatched B52 bomber in the region, although it did submit data on its route to the Chinese authorities.

THE POSITION OF THE DISPUTE IN SINO-JAPANESE RELATIONS

Chinese relations with Japan represent an example of relations where it is possible to have very fruitful cooperation in one field, but at the same time to have rivalry and bitter competition in other fields. Their mutual annual trade volume and investment exchange is a good example of successful economic cooperation as it is measurable in hundreds of billions of US dollars. However, the history of their relations saw both periods of cooperation and influence (China was a major source of influence over Japan) and periods of contest and even two wars (a major source of distrust in China towards Japan stems out of Japan's militaristic posture between the Treaty of Shimonoseki and 1945 and countless crimes against the Chinese population to which justice has never been done). While the Chinese leadership and public opinion seeks amends from the Japanese leaders, the Japanese political elites see powerful China as a threat and rely on the protection from the USA. In addition, Japan has not restrained itself from interfering in internal affairs of China by occasionally preferring deals with Taipei authorities rather than with Beijing.

Japanese nationalism and anti-Chinese sentiment in Japan

Toru Horiuchi has noted the existence of different definitions of nationalism. The definition of nationalism of his choice and also the definition which is most widespread in the media includes right-leaning actions or policies in support of a

diplomatically assertive and militarily strong state (Horiuchi, 2014, p. 26). He has further noted three major reasons behind the greater attractiveness of nationalistic viewpoints in the Japanese public opinion distinguishing them as the following:

1. On-going economic downturn starting in the 1990s (matched with the declining influence in the international community) – it is Horiuchi's belief that a number of Japanese individuals still believes in the Japanese superiority over the rest of Asian nations.
2. The dramatic rise of China and the relative decline of Japan – according to Horiuchi's assessment, China's impressive economic growth and rapid military modernisation have raised concerns in the Japanese public opinion; due to the perceived rivalry and competition with China, an increasing number of Japanese citizens believes in necessity of Japanese regaining power in order to match the Chinese power.
3. North Korea's nuclear weapons programme – the Japanese aversion to nuclear weapons (originating from 1945 nuclear bombardment of Hiroshima and Nagasaki) is well known; still, Horiuchi has noted the strong concern and alert among Japanese citizens and political elites caused by the nuclear trials performed by North Korea. North Korea is thus, seen as an immediate threat to the Japanese national security, which should be kept at bay with strong defence capabilities (Horiuchi, 2014, p. 27).

Horiuchi has paid particular attention to the fact that more frequent nationalistic postures by Japanese citizens do not equal to advocating militarism in Japan. The pacifist views are still widespread among both the population and the political elites; Horiuchi has summed up the desires of the majority of Japanese nationalists as strengthening and national reinvigoration of Japan, the regaining of diplomatic and military influence in order to stand firm against the unfair foreign pressure and instilling of strong sense of pride into Japanese citizens (Horiuchi, 2014, p. 30).

As for the anti-Chinese sentiment among Japanese citizens, it is often caused by uncompromising positions taken by the Chinese leadership or by the Chinese public opinion which lead to concessions from the Japanese side. Horiuchi has listed some of the bilateral issues which have caused dissent among Japanese public, and they include:

- Apology for the role in World War II (seen by the Chinese as insufficient and insincere, but satisfactory in Japan);
- Visits by Japanese Prime Minister to Yasukuni Shrine (seen by the Chinese as a homage paid to war criminals, but as respect to the national history and tradition in Japan) (Horiuchi, 2014, p. 31);
- Incursions by People's Liberation Army Navy vessels into the Japanese waters;
- Frequent anti-Japanese demonstrations in Chinese cities (often including destruction of the Japanese property);

- China's opposition (both by the leadership and in public opinion) to Japan's bid for permanent seat in the United Nations Security Council;
- The Communist Party of China's "patriotic education", which aims at highlighting the Japanese atrocities during World War II and encourages negative posture towards Japanese interests;
- The Chinese response to the 2010 and 2012 events within the Diaoyu/Senkaku dispute (consisting of large-scale anti-Japanese demonstrations, suspending official exchanges, dispatching the People's Liberation Army Navy vessels into the disputed waters, etc.) (Horiuchi, 2014, p. 32).

Horiuchi has also paid attention to politicians who may benefit from high tensions in Sino-Japanese relations. By his assessment, the most important gains for such politicians (who would be marginalised due to their extremist approach if the relations were tension-free) are popularity, election votes and greater influence over the ruling elites; for this reason, they may decide to intentionally politicise the controversial bilateral issues (Horiuchi, 2014, p. 36). Horiuchi's example is Shintaro Ishihara, who was Governor of Tokyo until 2012; a famous nationalist and sponsor of many anti-Chinese initiatives, he was known for his uncompromising (occasionally even provocative) posture during the 2012 Diaoyu/Senkaku islands crisis. In his endeavours, Ishihara enjoyed massive public support (Horiuchi quotes an April 2012 poll by Yahoo! Japan, according to which public support to Ishihara's plan to purchase the disputed islands exceeded 90%) (Horiuchi, 2014, p. 37). The Japanese Prime Minister Yoshihiko Noda's decision to nationalise the disputed islands was a reaction to Ishihara's plans, with the purpose of preventing the enraging of the Chinese authorities and a likely armed clash. However, as the Chinese authorities discarded any change of the *status quo* of the islands (be it the purchase by a private person or nationalisation), The Noda's government decision led to a fierce response from the Chinese side and a new deterioration in Sino-Japanese relations (Horiuchi, 2014, p. 38).

Finally, Horiuchi has paid attention to the opposition to the nationalisation of the disputed islands. He has recognised the most vociferous opponents to the nationalisation and the high tension in relations with China among the business circles; one such individual was the chairman of Japan Federation of Economic Organisations, Yonekura Hiromasa (Horiuchi, 2014, p. 40). Another example is represented by the former Japanese Ambassador to China Niwa Uichiro, also a former President of Itochu Corporation; Uichiro was removed from the duty of Ambassador to China in December 2012 after condemning the nationalisation of the islands and criticising the Japanese public opinion for its predominantly anti-Chinese sentiments (Horiuchi, 2014, p. 41).

Chinese nationalism and anti-Japanese sentiment in China

A research done by Su-Jeong Kang offers insights into the sources of anti-Japanese sentiment among the Chinese citizens (Kang, 2013, p. 167). Kang referred to a number of Chinese public opinion polls, in which questions about Sino-Japanese relations were asked. Institute of Japanese Studies of the Chinese Academy of Social Sciences (CASS) had conducted such polls in 2002, 2004 and 2006, while another poll was a 2005 joint effort by Dong-A Ilbo (South Korea), Asahi Shimbun (Japan) and the Institute of Sociology of the Chinese Academy of Social Sciences. The surveys done by CASS's Institute of Japanese Studies showed that more than 50% of Chinese respondents felt distant from Japan; among the cited reasons, the predominant ones were historical in nature (due to the Japanese invasion and occupation of China during World War II, the Japanese lack of critical approach to it or a lack of credible apologies and amends on the Japanese side), while the contemporary security reasons (the US-Japanese military alliance) attracted much less attention (Kang, 2013, p. 167). As regards the survey done by Dong-A Ilbo, Asahi Shimbun and the CASS's Institute of Sociology, Kang paid attention to the questions, which included the Japanese Prime Minister's visit to Yasukuni Shrine and Japan's attempts to become a permanent member of the UN Security Council. Neither of these two topics received approval from the Chinese respondents, for majority (50%) of respondents condemned the visit to Yasukuni Shrine and opposed Japan's UN Security Council ambitions (Kang, 2013, p. 168).

Kang also paid attention to the articulation of the anti-Japanese public opinion and its mobilisation into protests describing them as limited by the official position of the Chinese Government; depending on its priorities, the Chinese Government permits public mobilisation or creates obstacles to it (Kang, 2013, p. 168). By Kang's conclusion, if the incumbent Chinese Government was keen on confirming its patriotic positions or the leadership had hard time reaching internal consensus about the relations with Japan, chances for broader outbursts of anti-Japanese sentiment would be greater. On the other hand, if cooperation and rapprochement with Japan or greater social stability stood at the top of the Chinese Government's interests, anti-Japanese demonstrations would be terminated by the security forces or channelled so as to prevent harm to the Japanese investments in China (Kang, 2013, p. 170).

POLITICAL IMPORTANCE OF THE DISPUTE

Pan Zhongqi dedicated attention to the political consequences the Diaoyu/Senkaku Islands dispute had left to both China and Japan. His argument was that there was a connection between the dispute and other similar disputes involving China and Japan as well as the domestic legitimacy of their political elites and their bilateral relations in general (Pan, 2007, p. 85). As Pan noted, both China and Japan were particularly cautious about the dispute resolution due to a potential

unfavourable precedent and unwanted influence to the other disputes – in China’s case it is the South China Sea dispute, while Japan faces two disputes, South Kuril Islands/ “Northern Territories” dispute and Dokdo/Takeshima Island dispute (Pan, 2007, p. 85).

Pan continued by highlighting the repercussions of the dispute for the domestic stability and legitimacy of the ruling political elites in both China and Japan. The dispute led to an increase in nationalism in both sides; the attempt at defending the sovereignty by one side was bound to result in outbursts of nationalism on the other side. Pan noticed the Japanese right-wing parties’ use of the dispute to criticise the incumbent government (while at the same time, the extreme nationalists resort to gestures which aggravated Japan’s relations with China); the incumbent the Japanese government had thus very little room for compromise. In China’s case, Pan pointed to a general proneness of the Chinese nationalist circles to attribute Japan’s actions regarding the islands to the Japanese militarism and aggression. On the other hand, the dispute potentially born linkage to the reunification with Taiwan – Pan’s idea was that Beijing validated its claim to the Diaoyu islands through its claim to Taiwan; if China was to soften its approach regarding the islands, the sovereignty claim over both the Diaoyu Islands and Taiwan would be put to risk (Pan, 2007, p. 86).

Pan concludes by noting the detrimental effect of the dispute to Sino-Japanese relations in general. Shelving of the differences would, by his belief, serve Chinese and Japanese interests in the best way. Because of its features, the dispute is capable of causing Sino-Japanese confrontations, but these confrontations may result from other controversial issues in Sino-Japanese relations (Pan, 2007, p. 87). As the islands dispute is very likely to escalate, the improvement of the overall bilateral relationship between China and Japan remains difficult.

ATTEMPTS AT RESOLVING THE DISPUTE

The negotiations between the two countries aimed at resolving the dispute started in 2004; however, they saw little success in the first three years due to high tensions. One of the attempts includes the June 2008 plan for development of a selected oil block near the Chunxiao/Shirakaba field (with Chinese companies already present and Japanese companies yet to join); another block, Longjin/Asunaro, was chosen for a joint development zone (Dimitrijević, 2012, p. 75). The 2008 plan also included a postponing of competing territorial demands. One of the suggestions made by the Japanese side included drawing a middle line; the shortcoming of this suggestion is that oil and gas located on one side of the line could be extracted through drills on the other side. Instead of accepting the suggested middle line, China suggested a demarcation line that went significantly more to the east of the islands. This suggestion would have provided another access to the open seas for the Chinese Navy (in addition to the Taiwan Strait), so it was not accepted by Japan.

An additional idea, aimed at decreasing the importance of energy factor in the dispute, included partial meeting of oil needs of China and Japan by coordinated purchase of oil from the Middle East. This idea had been discussed together with South Korea (under the auspices of South Korean Presidential Committee on Northeast Asia Cooperation Initiative). Another initiative for resolution came in late 2013 from Taiwanese President Ma Ying-Jeou when he called for discussion of joint development of seas around the islands and shelving the sovereignty issue (Wang, 2012). In addition to his support to the East China Sea Peace Initiative, in his speech he called for refraining from provocations, setting aside the differences, maintaining dialogue, observing international law and resolving the dispute through peaceful means. The East China Sea, as a region of peace and cooperation, should according to President Ma be the goal for all parties in the dispute, and discussions and work through the East China Sea Peace Initiative is a good way to achieve this goal.

At around the same time, Japan was deemed responsible for the tensions according to the statement made by Chinese Foreign Minister Wang Yi (Japan Times, 2013). Still, Foreign Minister Wang stressed the readiness of the Chinese side to have a dialogue with the Japanese authorities in order to find a solution for the dispute. However, the necessary precondition to holding of such talks would, according to his words, be the official recognition made by the Japanese authorities that such a dispute exists. It should be noted that this statement followed a series of Japanese Prime Minister Shinzo Abe's decisions (including a visit to Tokyo-based Yasukuni Shrine), which were seen by the authorities in Beijing as paying homage to World War II criminals and, as such, particularly irritating and infuriating. Recognising the existence of the dispute would be an extremely difficult decision for any Japanese government, but talks concerning the disputed islands (led on the highest level and with chances of yielding a solution) are otherwise not to be expected.

POTENTIAL NEGOTIATIONS AND PEACEFUL SOLUTION OF THE DISPUTE

The importance of a peaceful resolution of the Diaoyu/Senkaku Islands dispute becomes greater with an insight into the foreign policies and alliances of China and Japan and the prospects of other countries' involvement in the escalated conflict. The third Sino-Japanese war, which would break out at the beginning of the 21st century, would imminently involve the USA (due to the bilateral security treaty with Japan) and Russia (as China's neighbour and partner). The involvement of other East Asian countries into the conflict should not be excluded either. Finally, the potential loss of lives and destruction of the property would be debilitating to all the belligerents and their post-war development.

If the political elites of China and Japan are truly committed to a peaceful settlement of the dispute, they would also mind not using the dispute for daily

political needs and for collection of cheap political points through provocation. Also, energy resources adjacent to the islands should not be prioritised by either China or Japan as there are regions elsewhere in the world with far larger quantities of oil and natural gas available. A dispute settlement process would be very demanding for both sides and it would only give results and solutions if both sides are equally committed to a peaceful settlement.

One of the first steps in negotiations would involve the official recognition by the Japanese Government of the actual existence of the dispute. A preparation to the potential negotiations should include a joint Sino-Japanese expedition (or a series of expeditions) aimed at mapping the energy pockets and assessing (as accurate as possible) the quantities available; the expedition would in addition be bilingual (with Chinese and Japanese as working languages). The findings of these expeditions would be fed into the negotiations process. The guarantees for the implementation of a reached agreement could be provided by the USA due to its dominant position in the region (or a concert of powers that would include the USA). In the interest of peace, the US approach towards both China and Japan would have to be equally impartial.

According to Geoff R. Berridge, the author of the book “Diplomacy – Theory and Practice” and an expert in diplomatic negotiations, there are two approaches for reaching a detailed agreement; the agreement could be reached by using one of them or by combining them and this is influenced by circumstances and the negotiators’ styles.

1. The first approach includes targeting particular issues and reaching agreement; in this case, the most likely development is having an overview of the initial standing points of the negotiating sides and reaching a “fifty-fifty” agreement (an example given by professor Berridge is the withdrawal of military forces from Angola in 1988 – the solution reached included a 18-month withdrawal period, a middle solution between few months (as requested by South African Republic) and three to four years (as requested by the Government of Angola)) (Berridge, 2002).
2. Another approach includes an “exchange of points”, where each side must relinquish something in order to get something. One of the sides would get the majority (or even maximum) of its demands on one issue, but would have to agree with giving the other side the majority (or even maximum) of its demands to another issue. The best results are reached when each negotiator can get something which is more important to him than the things he has to give away (or, otherwise put, when gains outweigh the costs) (Berridge, 2002)

If the points made by professor Berridge were to be applied to potential negotiations aimed at resolving the Diaoyu (Senkaku) Islands dispute, two of the most important topics would include the division of islands and the division of

energy riches. The negotiators should accept that neither of them can receive all of the islands or all of the energy available. One of the outcomes would be influenced by the fact that Japan has far less available energy sources in its territory and in the adjacent territorial waters than China; it would allow Japan to extract most of the energy riches, but Japan would have to give most of the disputed islands to China. Another outcome would be based on the “fifty-fifty” approach to both division of the islands and energy issues. It would strive towards pulling the demarcation line so that both China and Japan get an equal number of islands under their sovereignty as well as at least approximately equal quantities of energy. Finally, the treaty would give an equal treatment to both of the existing names of the islands (Diaoyu and Senkaku). The equal treatment of the names should be given not only in China and Japan, but also within the international community.

CONCLUSION

The century-long history of the Diaoyu/Senkaku dispute is a symbol of ups and downs in Sino-Japanese relations throughout the 20th century. Although the islands and the adjacent seabed bear economic and energy significance, this significance must not be overstated; the historical events and perceived injustice or fear increase the attention paid to the dispute by citizens of both countries. The nationalistic forces in Japan may score politically through attempting to increase tensions and put forward maximalist claims (and they will certainly acquire support for such initiatives); however, as soon as they achieve sufficient electoral support to win the elections and form the government, they will face stiff resistance from the neighbouring countries and disapproval from the United States followed by the opposition from domestic business circles.

The resolution of the dispute, satisfactory to both sides, would remove the major source of turbulence in Sino-Japanese relations. However, confidence-building measures and bolstering of all sorts of exchange are a further step, vital to the long-term stabilisation and more predictable development of these relations. In addition, the peaceful resolution would increase stability in the region and push for a peaceful resolution of other territorial disputes involving China or Japan.

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Nikola JOKANOVIĆ

SPOR OKO OSTRVA DIAOJU/SENKAKU – REŠAVANJE ODNOSA IZMEĐU JAPAN A I KINE

Apstrakt: Spor oko ostrva Diaoju/Senkaku zauzima veoma značajno mesto u kinesko-japanskim odnosima. U neke od ključnih činilaca u sporu spadaju geografski položaj ostrva (sa geografskim rastojanjem između njih i Okinave, ostrva Tajvan i matičnog dela Kine), kao i energetska bogatstva u okolnim vodama. Ovaj spor takođe ima istoriju koja traje više od sto godina, počev od mirovnog sporazuma u Šimonosekiju iz 1895. godine, završetka Drugog svetskog rata 1945. godine, preko otkrića energenata u okolnim vodama (1969. godine) i povratka Okinave pod japanski suverenitet (1971. godine), pa do porasta napetosti u proteklih desetak godina.

Ovo pitanje je i dalje od vrhunskog značaja za kineske i japanske vlasti i propraćeno je mogućnošću za pogoršanje kinesko-japanskih odnosa. Izlivi nacionalizma u kineskom (kako na Tajvanu, tako i u matičnom delu Kine) i japanskom javnom mnenju su povremeno uticali na donošenje važnih političkih odluka u Peking i Tokiju (iako u većoj meri u Tokiju nego u Peking). U proteklih deset godina je bilo i nekoliko pokušaja (bilo bilateralnih ili multilateralnih) da se spor reši, i u njima su učestvovali zvaničnici na različitom nivou.

Pod uslovom da na svim stranama postoji dovoljno političke volje da se spor reši, moguće je predvideti potencijalne pregovore i mirno rešenje spora; ovo rešenje bi moralo da ima podršku svih velikih sila u regionu. Potencijalni pregovori bi još od faze pretpregovaranja bili veoma teški, i mogli bi da se završe uspešno samo ukoliko nacionalistički elementi u Kini i Japanu budu sprečeni u nameri da spor iskoriste za sticanje političkih poena. Pored toga, uspostavljanje novih i produbljivanje i proširivanje postojećih kanala komunikacije između kineskih i japanskih vlasti bi poboljšalo njihovo međusobno razumevanje, a što je od vitalnog značaja za poboljšanje kinesko-japanskih odnosa uopšte.

Ključne reči: Spor oko ostrva Diaoju/Senkaku, energija, Narodna Republika Kina, Japan, kinesko-japanski odnosi

Received: 21.5.2014.

Revised: 17.7.2014.

Accepted: 19.9.2014.

INTERNATIONAL SECURITY

UDC: 338.48:323.28

Biblid 0543-3657, 65 (2014)

Vol. LXV, No. 1155–1156, pp. 37–48

Original Scientific Paper

INTERNATIONAL TOURISM AND TERRORISM

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Abstract: During the first decade of the 21st century, terrorist attacks on international hotels and international tourist resorts all over the world got all shapes of a global threat. Those attacks were mostly conducted by militant terrorist groups of Islamic religious fundamentalists whose goals were usually politically motivated. Comparing to the previous decades, those attacks became not only more frequent but also all the more lethal. After the terrorist attacks of September 11, 2001, security of state institutions and diplomatic missions in the world increased, so terrorists reoriented the focus of their attention primarily on large international tourist facilities. The aim of this paper is to explore the characteristics of major terrorist attacks on large tourist facilities all over the world that occurred in the decade after the terrorist attacks of September 11, 2001 applying the theory of political terrorism. The paper starts from the hypothesis that tourist facilities are relatively easy and very vulnerable targets, because there are affluent movements of guests and a large number of employees. This hypothesis has been tested with the help of empirical research of the characteristics of 28 major terrorist attacks on tourist premises all over the world in the first decade of the 21st century. The research has shown that potential terrorists can easily infiltrate and smoothly perform observation, design modus operandi and in the end, attack with a small number of suicide operatives. Therefore, we conclude that measures of preventive crisis management in international hotels and international tourist resorts are of crucial importance for the safety of both guests and employees.

Key words: international tourism, terrorism, terrorist attacks, Islamic religious fundamentalism, preventive crisis management.

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INTRODUCTION

According to the research conducted by the global intelligence agency Stratfor (2009), the number of terrorist attacks on international hotels and tourist resorts increased considerably observing the period of eight years before, and eight years after the terrorist attacks on the Twin Towers in New York on September 11, 2001. In fact, compared to the eight-year period prior to the said tragic event, in the eight-year period after this event the terrorist attacks on international hotels and tourist resorts more than doubled. The statistics shows that in the eight years after the September 11, terrorist attacks were carried out against 62 hotels in 20 different countries, while in the period of eight years before the attack on the Twin Towers terrorists had conducted 30 attacks against hotels in 15 different countries (Stratfor, 2009, p. 12).

To understand the goals and means of terrorist attacks on international hotels and tourist resorts it is necessary to analyze their political and ideological background. The first part of the paper explains how the religious beliefs are misused as an instrument of international terrorism. The second part of the paper makes an attempt to delineate operative from strategic goals of terrorist attacks on international hotels and tourist resorts using the examples of deadliest terrorist attacks after the tragic events of September 11, 2001 in order to explain their political purposes. In the third part of the paper attention is paid to the importance of crisis management as a preventive tool against terrorist attacks on international hotels and tourist resorts.

MISUSE OF RELIGIOUS BELIEFS AS AN INSTRUMENT OF INTERNATIONAL TERRORISM

Explaining the characteristics of international terrorism is not possible without the conceptual definition of terrorism. In fact, terrorism is a highly political phenomenon that occurs with political intentions; it exists in the field of politics and it usually has a political goal. If there is no political motivation, the deadly attack cannot be regarded as a case of terrorism. Generally speaking, terrorism is a policy tool (Simeunović, 2009a, p. 33). As a rule, terrorism is a struggle against political power or one's politics with a view to establishing one's own. Because of their malignancy, fighters for their own political rights resort to terrorist acts very intensively because the political dimension of violence makes this phenomenon a public one. Therefore, violence is very important characteristic of modern terrorism. Violence is its permanent element causing a shock effect, the spectacular and the universal fear of the population, and people are aware that anyone, at any time, can become a victim (Jovašević, Rakić, 2007, p. 92).

Political violence expressed through a particular dimension of terrorism has political power. The power knows the rules, but respects only its own. Oppenheimer

defines power as *the ability to influence, restrict or punish*. Performing this kind of violence is certainly a manifestation of power, but can also be a manifestation of impotence. This leads us to the conclusion that a terrorist act may be a consequence of the lack of political authority or as defined by Mills, *the last form of expression of power* of a social group, which aims to ensure its own political dominance (Ljubojević, 2009, p. 310).

Ideologically, international terrorism is characterized by misuse of religious beliefs. In fact, if ideology is defined as a systematic set of political ideas, principles and social ideals which represent the views of some social group expressing its interests and needs, we get a really common social class, social stratum or religious orientation that can be abused at any time. Ideology can be presented in the form of learning or political doctrine and interpretation, in the form of politicized religious fundamentalism (Simeunović, 2009b, p. 22). The modern world is rich with teachings of religious fundamentalists (Jerotić, 2000, p.146)., If their preaching and missionary work are based on political grounds of spiritual power, theologians and religious scholars collect a huge ideological potential mobilizing thus the most extreme fundamentalists. Although in historiography fundamentalism has been observed in all religions, in the last two decades militancy and fundamentalism has been particularly present in the circles of Islamic believers. This is supported by the fact that Islam allows every believer to have a direct and own way of interpreting the Holy Book - Quran, sometimes putting form above substance. Therefore, *jihad - a holy war* Islamists linked to warfare under the divine leadership. They find justification for their attitudes in the Islamic religious literature which contains a complex discussion of the definitions of divinely approval of the war, permission for the confrontation with the enemy and military conflict.

The most radical fundamentalists and supporters of the terrorist organization Al-Qaeda provide special features to *Jihad* such as the contemporary ideology and the global terrorist network. Al-Qaeda fighters do not consider themselves religious apostasy but mostly wider the Muslim community, which is known as *salafi*. This term refers to those who follow the example of the companions of Prophet Muhammad, who called for a clear understanding of the Islamic religion, because they themselves directly learned it from the Prophet. The consequences of such thinking and actions are not only of religious but also of sociological nature, since the religion means a method of living and beliefs. In fact, with such a dichotomy between the spiritual and the materialistic view of the world, Islam offers a special form of belief in the obscurity of the universe. Condemning the wrongness of the earth, Quran (*Sura Baqara*, verse 156: *We are God's and to Him we return*) leads to the conclusion that everything that exists comes from Allah and all that is realized will get back to Allah.

Studying the Holy Book Islamic philosophers and theologians who belong to Aristotle's school explained the stages of descent and ascent of the man in the universe. The world that is free from quantity they called *the world of the intellect* –

Archangels and the world characterized by the quantity, *the natural world - physics*. In the space between these two worlds, Gnostics like Dawood Al-Kaiseria (1258 or 1261-1350) and Kutbudin Shirazi (d. 1311) established a special form based on the acknowledgment of God descending to the world of nature referring to God as in the text of the Holy Book, *the Creator of heaven, earth and everything on earth* (Nešić, 2012, p. 33). The same, only three centuries earlier, had said the Venerable Anthony the Great in his own words: *God manages all by the influence of his grace* (Božović, 2012, p. 28). However, there is a question of responsibility, in other words the role of the individual in the society. This philosophical view was established among the first by *Mu'tazilites*², proponents of Islamic rationalism, which is directly opposed to the orthodox understanding of faith. They found that the man's free will was unlimited, that he himself was the creator of his actions, because otherwise his responsibility to Allah would be absurd and unjust (Božović, 2010, p. 99). *Ash'ari* theology goes further and holds that the man has no choice when it comes to good and bad deeds taking the view that the attributes of God should be understood without question, never doubting them. In turn, paradise is promised to all Muslims in the Islamic community through a contract with God. However, only the individual can provide salvation for himself when it is decided as to whether his good deeds overcome bad ones. Only those Muslims who die for the faith unquestioningly find salvation (Božović et al, 2013).

OPERATIVE AND STRATEGIC GOALS OF MAJOR TERRORIST ATTACKS AGAINST INTERNATIONAL HOTELS AND TOURIST RESORTS

Terrorist attacks have their direct, operative goals which are almost in all cases politically motivated. The main direct operative goal is the attraction of global media attention through performing of attacks with a large number of civilian casualties. The proclaimed strategic political goals are destabilization of national and global political system and economic stability by killing VIPs, making large material damages, ruining tourist seasons and provoking fear of the local population in order to lower the threshold of human security.

For the explanation of operative and strategic goals of terrorist attacks on international hotels and tourist resorts, the major terrorist attacks that occurred from 2002 to 2011 are analyzed. The notion of *major terrorist attacks* against international hotels or tourist resorts means that in these actions there were more than 10 victims. According to the data of New York State Intelligence Center (2012), from 2002 to

² *Mu'tazilites* is referred to members of the moderate-rational school. They are treated as Islamic rationalists whose thinking originates from Baghdad caliphate at the end of the 7th century.

2011, there were 18 such attacks and all but one were carried out by radical Islamists associated with the core of the militant terrorist organization Al-Qaeda and its local offices in the Arabian Peninsula and the Islamic Maghreb. The support was usually given in the form of technical, financial and logistic help and the perpetrators were recruited from the part of the local population. Analysts believe that after September 11, 2001, security of state institutions, particularly the embassies and consulates has been raised to a much higher level forcing strategists and operatives of Al Qaeda to choose easier targets. Those are major international hotels, luxury ones, especially those with five or more stars. Militant Islamists find those hotels easily vulnerable and thus desirable as targets. Attacks against targets in this category enable terrorists who act with a small number of operatives and relatively modest logistic support to achieve a devastating, fatal effect. Terrorists usually choose to act in a particular moment, at the time of an international meeting on a high level organized in an international hotel when it is full of the highest-rank officials, diplomats, foreign journalists and businessmen. This kind of meetings is in the focus of particular international media attention and extremists who would carry out the attack are definitely provided with media exclusivity.

After the tragic events of September 11, 2001, the targets of all major terrorist attacks were civilians, concentrated in large numbers in international luxury hotels and tourist resorts. In 18 major terrorist attacks conducted from the beginning of 2002 to the end of 2011, there were 1,918 civilians killed or injured and 39 terrorists killed (Table 1). Civilians were easy targets because large hotels could be seen as small open cities. In these hotels, the activities are taking place constantly. The flow of guest is very vivid, they circulate constantly through premises; food, beverages and other hotel supplies are delivered daily, and for this reason the hotel staff may have several hundred employees. In the conditions of excessive movement of guests and a large number of employees, potential terrorists can easily infiltrate and smoothly perform observation, design *modus operandi* and in the end, attack with a small number of operatives.

The analyzed major terrorist attacks were to a large extent suicidal (Table 2). Almost all attacks were performed instantly as a surprise. In most cases, terrorists used improvised explosive devices (IED). Explosives were usually placed in a parked vehicle that was located directly in front of the hotel or in the hotel's garage. Often, the explosive was in the truck and used the by suicide driver alone to break the glass wall and penetrate into the hotel or with the suicide bomber who was wearing a vest full of explosives.

Strategic goals of terrorist attacks on international hotels and tourist resorts are going to be explained on the basis of the analysis of five deadliest attacks, which occurred after the tragic events of September 11, 2001 (New York State Intelligence Center, 2012, p. 12). The targets of these attacks were: Hotel Park in Netanya, Israel; Hotel Canal in Baghdad, Iraq; Hotel Hilton in the Egyptian resort of Taba; Hotel

*Table 1. Major terrorist attacks on international hotels and tourist resorts
2002–2011*

Time of attack	Targets	Terrorist group	Civilian casualties	Perpetrator Casualties
November 2002	Paradise Hotel (Kenya)	Political Office of Al-Qaeda Jihad Organization	93	3
March 2002	Park Hotel (Israel)	Hamas	162	1
August 2003	Canal Hotel (Iraq)	Al-Qaeda in Iraq	172	1
September 2003	Canal Hotel (Iraq)	Al-Qaeda in Iraq	15	1
August 2003	Jakarta JW Marriott (Indonesia)	Jamaah Islamiyah (connected to Al-Qaeda)	162	1
October 2004	Taba Hilton Hotel Moon Ireland Camp Badiah (Egypt)	Abdullah Azzam Brigades (connected to Al-Qaeda)	193	1
November 2005	Grand Hyatt Hotel Radisson SAS Days Inn (Jordan)	Al-Qaeda in Iraq	127	3
July 2005	Sharm el-Shiek (Egypt)	Abdullah Azzam Brigades (connected to Al-Qaeda)	217	3
January 2008	Serena Hotel (Afghanistan)	Taliban (connected to Al-Qaeda)	13	2
September 2008	Islamabad Marriott Hotel (Pakistan)	Tehrik-e-Taliban Pakistan (connected to Al-Qaeda)	319	1
November 2008	Taj Mahal, Trident/Oberoi Hotel (India)	Lashkar-e-Taiban (connected to Al-Qaeda)	82	5
June 2009	Pearl Continental Hotel (Pakistan)	Abdullah Azzam Shaheed (connected to Al-Qaeda)	63	3
July 2009	Jakarta Marriott & Ritz-Carlton (Indonesia)	Jamaah Islamiyah (connected to Al-Qaeda)	61	2
January 2010	Ishtar Sheraton Babylon Hotel Hamara Hotel (Iraq)	Islamic State of Iraq (connected to Al-Qaeda)	117	3
August 2010	Muna Hotel (Somalia)	Al-Shabaab (connected to Al-Qaeda)	32	1
June 2011	Inter-Continental Hotel (Afghanistan)	Haqqani Network (connected to Al-Qaeda)	22	9
August 2011	Bismillah Hotel (Pakistan)	Baloch Liberation Tiger	38	0
November 2011	Atilano Pension House (Philippines)	Philippines Group connected to Al-Qaeda	30	0

Table 2. Mode of 18 major terrorist attacks against international hotels and tourist resorts 2002–2011, per target, in percent

Vehicle based improvised explosive device (VBIED)	42%
Suicide bomber	21%
Suicide bomber/Small arms	13%
Vehicle based improvised explosive device (VBIED)/Small Arms	8%
Improvised explosive device (IED)	8%
Small arms	8%

Source: New York State Intelligence Center (2012)

Taj Mahal Palace and the Oberoi Trident Hotel in Mumbai, India; Hotel JP Marriott and Ritz Carlton Hotel in Jakarta, Indonesia. All those terrorist attacks were carried out by militant Islamic fundamentalist groups with clearly proclaimed political goals.

During Israel's Passover the Palestinian Islamist group Hamas conducted a major terrorist attack against Park Hotel, which was located in the center of the Israeli town of Netanya. The attack was performed on June 27, 2002, by the suicide bomber who entered freely into the dining room of the hotel. The bombing killed 30 people and 140 were injured. The strategist and planner of the attack was Abbas Al-Sayed. The political wing of Hamas, which claimed responsibility for the attack, said that the attack was directed against the Saudi peace initiative at the upcoming summit in Beirut.

Iraq's United Nations headquarters in Baghdad had been the target of a terrorist attack on August 19th, 2003. The suicide bomber driving a truck full of explosives plowed into the Canal Hotel where 22 people were killed and more than 100 people were injured. On this occasion, the UN special representative in Iraq, Sergio Vieira de Mello was killed. After three days, new terrorist actions followed. Almost in the same way, in front of the Canal Hotel in Baghdad a suicide driver detonated a car bomb that killed three people and wounded twelve. After these two related actions, 600 UN officials were withdrawn from Iraq. Responsibility for the attack has claimed by Al-Qaeda, which operates on the territory of Iraq.

The Hilton Hotel in the Egyptian resort of Taba had been the target of a terrorist attack on October 7, 2004. The attack was carried out by a suicide bomber driving a truck full of explosives. He stormed into the Hotel lobby and then activated an explosive device. On that occasion, 31 people died and 159 were injured. After a few days, two new terrorist bombings followed. One of the targets was the Resort Moon Ireland and the other was Camp Badiah. By performing these actions the

death toll rose to 35 people and the number of injured rose to 171. These actions were intended to destabilize the Egyptian Government, cause enormous property damage, ruin the tourist season and intimidate the local population.

During the period from September 26 to 29, 2008, more than ten coordinated terrorist attacks were conducted in Mumbai, India. Among the targets were two hotels, The Taj Mahal Palace with 450 people and Oberoi Trident Hotel with 380 people at the time of attack. The attacks were launched by throwing grenades through the dome of the hotels, after which eyewitnesses observed long thick smoke billowing from both hotels. Terrorists kept both hotels under siege for three days. During the siege, at the Taj Mahal Palace 50 people were killed and at the Oberoi Trident Hotel 32 people lost their lives. In addition to the above two hotels, which are located in the busiest part of the city, there were also attacked the bus terminal Chatrapati Shivaji, Café Leopold, Kama Hospital for Women, Children's Hospital and the Jewish-owned shopping center Narmin. The strategic goal of those deadly attacks of Islamist militant terrorist group Lashkar-e-Taiban from Pakistan, which claimed responsibility, was the political destabilization of India.

In Jakarta, Indonesia, on July 17, 2009, two synchronized terrorist attacks were carried out that killed 9 people, while 53 were injured. The targets were the hotels JP Marriott and Ritz Carlton. The attacks were carried out by two suicide bombers who had checked in as guests in the mentioned hotels a few days before the operation. The aim of the terrorist attacks of Jamaah Islamiyah militant group, which claimed responsibility for the attack, was destabilizing the political system of Indonesia after the presidential elections that had taken place a week earlier.

CALL FOR PREVENTIVE CRISIS MANAGEMENT IN INTERNATIONAL TOURISM

A global crisis of any kind disrupts social life and affects the political system (R. Milašinović and S. Milašinović, 2007, p. 55). Thus, crisis management in the case of a global crisis is a priority goal of the state authorities. Crisis management in the case of a terrorist attack on an international hotel or tourist resort can become a matter of life and death, not only for the attacked country but also for the region and the wider community in general (Kešetović, 2010, p. 240). In these circumstances, the responsible political elites must be interconnected to solve the extraordinary temptations (Glasser, 2003, p. 122). Their task is to monitor and control the operational aspects of crisis management, communicate with potential stakeholders, reveal the existing system errors, improve the system and establish a political climate for normal functioning of the community.

In the event of a terrorist attack on a tourist facility it is not easy to predict a crisis and it is even harder to adequately set up and operate under such circumstances. Management of such a crisis is often large and complex operation that requires the

engagement of a wide range of political, social and corporative organizations (Keković and Kešetović, 2006, p. 50). In such circumstances, mass media constantly examine and evaluate those responsible and their entire work (Santana, 2004, p. 305). Primarily, a constant and growing threat from terrorist attacks against international hotels and tourist resorts poses a serious challenge for the hotel industry (Masfeld and Pizam, 2006, p. 11). Besides the necessary protection of all guests, employees take preventive measures to protect themselves, where security is seen as a corporate legal obligation to strictly apply the prescribed penalties against those who do not adhere to the established rules. However, preventive crisis management in international hotels and tourist resorts is very difficult to pursue at least for two reasons. First, even in the case of the implementation of highest possible security measures, it is difficult to prevent terrorist attacks because international hotels and tourist resorts are open spaces and easy, vulnerable targets. Second, hotel management is often reluctant to implement increased security measures in the first place, because the extensive security measures are costly; then, permanent authentication of guests and their luggage disrupt their privacy and lower their satisfaction with hotel services.

Following a series of terrorist attacks against international hotels and tourist resorts which were carried out in the decade after the tragic events of September 11, 2001, and a large number of civilian casualties, the security of tourist industry in the world today should be given special attention. However, preventive crisis management is still left mostly to the corporate level of decision-making. Both national and transnational strategies of crisis management in this area are presented in too general terms. Plato says that *each community was created for the good and the State was created for the greatest good*. We conclude from this that the most responsible in the fight against international terrorism are the political elites. Their ability to react in the cases of emergency in a timely manner depends largely on the preventive measures undertaken before the crisis emerges. Political elites are expected to act with elasticity and flexibility because their task is the preservation of lives and well-being of society in general. Namely, if the impending threats are noticed in timely manner, assessed adequately and focused on properly, the potential danger can be overcome. However, if the responsible policy-makers incorrectly or untimely observe or ignore the threat or inadequately respond to it, they may cause devastating, fatal consequences.

But how to recognize a possible threat of a crisis caused by international terrorism in general and in tourist industry in particular? Characteristics of the crises caused by international terrorism cannot be defined in a uniform way with respect to the fact that in specific cases crisis events differ in content, duration, effects and particularities. However, all crises that occur as a result of terrorist attacks still have a number of points in common and that is also true for the crises caused by the attacks on tourist facilities.

By analyzing the characteristics of different crises, Arjen Boin (2010) recognized their three common attributes. These are threat, urgency and uncertainty. The *threat* arises when the system that provides uninterrupted citizens' lives becomes endangered. Personal safety, security, human freedom, health, universal society, equality and fairness become meaningless when faced with the onslaught of the disaster of huge proportions. The more people are vulnerable, the more is the meaning of social values less important and social crisis gains momentum. In this case, fear is widespread among the public. Fear affects both those who are directly and indirectly endangered. Those not directly endangered anxiously watch those who are affected and are fearful of potential growth of the current crisis. Knowledge of the impending crisis causes a sense of *urgency*. Serious threats do not necessarily represent the immediate problem, but no doubt that the postponement of duties and obligations of those who are responsible leads to complications. Time as a factor is particularly important to consider when the crisis is to be resolved at the operational level. Important decisions in which life and death play a crucial role usually have to be made very quickly and sometimes without necessary analyses. Realizing the threat is always accompanied by a high degree of *uncertainty*, particularly considering its consequences. The greater the uncertainty the more difficult and complex the decision is. The conditions for adequate fight against the threat become more and more unfavorable and the society falls in a deep crisis. Mastering the threats reduces uncertainty or at least reduces its consequences.

CONCLUSION

The processes of global character have invaded all aspects of society: social, economic, political, military, religious and even security. In these processes, the ruling elites are trying to overcome the crisis of the modern age and technology development. The difference between rich and poor has reached enormous proportions. In contrast, global security risks remain the same for both the rich and the poor. The terrorist attacks on international hotels and tourist resorts all over the world that have taken place in the decade after the tragic events of September 11, 2001 have shown that those attacks are the threat of global proportions to security of the population. However, preventive measures in the battle against this form of modern terrorism are primarily left to be designed and implemented by the corporate level of the tourism industry. At the national and global levels, there is yet a lot to be done to institutionalize the standards for preventive crisis management for the cases of terrorist attacks on tourist facilities.

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Ratko LJUBOJEVIĆ

MEĐUNARODNI TURIZAM I TERORIZAM

Apstrakt: Tokom prve decenije 21. veka, teroristički napadi na međunarodne hotele i poznata turistička mesta u svetu poprimili su sve karakteristike globalne pretnje. Ove napade su većinom izvele militantne terorističke grupe islamističkih religioznih fundamentalista čiji su ciljevi obično politički motivisani. U poređenju sa prethodnim decenijama, ovakvi napadi su ne samo bili češći već i smrtonosniji. Posle terorističkog napada, 11. septembra 2001. godine, pojačano je obezbeđenje državnih institucija i diplomatskih predstavništava u svetu, tako da su teroristi preusmerili pažnju prvenstveno na velike međunarodne turističke objekte. Cilj ovog rada je da se primenom teorije političkog terorizma istraže karakteristike velikih terorističkih napada na poznate turističke objekte širom sveta do kojih je došlo u deceniji posle napada od 11. septembra 2001. godine. U radu se polazi od hipoteze da su turistički objekti relativno lake i veoma ranjive mete zato što je protok gostiju jak i broj zaposlenih veliki. Ova hipoteza se dokazuje empirijskim istraživanjem karakteristika 28 velikih terorističkih napada na turističke objekte tokom prve decenije 21. veka. Istraživanje je pokazalo da potencijalni teroristi mogulako da se infiltriraju i bez problema naprave opservacije, dizajniraju modus operandi i, konačno, izvrše napad sa malim brojem operativaca samoubica. Zbog toga, u radu se zaključuje da je preventivni krizni menadžment u međunarodnim hotelima i poznatim turističkim mestima u svetu od krucijalnog značaja za bezbednost kako gostiju tako i zaposlenih.

Ključne reči: međunarodni turizam, terorizam, teroristički napadi, islamski religiozni fundamenalizam, preventivni krizni menadžment.

Received: 10.6.2014.

Revised: 25.8.2014.

Accepted: 23.9.2014.

EUROPEAN INTEGRATION

UDC: 327(4-672EU:662.2)
Bibliid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 49–66
Review Paper

EUROPEAN UNION'S SAHEL STRATEGY – CONTEXT, GUIDELINES AND IMPLEMENTATION

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Abstract: The paper aims to explain the European Union's Strategy for Security and Development in the Sahel, the context that it was brought in, its premise, limits and goals. It looks at the Strategy as a part of the Common Foreign and Security Policy institutional framework and at its position within the EU's overall involvement to the Sahel region. The paper uses the actor-specific (EU) approach in this attempt, bearing in mind the nature of the EU's foreign and security policy unique setup, its preference for exertion of normative power, focus on social development issues and problems with using military power. This strategy was developed in March 2011 under the pressure from worsening security situation in the Sahel region, specifically its western part, which developed from the local unrest as well as from the Arab Spring's spillover effect. It will be shown how over the next two years it became the main tool of the EU's engagement this also including the added CSDP missions and French military involvement. As the crisis worsened, bringing focus to the rebellion in northern Mali in January 2012, it required coordinated and evolved response not only from the EU but from national governments in Europe and ECOWAS (Economic Community of West African States) countries, which in turn, brought more complexity to the crisis response governance and coordination in this volatile region. While the acute crisis in the form of the armed rebellion has been quelled, it is expected that the European Union's expertise in institutional capacity building will be able to add some stability and overall social progress to the region.

Key words: Sahel, CSDP, EUTM Mali, EUCAP Sahel Niger, Operation Serval, MNLA, AQIM, Ansar Dine, MUJAO.

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INTRODUCTION

During the late 1990s the European Union made a shift towards further strengthening of its Common Foreign and Security Policy through the creation of the post of High Representative and establishing Helsinki Headline Goals for increasing its military capabilities. It also made steps towards a more comprehensive dialogue with Africa, politically represented by the Organization of African Unity. The first summit, held in Cairo in April 2000, was focused on security, regional cooperation and development issues with the EU putting stronger emphasis on the former and the OAU on the latter. It led to the creation of “New Partnership for Africa’s Development” program in July 2001 that gave various African governments more direct control over the use of the European Union’s development funds. Transformation of the OAU into the African Union in 2002 gave the new organization more leverage for international representation and thus, contributed to the overall dialogue capability with supranational organizations such as the EU.

In December 2005, the EU established its “Strategy for Africa” encompassing the issues that were present at the 2000 Cairo summit and newly found goals such as combating terrorism and dealing with migration. It also succeeded in achieving the previous and fragmented modes of cooperation, this actually including the 1998 Cotonou Agreement, Euro-Mediterranean Partnership Program that became a part of the current European Neighborhood Policy and the Trade and Development Cooperation Agreement with South Africa. In essence, it aimed to create a more homogenous approach in the existing fields of trade, aid, security, development coordinating various member states’ and EU policies, what was an effort that was in line with the EU’s wishes of creating a more coherent approach to its foreign policy.

This strategy was the subject of revision at the 2007 EU–Africa summit in Lisbon. Eight specific areas of strategic partnership were announced in Lisbon: peace and security, democratic governance and human rights, trade and infrastructure, the Millennium Development Goals, energy, climate change, migration, science. The EU was set to double its aid to Africa in order to meet the Millennium Development Goals (Kohnert, 2010, p. 124). However, the participants failed to reach a deal on Economic Partnership Agreements that was intended as a new basis towards a free trade zone area in line with WTO standards. In support to these measures and its eight partnerships, the European Commission committed 24.4 billion euros of aid for the 2007–2013 period mostly through the European Development Fund. The summit also agreed on committing more funds for the African Peace and Security Architecture (APSA), a mechanism built in 2003 for conflict prevention, disaster management and peacekeeping missions under the auspices of the African Union (EC, 2010).

At the third EU-African summit in Tripoli in November 2010 the Africa-EU Joint Strategy was adopted. It largely dealt with economic issues, but beyond the

established aid programs it sought more commercial cooperation between the participants. In the field of security the summit dealt with the following three key areas: political dialogue between the EU and the AU security establishments, long-term financing of APSA and financing of the AU’s peace support operations. By the time of this summit, the EU had already been engaged in four missions under the CFSP framework. Those were EUSEC RD Congo (The EU Security Sector Reform Mission in the Democratic Republic of the Congo set up in June 2005, advising the country on the security sector reform), EUPOL RD Congo (the EU Police Mission, launched in July 2007 that was taken over from the EUPOL Kinshasa mission, the EU’s first police mission in Africa), EUNAVFOR Somalia (the EU Naval Force Somalia was set to combat piracy off Somalia shores) and EUTM Somalia (the EU Somalia Training Mission based in Uganda was set up in May 2010 to contribute to the training of the Somali security forces) (EC, 2010).

But, by late December 2010, the events that we today call the Arab Spring started to develop and to make situation much more volatile. The first spark was in Tunisia where the government was overthrown by January 11th and the demonstrations spread eastward on Algeria, Libya, Egypt and further across the Middle East and southward, towards the Sahel and Mali and Niger in particular. The troubles had been visible in the wider Sahel region for some time from the decades-long protracted crisis in Northern Mali involving the Tuareg population and the internal governance problem in Mali to the 2010 coup in Niger and the 2011 ouster of Qaddafi in Libya (Jebnoun, 2014, p. 12). Save for the Qaddafi’s fall and death that came on the heels of the Western involvement through the UNSCR in 1973 that had developed into a regime change by military means (Janković, 2011, p. 47), the regional and international partners were unable to provide a meaningful response to these crisis signs. The Sahel countries, usually listed as some of the poorest in the entire world, were ineffective in dealing with the spillover from the Libyan crisis (EEAS, 2011, p.1). Their capabilities in border control, providing simple social services to the troubled areas and fighting cross-border crime were, and still are, quite minute. They lacked intelligence and data-gathering capabilities to properly assess and predict the flow of the crisis and its impact on the domestically volatile situation relating to the Tuareg position. The combination of such a fragile situation and European interest to ensure stability in the region led to the creation of the EU’s “Strategy for Security and Development in the Sahel” in March 2011.

THE INITIAL SCOPES AND AIMS OF SAHEL STRATEGY

Although the international concerns about the Sahel arose in 2011 with the Libyan crisis and the possibility of its spillover, the Council of the European Union had already been preoccupied by this matter since October 2010, but the roots of focus on Sahel go back to spring 2009 when a fact-finding mission to Mauritania,

Mali and Niger was sent to bring more details of the situation (EEAS, 2011, p. 2). After that, the Council wanted to reconsider a number of issues such as the increase of AQIM attacks against European citizens and assets and the drug trafficking and migration flows toward Europe. So, it could be argued that a direct threat was the prime motivation for the EU to act at that moment. The action planning and implementation monitoring was delegated to the newly-established European External Action Service (EEAS) designed by the Lisbon Treaty as a focal point for the European foreign policy implementation, which could get a boost right from the start. Therefore, the EU could practically test its new institutional set up.

The Strategy was under discussion at the Council of Ministers of Foreign Affairs in March 2011. The Council recognized that security and development issues as inseparable and thus had to be tackled together (EC, 2011). The main road to resolving these issues was seen in increased regional cooperation parallel to strengthening national institutions especially in most regions most severely affected by multi-faceted crisis and presence of criminal and terrorist groups. The Strategy was published in September 2011, some six months after its initial draft (EEAS, 2011). In its introduction, the Strategy lists a number of detrimental factors for socio-economic development of the region. These are extreme poverty, climate change, food shortages, rapid population growth, poor institutional framework, cross-border criminal networks and political extremism (EEAS, 2011, p. 1). The Strategy identified three core states – Mauritania, Mali and Niger, while giving secondary roles to Burkina Faso and Chad. This division was in line with the first impressions from the mentioned fact-finding mission, but drew some criticism for its lack of scope in this aspect, or more specifically, for not including other countries in this group (AGI, 2013, p. 2). On the periphery the Strategy looks at Algeria, Libya, Morocco and Nigeria whose engagement is necessary for a wider regional support. *Al-Qaeda in the Maghreb* (AQIM), a local branch of a wider terrorist network was named the main security threat, especially since it had found a refuge in Northern Mali and after it spread its attacks on European civilians and property. It fed on poor economic situation of the core states and on its own rising criminal enterprises growing over time.

The objectives of the Strategy were set up in two time frames. The first was the short-term perspective of up to three years. It was centered on the issues of infrastructure, social services, economic and education opportunities aiming to reduce the motivation of the locals for joining or helping the AQIM. Further, it aimed to cut off the AQIM's various supply networks and finance operations coupled with helping local authorities and national governments to sustain these efforts. The long-term objectives in a 5–10 year range included overall political stability, national sustainable development and reduction of internal tensions and extremism politics that bred AQIM and other Islamic fundamentalist militant groups (EEAS, 2011, p. 3–4).

On the national level, the core-states set up their own agendas in correlation with the Sahel Strategy at the time it was announced. Mali has the “Programme special pour la paix, la securite et le developpement dans le nord du Mali” (PSPSDNM) to combat terrorist threats in Northern Mali along with a new office dedicated for fighting drug trafficking. In 2010, Mauritania adopted the anti-terrorism law that enacted a new legal and executive infrastructure for this purpose. Niger was, and still is, lagging behind in creating a specific framework for anti-terrorist measures, but it established the National Counter-Terrorism Training Program after several attacks on the towns of Arlit and Agadez in early 2013, and in coordination with the ECOWAS. The ECOWAS established its own Conflict Prevention Network alongside the Strategy for the Fight against Drug Trafficking and Organized Crime. All these strategies and plans are taken into account by the Sahel Strategy and the EU is supporting them politically and financially (EEAS, 2011, p. 5–6). The core Sahel countries, together with Algeria, established the Anti-Terrorist Coordination Committee (CEMOC) in April 2010. Its purpose is to strengthen military and security forces’ cooperation between these states and in coordination with three core states the Fusion and Liaison Unit (UFL) to function as a standing cooperation body for military and intelligence institutions of these states (Berrangere, 2011, p. 10).

The Strategy has given four separate but complementary lines of action. The first is dedicated to general economic conditions and governance issues. It has a broad aim to encourage economic growth based on local activity and solutions, to enhance government and administration transparency and institutional capacity and to re-establish the mere presence of institutions in most critical regions (Northern Mali and Western Niger). The second is based on higher political level and is dedicated to cross-border issues such as terrorist networks, smuggling and human trafficking, also including the Maghreb countries and other interested bodies. The third action is dealing with security issues with the goal of strengthening the local law enforcement capacities, especially in the anti-terrorist roles and to ensure tighter state control of such tasks. The fourth action is dedicated to suppressing violent and extreme political agendas and groups that are promoting them. This action is considered indirect since it aims to eradicate the conditions that breed such political ideas – extreme poverty, lack of social services, lack of institutional coverage etc. (EEAS, 2011, p. 7–8)

The EEAS set up its own Sahel Task Force monitoring and coordinating these efforts. Even though it is an informal body, it comprises a number of higher officials such as EU Counterterrorism Coordinator (Gilles de Kerchove has been holding the position since 2007), members of the EU Military Staff and various bilateral desks within EEAS (Berrangere, 2011, p. 6). The Strategy allocated the initial funding for these actions. Approximately 450 million euros were allocated to three core states and ECOWAS cooperation, while 193 million were allocated to the Maghreb

countries. An additional 150 million euros were set up for supporting roles from the European Development Fund. The European Union's Instrument for Stability (IfS) and its crisis response component were also brought in for the funding tasks (EEAS, 2011, p. 8–9). The Malian PSPSDNM program was set to receive 50 million euros, 35 of which were allocated to the judicial system and local government reforms. Programs financed in Niger include the assistance to the Red Cross efforts, demobilization of former fighters and recovering of illegal weapons. Support for Mauritania includes border management assistance in coordination with the International Organization for Migration and short-term measures similar to those in Niger regarding ex-fighters and military weapons. On the regional level there were talks of implementation of several projects. The Sahelo-Saharan College, a virtual name for the coordinated training and education courses in security issues, has been funded with 4 million euros (Berrangere, 2011, p. 8–9).

NORTHERN MALI CONFLICT AND EU'S RESPONSE

Of particular interest for the approach to the problems in Sahel is the number of separate EU missions that have been established under the umbrella of the Common Security and Defence Policy. The Sahel Strategy has not paid particular attention nor has allocated meaningful funds towards security sector reforms in the core Sahel states. As we have seen, they were usually bundled together with the institutional reform. But the outbreak of the conflict in Northern Mali has made it clear that this approach will have to be changed practically from the start.

In January 2012 an all-out offensive led by the *Mouvement National pour la Liberation de l'Azawad* (MNLA), a Tuareg group, broke out on the heels of retreat of some 200,000 Tuareg refugees from Libya which created enormous pressures on the regional authorities and worsened the overall economic and humanitarian conditions. It was in some aspect a continuation of the conflict in Libya, where the influx of trained warriors and abundant weapons from that conflict played a major role in the start of this offensive (Bello, 2012, p.8). The MNLA's overarching goal is the independence of Azawad (northern Mali). Its combat alliances with other factions are purely tactical (Cristiani and Fabiani, 2013 p. 87). The Government in Bamako and then-president Amani Toure did not handle the looming conflict very well – their unwillingness to reach out to moderate the Tuareg leaders and weak institutional and military capabilities in Mali's northern regions were a contributing factor to this outbreak of violence. This was somewhat representative of the long-term policies of president Toure to reach out the lower levels of northern Mali and Tuareg societies, thus flanking the established Tuareg "aristocracy" and tribal order through the divide and conquer strategy. Whatever the impact of socio-economic distress was in the Sahel on the Tuareg rebellions, the situation of Mali – independent of France's colonial rule since 1960 – serves as a case study to better

understanding of the strong resentment felt by the Tuareg people against the government in Bamako and their demand to discontinue what they claimed to be the neglect, discrimination and dispossession of political and economic resources from the Tuareg living in northern Mali, which was remote from the power center of the state (Bøås and Torheim, 2013, pp. 1281–1283).

While the MNLA is only the latest offspring of a number of Tuareg rebellions in the last decade (the previous one was in 2007–2009), the situation has a new layer of complexity since the northern Mali housed parts of the *Al Qaeda in the Islamic Maghreb* (AQIM). The AQIM is the local branch of the known terrorist network with salafi religious roots. It has transnational membership with a goal of creating its own “Saharan Emirate” that started as a drug smuggling network and a kidnap and ransom operator (Cristiani and Fabiani, 2013 p. 90). The AQIM’s increasingly empowered political, religious and economic presence in the Sahel region further enhanced the group’s ability to attract marginalized Sahelian recruits along with Maghreb ones filling its ranks with “a considerable number of Libyans, Moroccans, Tunisians, Mauritians, Malians and Nigeriens” (Ronen, 2013, p. 551). The third militant group, *Ansar Dine*, is bent on imposing strict sharia laws and anti-Sufi doctrines. It had fruitful tactical cooperation with the AQIM all through 2012 with noted success in capturing Timbuktu in April, a success which has considerably increased its ranks (Cristiani and Fabiani, 2013 p. 86). The fourth militant group and initially the weakest is the *Mouvement pour l’Unité et le Jihad en Afrique de l’Ouest* (MUJAO). It started as a splintered cell of the AQIM and relies heavily on the local Arab population (Cristiani and Fabiani, 2013 p. 91). While the MNLA is usually considered secular, it is separatist in nature; the AQIM, Ansar Dine and MUJAO are fundamentally religious and are not separatist *per se*, but wish to impose their doctrines in Mali and Sahel as well.

The rebellion started in mid-January 2012 when the MNLA militants attacked the Malian Army positions in the small town of Menaka in the Gao region. The town had been recaptured by the Malian Army that regained the town the very next day but the following weeks brought some success for the MNLA as it captured a number of towns in northern Mali. By the first week of February the MNLA captured the Gao capital, Kidal (Al Jazeera, February 6, 2012). Poor handling of the crisis clearly visible from the MNLA gains raised the levels of dissatisfaction in the military. On March 21, the attack on the car of the Minister of Defense Sadio Gassama happened during the troop inspection. Next day, a military unit took control of Bamako and sent President Amani Toure into hiding. The ECOWAS tried to mediate and ease the crisis, but it had clearly set itself against the mutineers understanding that the conflict in the north had regional consequences and that Mali needed to have a legitimate government that would be able to win that conflict without turning Mali into military dictatorship (BBC, March 29, 2012). The ECOWAS effort in this direction was the deployment of its own intervention force,

some 3,300 men strong to protect the newly established civilian government and to bolster security sector reforms (Bello, 2012, p. 7). This move only formalized the regional involvement in this conflict which had been waged on a bilateral and *ad hoc* basis up to that point. For instance, Mauritania had conducted air strikes against the AQIM vehicle columns in the Malian territory even as far back as in September 2010 (de Castelli, 2014, p. 63). By April 1, 2012 the MNLA fighters supported by the Ansar Dine had taken the historic town of Timbuktu. This started a months-long series of gradual defeats and retreats of the Army. Furthermore, the MNLA issued its proclamation of the Republic of Azawad on April 6, which created some fissures within the militant groups since their end-goal do differ on religious and political levels.

The European Union's primary response was to establish additional funding for the region and appropriate vehicles to deliver them. On July 18, 2012 the EU launched the Alliance for Resilience in the Sahel, which included Mali, Mauritania, Niger, Burkina Faso, Chad, Gambia and Nigeria. The EU added 40 million euros on top of the initial aid packages, mostly for humanitarian reasons. In terms, with this move the EU once again used soft power approach, while the reasons for the armed intervention were steadily growing (Bello, 2012, p. 8).

Parallel to this, on July 17, the EU had established a new two-year mission under the CSDP, the EUCAP SAHEL Niger mission. It was launched formally at the request of the Niger's government and as an element of the EU's Sahel Strategy. It is a training mission for anti-terrorist operations of the local law enforcement and military units and has an effective role as a security sector reform mission. It consists of around 50 experts from European security forces and justice departments led by Francisco Espinos Navas, Spanish General with background in staff anti-terrorist work (PSC, July 17, 2012). It is designed to provide advice and training to support the Nigerien authorities in strengthening their capacities for combating terrorism and organized crime. Most of the experts are based in Niger's capital Niamey with liaison officers in Mali and in Mauritania. The mission has been focused on supporting the regional commands to improve interoperability of Niger's security forces strengthening the local capacities to collect and share intelligence building teaching capacity at the security forces' training academies and ensuring that the armed forces act on a sound legal basis in their fight against terrorism and illegal trafficking. Until February 2014 EUCAP SAHEL Niger's experts trained around 3,000 members of the country's internal security forces, armed forces and judiciary. Furthermore, the mission facilitates the coordination of international assistance and donations to Niger's security institutions (EEAS, 2014).

By the end of 2012, militant groups gained much ground, but also showed poor state of the Malian Army. It has corrupt recruitment policies that usually require having a relative at the level of colonel or general and personal skills and capabilities did not matter much. Also, the rumors on the involvement of higher officers and

even President Toure in smuggling drugs from South America to Europe via military airfield near Gao further deteriorated the morale. Poor state of the armed forces was once more revealed in January 2013 when rebel forces staged an offensive from the north, which captured the central town of Konna without much fight (Salomon, 2013, p. 14). Nominally, the Malian security forces are relatively small. As of 2009, the army had about 7,350 personnel, the air force 400, and a navy of 50. Other security forces include a gendarmerie of 1,800, 2,000 Republican Guards, and 1,000 police. Riddled with internal problems, it is easy to see how incapable it must be to fight a proper war (Cline, 2013, p. 627). During this period Islamic fundamentalism of two of the groups – mostly the AQIM but Ansar Dine as well – showed to be the dominating norm of behavior in the turbulent north. The region became the ground for possible establishment of permanent territorial presence of such groups and a breeding ground for regional terrorist recruitment and a launching pad against several countries (Bøås and Torheim, 2013, pp. 1280–1281).

That was clear in July 2012 through the document entitled “General Instructions about the Islamic Jihadist Project in Azawad” written and signed by AQIM’s leader Abu Musab Abdel Wadoud. Its purpose was to advise them of the AQIM’s strategy for establishing an Islamic state in Azawad. This document shows that the AQIM’s leader would not be satisfied with a brutal state in which the people are subject to the strictest and most violent form of Sharia Law. On the contrary, Abdel Wadoud wanted to create a “real” state capable of responding to all population’s needs. He even gave instructions for the distribution of ministries between different armed groups in northern Mali suggesting that those governing the army, media, justice, Islamic affairs and education should be managed by the AQIM and Ansar Dine, while the Ministry of Foreign Affairs, of Finance and of Public Works should be left to the MNLA. It was further noted that although it was important that ministries both represented the tribes and were loyal to Islam and Sharia Law, being “competent was a primary criterion”. This document also explains how Abdel Wadoud planned to manipulate the MNLA in order to control the Azawad. He knew that he would need the explicit involvement of the tribal leaders, because managing a state is a very complex task beyond the capabilities of his organization (Liberation, October 6, 2013). Still, the fights between the MNLA and the MUJAO that had allied with the AQIM and Ansar Dine on a religious basis started in earnest in the summer mostly for the control of Gao, which fell under their control in June (Cristiani and Fabiani, 2013 p. 91). Until summer it became evident that the less religious MNLA was sidestepped and that the more fundamentalist groups entered the center stage. In December, the MNLA started negotiations with the Mali authorities and international actors in order to break ranks with fundamentalist rebels, which materialized in the following months (Al Arabiya, January 14, 2013).

At that time Romano Prodi was the UN special envoy to the region and in talks with Guido Westerwelle, then-Foreign Minister of Germany, he started garnering

support for the military training mission in Mali in order to stem the ongoing tide of the Islamist successes. Westerwelle himself was pretty clear on the dangers of developments in northern Mali when he stated that “if northern Mali falls, then terrorist schools will be created there ... and then not only Mali and the region, the North African nations, will be threatened, but also us in Europe” (Spiegel, October 24, 2012). Further aggravating these fears, Oumar Ould Hamaha, the MUJAO spokesman, threatened French President Francois Hollande with the publication of pictures of six French citizens who were taken hostage by the Islamists in northern Mali. Hamaha also warned that President Hollande “will not be able to count the bodies of French expatriates across West Africa and elsewhere”. These statements stirred the mood in Paris as well as in other European states and the US fearing that their embassies in Western Africa might soon be targeted by terrorists; all Western embassies in the region have been on high alert ever since. This is the key moment in stepping up the EU’s involvement in the crisis, including the military role. It is, however, not only Western countries that expressed disquiet regarding the developments in northern Mali; the regional leaders also voiced similar fears. In October 2012, for instance, Nigerian President Goodluck Jonathan urged an immediate collective action to resolve the crisis. President Jonathan’s position was understandable considering at least a hundred members of the Nigerian terrorist sect, Boko Haram, were being trained in jihad camps in Gao (Salomon, 2013, p. 16). The EU’s Foreign Affairs Council meeting in October authorized the High Representative/Vice President of the Commission Catherine Ashton to explore via the EEAS and within the CFSP the additional roles that the EU could play on top of the existing Sahel Strategy. On October 19, the European Council endorsed the Union’s support for the international military force presence in Mali. Prior to that, during late July 2012, the ECOWAS was ready to start its own military operation in Mali and now it had the backing by the EU. It must be stressed that the ECOWAS did poses legal possibilities to act in cases of internal humanitarian disasters, threat to peace and massive abuse of basic human rights, all of which were supported by the African Union as well (Bello, 2012, p. 16).

In December, the UN Security Council agreed on the deployment of an African-led mission to support Mali’s sovereignty and territorial integrity (MISMA) since the advancements of the AQIM, the MUJAO and to a lesser extent Ansar Dine into the southern parts had clearly made possible the collapse of the entire country. The basic idea behind this effort was that the ECOWAS would contribute with the military forces with an EU training mission behind it for support and that the assault on the fundamentalist groups should start in autumn 2013 (Heisbourg, 2013, p. 10). It must be stressed that the mission is a non-combat one; it therefore, provides background services which distances it from the “Operation Serval”. Its mandate was at first set at 15 months, but on April 15, 2014 the Council of the European Union prolonged its mandate until May 18, 2016. On the top of that,

two mobile training teams were set up for additional training for the previously trained units after they had finished their combat tours and for setting up local instructors within the Malian Army (CEU, April 15, 2014).

OPERATION SERVAL AND EUTM MALI

On January 10, 2013 jihadists from Ansar Dine and the MUJAO groups’ vehicle columns started moving south down the Niger River, some 500km from Bamako, and in the process captured the town of Konna. Given the speed of the light vehicles with rudimentary weapon platforms and the lack of natural obstacles, they could have reached the capital of Mali within a day or two. As a direct and quick reaction to the call for help from interim President Dioncounda Traore, France launched the “Operation Serval” on 11 January 2013. Helicopter units from Burkina Faso and Mirage 2000D combat aircraft from the N’Djamena International Airport in Chad had strike advancing jihadi columns near the town of Mopti and the Sevare airbase. French troops stationed in Cote d’Ivoire entered Bamako some 24 hours after the Hollande had issued the orders. There was some element of surprise – jihadists hoped to gain a two-day advantage and probably to reach Bamako before the French military could intervene, but they overextended their columns and were stopped in their tracks. (Heisbourg, 2013, p. 11)

Other states in the region, notably Nigeria, Burkina Faso, Benin, Senegal, Niger and Chad also deployed 1,750 troops with further 2,000 promised within a matter of weeks. This was done besides the MISMA mission that still was not ready. The intervention force was also assisted by the neighboring countries, which closed their borders with Mali. Beyond this, Algeria allowed French jets to use its air space, while the United States assisted the French with refueling and along with Britain, provided assistance with logistics (Salomon, 2013, p. 17). Between January 11 and 28, the intervention force together with the remnants of the Malian army captured a number of towns from the jihadists including Gao, which had served as the main base for the MUJAO, and then the historic town of Timbuktu. (Al Jazeera, January 29, 2013)

If the jihadi offensive had been successful and had quickly routed the Malian army and entered Bamako, it would have seriously hindered the launch of a planned military operation to clear the North. It would have also further complicated the political situation in Mali – potentially leading to a new coup as the political impact of the new defeat of the Malian forces would have been huge. With a little surprise, within few weeks the more than 4,000 French troops succeeded in their declared missions: stopping the jihadist offensive that would fundamentally threaten the core of the Malian state; liberating the main population centers in the northern part of the country and breaking the stronghold of the AQIM in Adrar des Ifoghas mountainous range. After this phase had been completed by April 2013, the French

presence was aimed at maintaining pressure on various jihadist groups. The elimination of the AQIM in the Adrar des Ifoghas stronghold marked the end of the first phase but jihadists changed their tactics using smaller units and a hit-and-run approach which was proving to be more difficult to control. They were also using the non-existence of effective border controls for launching attacks in the neighboring countries. Such was an attack in Niger on May 23, 2013, on the garrison in Agadez and uranium mining facility in Arlit run by the French energy giant *Areva*. These events are a clear sign of the need to understand that the conflict evolved from terrorism (back) to insurgency, and that it did have broader, regional implications.

The French included in their operation, on a quite symbolic level, some units of the Malian army – with the notable exception of the northern city of Kidal, where the French army worked with the MNLA that had defected from the jihadist groups by the end of the first phase of the operations (Hoebeker, 2013, p. 4). The ECOWAS troops from the MISMA mission that have been deployed since January 2013 have only a limited operational role. The MISMA mission filled with the ECOWAS troops does not seem sufficient to meet its tasks and so far, the French military presence is required. The ECOWAS has no standing army or the capacity to take its members' national units with permanent readiness (Heisbourg, 2013, p. 5).

It is clear that only a few European countries, namely France and the UK, have the capacity to fully conduct overseas operations. It is no wonder that the French Government had considerably more flexibility than the EU institutions in committing their forces into this intervention, and the “Operation Serval” is a perfect case in point. France has also national interests at stake – *Areva's* uranium mining in Niger and decades-long presence in the hotspots of the FrancAfrique. The EU's common security policy is configured to organize specific, niche missions that overlap civilian and secondary military roles. With the enactment of the Sahel Strategy it was clear that the EU would bring funds and specialty training to the regional security and military institutions. The development of the situation in Mali in the second part of 2012 did not go unnoticed in the top political circles in Brussels, as we have seen. The formal invitation to the EU to set up a military training mission in Mali came in the form of a presidential letter from Dioncounda Traore on December 24, 2012. After ironing out some internal disagreements (e.g. Denmark withdrew itself from deliberations), the European Council established the European Union Training Mission in Mali (EUTM Mali) on February 18, 2013 under the CSDP roof (EC, 2013).

The EUTM Mali mission includes around 580 military personnel that have two complementary tasks. The first is the high-level advisory support for the rebuild of the Malian Army. A team of experts in the advanced liaison task-force (ALTF) is giving advice and overseeing a number of areas of military reform, i.e. operational readiness, logistics, human resourced, budgetary issues. The second is the

establishment of a military boot camp in Koulikoro with the goal of training soldiers for the specific combat tasks. These training are suited for a battalion-level unit of up to 700 men, the so called *Groupement Tactique Inter-Armes* (GTIA). So far, the EUTM Mali has trained four such GTIA units for the Malian Army, but the goal has moved from the initial plans meaning that a total of 8 GTIAs should be trained (Barea, 2013, pp. 12–13). Some 13 million euros have been dedicated for modernization of that camp with around 200 instructors based at the premises. Personnel from 23 EU states and 5 non-EU states, including Serbia, are participating in the mission. The overall operational control is usually done through the EEAS channels (including the EUMS) and the Political-Security Committee relying on the previously established staff for the Sahel Strategy and its experience in local affairs. On the heels of this commitment the EU organized a donor conference for Mali in May 2013. Some 3.2 billion dollars have been committed to the Mali development, and around 500 million is coming from the European Commission. (EEAS, 2014b)

One of the main issues that the EUTM Mali has faced is the credibility of the higher echelons of the Malian Army, due to military coup in 2012, very poor combat record and general unreliability. This is why the French forces on the ground in the north are keen on using Tuareg fighters from the MNLA rather than the Malian Army units in some larger numbers. The EUTM Mali thus faces the job of not only rebuilding but also of changing the Army in order to reduce long-term political risks. It is not clear how the foreign presence in Bamako will affect the role of the army in the political life (Lacher and Tull, 2013, p. 7). The army is also deeply divided between paratroopers and the presidential guard, which still shows some degree of loyalty to previous president Toure and regulars who appointed Captain Sanogo as their “leader” during the 2012 coup. This is also not a new conflict, but one that erupted during the Toure’s rule: as a former paratrooper himself, he was seen as giving privileges to this group (Bøås and Torheim, 2013, pp. 1288).

There is no question that the EU will continue with the EUTM Mali mission and other CSDP deployments in the Sahel region. This commitment was clearly stated by the Council of the European Union at its last debate on the Sahel Strategy in March 2014. While the Strategy was not changed, it emphasized that the regional approach to the ongoing crisis was the main goal for the EU, which welcomed the decision of the Heads of States of Burkina Faso, Chad, Mali, Mauritania and Niger taken in February to work on a permanent regional infrastructure for coordination of policies and efforts in order to ameliorate the crisis, both as an acute security challenge and long-term social challenge. In order to coordinate its own approach, the EU set up the position of the EU Special Representative for Sahel under the European External Action Service. Michel Dominique Reveyrand-de Menthon, a French diplomat, was appointed the new representative. Also, the Council decided to include Burkina Faso and Chad under the Sahel Strategy’s auspices with specific funding and aid details yet to be determined (CEU, 2014). Of particular concern is

that this review has also failed to calculate some broader issues, namely the further collapse of Libya as a functional state since the General National Congress dominated by Islamist factions chose to unilaterally extend its mandate in January 2014 and the growing strength of Boko Haram in Nigeria. Once again the fragmented focus looms over the European Union's efforts to help maintain some order in the region and there is virtually no way of knowing what comes next.

CONCLUSION

We could note how the situation in the Sahel region deteriorated from the end of 2011 until spring 2013, when the jihadist insurgency was largely confined and when it stopped, at least temporarily, being an existential threat to Mali and to a lesser extent, Niger. By stopping their advancement through the Operation Serval and laterally through the EUTM Mali, the EU is again faced with the situation that is somewhat similar with the one in 2011 when the Sahel Strategy was enacted. The main issues are again in the area of creating decent living conditions for the people in the region building up local security capabilities, institutional framework and political participation. The presence of the French military contingent and European instructors augmented with the ECOWAS troops in the background seems to be the starting requirement for the potentially successful implementation of the tasks that were set out by the Sahel Strategy in the first place.

It could be argued that in this situation the main problem lies with the Strategy. It missed to emphasize the potential external dangers of the spillover of the Libyan crisis, the influx of jihadist groups to northern Mali and their gaining the most prominent role in the rebellion overshadowing the Tuareg movement. It did not include or evaluate various external threats, namely the influence of other terrorist groups, mostly from Somalia and Nigeria. Even if there were no combat connection among those groups they do tend to share financial resources and criminal networks and narrowing down only on three core states with stronger security concern leaves much to be desired. Of course, that externality depends on the very definition of the Sahel and its core countries, but nevertheless it missed on what showed to be critical security and military issues for Mali. What is not visible, either through the Strategy itself or through some informed debate within the EU's small foreign policy community is the ability to see the ongoing crisis as a part of wider socio-economic dynamics not reducible to the Sahel countries alone. That, in turn, means that further efforts can also be taken by surprise by some other volatile situations, which would then require additional CSDP missions, boots on the ground and economic resources, all on a very short notice.

Also, it made a significant error in neglecting the military situation, including the poor state of the Malian Army which fed directly into the coup d'état in 2012. The Sahel Strategy was in danger of proving futile just one year after its enactment.

The EU was able to create two CSDP mission, the EUCAP SAHEL Niger and the EUTM Mali with the second one providing much needed expert help to the selected units of the Malian Army in order to build its capacities to become a fighting force that can be counted on to at least exert some area control in the future, if not to successfully fight the jihadist forces. In the end, it took an urgent call for help from President Traore and a classic national military action to stop the advancing jihadist motorized columns from reaching Bamako.

Once again, the shortcomings and partial and fragmented joint EU military capabilities have been shown. Even though the overall size of the engaged French forces in Operation Serval was under 6,000 soldiers, including front-line units and Air Force troops stationed in Chad and Ivory Coast, it proved to be a decisive factor in combating jihadist forces. Similarly to the situation in Libya in 2011, the EU was unable to fully commit to the military operation in the area for which it had an extensive political strategy, and it was up to the national governments to act out of their own interest. France has a long-standing military presence in the region, it has small but vital economic interests (uranium mining in Niger), so the French lead in this case is quite understandable. These trends are a clear consequence of the institutional structure of the EU decision-making system in the foreign policy area, where consensuality is necessary for taking a meaningful and concrete action. The structure inhibits wider EU combat commitments, for better or worse, and that is also the case with the EU's position towards Sahel. The EEAS has proven to be rather successful in rolling out and overseeing the progress of its CSDP missions, but it had only a secondary role in preventing Mali from collapsing to the jihadist threat.

By extending the reach of the Sahel Strategy on Burkina Faso and Chad since March 2014, the future focus will probably move towards tighter cooperation with the ECOWAS and two dominant "border" states – Algeria in the north, with its fair share of Islamic fundamentalist threat and Nigeria with the increasingly stronger *Boko Haram* movement. The obvious conclusion is that, for now at least, civilian crisis management and reconstruction is where the Union will focus its collective efforts. The EUTM Mali is caught in-between as a non-combat mission staffed with military personnel dedicated to the reform and training of a state's armed forces. Hard-core military interventions will still be handled on a national level or possibly through the NATO command infrastructure as was the case in Libya in 2011. With that comparison, we must also note the irony that in the Libyan case the military force was used to oust its ruler, only to resort to force once more to contain the backlash of that ouster onto another country.

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Milan IGRUTINOVIĆ

STRATEGIJA EVROPSKE UNIJE ZA SAHEL – KONTEKST, SMERNICE I PRIMENA

Apstrakt: Cilj rada je da objasni Strategiju EU za bezbednost i razvoj Sahela, kontekst u kome je doneta, postavku, ograničenja i ciljeve. Strategiju posmatra kao deo institucionalne postavke Zajedničke spoljne i bezbednosne politike i kao deo ukupnog pristupa EU prema regionu Sahela. U radu se koristi pristup fokusiran na aktera međunarodnih odnosa (EU), imajući u vidu jedinstvenu prirodu spoljne i bezbednosne politike EU, njenu težnju ka ispoljavanju normativne moći, usredsreženost na društveno-razvojna pitanja i teškoće pri upotrebi vojne moći. Strategija je razvijena u martu 2011. usled pogoršavanja bezbednosne situaciju u Sahelu, posebno u zapadnom delu, koja se razvila iz lokalnih nemira i prelivanja krize usled Arapskog proleća. U radu će biti pokazano kako je tokom naredne dve godine Strategija postala glavno oruđe pristupa EU te kroz dodate ZBOP misije i francusku vojnu intervenciju. Kako se kriza pogoršavala, stavlajući u prvi plan krizu u severnom Maliju od januara 2012. zahtevala je jači i bolje koordinisani pristup ne samo od strane EU nego i od država-članica i od EZZAD (Ekonomске zajednice Zapadno-afričkih država) što je daje usložilo odgovor na krizu i koordinaciju u ovom zapaljivom regionu. Pošto je akutna krizu u vidu oružane pobune ugašena, za očekivati je da će ekspertiza Evropske unije u razvoju institucionalnih kapaciteta doprineti daljoj stabilizaciji i širem društvenom progresu regiona.

Ključne reči: Sahel, ZBOP, EUTM Mali, EUCAP Sahel Niger, Operacija Serval, NPOA, AKIM, Ansar Dine, PUDŽZA.

Received: 11.6.2014.

Revised: 21.8.2014.

Accepted: 28.9.2014.

UDC: 332.135(497)
Biblid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 67–81
Original Scientific Paper

FROM THE GRASSROOTS TO THE REGION – CIVIL SOCIETY AS AN OPPORTUNITY FOR REGIONAL COOPERATION ON ENVIRONMENT IN THE WESTERN BALKANS

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Abstract: Environment has been an important theme in regional cooperation in the Western Balkans ever since these efforts were first started after the conflicts of the 1990s. This article argues that despite some successes, such as the clean-up of polluted areas and keeping environmental questions in the political agenda, the cooperation has not managed to acquire regional ownership and sustainability. The majority of relevant initiatives are still being led and financed from the outside, which is problematic as international actors are increasingly scaling back their activities in the Western Balkans. It is possible to identify a number of factors hindering regional environmental cooperation, including the lack of political will, excessive dependency on outside funding, inadequate administrative coordination at the national level and poor integration of the civil society into the activities. The article proceeds to propose measures to enhance the cooperation while improving its regional ownership and financial independence. In particular, it suggests that the civil society has a key role in forming regional networks and strengthening the cooperation from the bottom up, thus also yielding possibilities to improve overall public participation in environmental issues.

Key words: regional cooperation, environment, civil society, Western Balkans.

INTRODUCTION

Environmental issues have increasingly become a topic of political discussion at the global level during the past decade. The need to find long term solutions to

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problems like climate change and the pollution of the seas has instigated various international negotiations and initiatives that also influence political and economic decision-making. In particular, this has led to an acknowledgement of the need to increase international cooperation in order to coordinate efforts to tackle environmental problems.

The rise of this new policy agenda can also be seen in the Western Balkans, where it has been particularly accelerated by the goal of accession in the European Union (EU), which sets relatively strenuous demands on environmental issues. Reinforced regional cooperation has been suggested as a potential way to further environmental goals while also gaining mutual benefits and improving cross-border relations. Yet, concrete action between the Western Balkan countries on environmental issues has been relatively limited, and largely dependent on the external initiative taken by international actors. This international involvement, however, is starting to wane as the post-conflict situation has stabilized, meaning also that financial assistance is being considerably scaled down. The region, therefore, now needs to find new ways to address environmental challenges, and is likely to more urgently than ever need to develop its internal cooperation across national borders.

This article will use recent research to examine policy alternatives to address the problems of Western Balkan environmental cooperation³. It will first trace the current status of environmental cooperation in the Western Balkans, which here is considered to consist of the ex-Yugoslav countries excluding Slovenia⁴. The focus will be on the development in the post-conflict period, with the aim to identify reasons for the lack of more coordinated cooperation. In particular, the article will consider the role of the civil society in previous environmental cooperation efforts. Finally, it will propose potential ways to improve the regional initiative in environmental cooperation.

POST-CONFLICT ENVIRONMENTAL COOPERATION AND CURRENT SITUATION IN THE WESTERN BALKANS

The aftermath of the Bosnian War (1992–1995) and the conflict in Kosovo and the NATO bombing of Yugoslavia (1999) was marked by the emergence of a vast, internationally-led effort to repair the war damage and stabilize the regional relations in the Western Balkans. The work first concentrated on the immediate post-conflict remediation, but slowly evolved into a more all-encompassing effort

³ This article is a follow-up of the Finnish-Serbian research project “Environment and Security in the Western Balkans: Risks and Opportunities through Co-operation” led by Dr. Järvinen in 2011-2012.

⁴ The Western Balkans is often also considered to include Albania. This article, however only focuses on the ex-Yugoslav countries as a more culturally and politically congruous group.

to lift the countries back into the status of functioning societies. From the late 1990s onwards the reinforcement of the internal cohesion and cooperation between the regional countries was seen as an important goal. (Seroka, 2008, p. 17–18)

The promotion of regional cooperation was not only seen as a conflict-prevention measure but also as a mechanism to contribute to the long-term development and prosperity of the region (Anastasakis & Bojicic-Dzelilovic, 2002, p. 2). The idea was to begin with activities that would by character involve a cross-border dimension and to scale these to effectively improve stability. This, in turn, would lead to political trust and integration (Solioz & Stubbs, 2009, p. 23). In addition, regional cooperation offered a way for the Western Balkan countries to benefit from mutual experiences and thereby facilitate their respective Europeanization processes. It is thus no coincidence that the EU has included regional cooperation as a strict condition for EU accession (e.g. EC, 2005).

The cross-border implications of environmental problems are easy to comprehend and they also tend to cause less political controversy than issues like security. For these reasons, environment can form a useful basis for cooperation. Earlier research has explored environmental cooperation, for example, as a means for post-conflict reconciliation (e.g. Conca & Wallace, 2009) but also in the context of long-term stability-building (Carius & Dabelko, 2004). To some extent, it looks like international organizations have attempted to apply this kind of an approach in the Western Balkans as well.

The Stability Pact for South Eastern Europe, established in 1999, was the first large-scale cooperation plan that engaged the Balkan countries at the highest political level. It started out primarily as a conflict prevention mechanism and focused on the areas of democratisation, reconstruction and security. However, the reinforcement of regional cooperation in the long term was one of its main goals. (Bechev, 2006, p. 34) As it had support from practically all of the international community and also from the regional countries, it soon became to be seen as a leading initiative in regional cooperation (Ristevska Jordanova 2009, p. 65). In 2008, the Stability Pact was replaced by the Regional Cooperation Council, which was set to still more prominently take on a coordinating role over the activities in the region. (Solioz & Stubbs, 2009, p. 28)

Within the Stability Pact, environmental issues were delegated to the Regional Environmental Reconstruction Program (REReP), which was implemented under Working Table II on Economic Issues. Among its priorities, it specifically stated regional cooperation and cross-border projects pointing out that this would also contribute to the other objectives of the Stability Pact (REReP 2000). In the early stages of its activity, REReP had focused on post-conflict remediation, but as time went by it started to increasingly support overall institutional development and capacity building. It supported, for example, the preparation of environmental action

plans and the implementation of Multilateral Environmental Agreements (MEAs) for Western Balkan countries (REReP 2006).

Although the Stability Pact and later RCC were the most important and high-profile initiatives for regional cooperation, there were a number of bodies and networks working in parallel, such as the Southeast European Cooperation Process (SEEC), the Southeast European Cooperation Initiative (SECI) and the Stabilization and Association Process (SAP). These actors had slightly varied emphases and focus points, but all shared the basic aim of reinforcing regional cohesion. However, they all were led from outside the Balkan region, apart from SEEC which was built upon the model of the Conference on Stability, Security and Cooperation of Countries of Southeast Europe dating back to the 1980s. (Lopandic, 2002, p. 30; Dangerfield, 2004, p. 227).

Most of the various organizations also had components on environmental issues. At later stages, a handful of initiatives specifically focusing on the environment were also set up. Apart from REReP, these included Regional Environmental Network for Accession (RENA), Adriatic-Ionian Initiative (AII), International Commission for the Protection of the Danube River (ICPDR), and Environment and Security Initiative (ENVSEC). This suggests that environmental issues were strongly on the cooperation agenda, although the actual substance and effectiveness of the activities within the different bodies varied.

From the immediate post-conflict situation, environmental cooperation has evolved into a more institutionalized direction, usually as a part of a larger international framework. For example, REReP continued its activities within Regional Environmental Center, an organization that has been working in the entire post-socialist Eastern European area since 1990. This also suggests that the focus of the activities has shifted from the post-conflict relief towards more general goals on societal transition and sustainable development. Another follow-up for REReP was the Regional Environmental Network for Accession (RENA), which was an EU-coordinated programme covering all potential accession countries specifically in their effort to implement reforms necessary for EU membership.

Overall, the EU seems to have been a crucial influence, not only as a leader of cooperation but also as a reference point on environmental quality and a major source of financing. In addition, accession in the Union has become such an important goal for the regional countries that the conditions set for membership have genuine influence on their policies. The requirements are set in the *Acquis Communautaire* that each country has to adopt in order to meet the accession criteria. The implementation of the related reforms is monitored by the EU, for example, in the Progress Reports that it publishes every year on all countries (See e.g. EC, 2012). The EU, therefore, also has something of a monitoring role with regard to policy-making in the region.

In the long run, the cooperation has yielded some results, particularly associated with the requirements set for EU accession. The regional countries have succeeded in passing a great deal of environmental legislation and devising strategies for further action. In terms of impact, cooperation on the environment seems to have been stronger than in sectors like security and organized crime (e.g. UNDP 2007, 206; Delevic, 2007, p. 101). Yet a lot still remains to be achieved. In particular, the development has mostly been limited to the strategy level, while the actual implementation has been lagging behind. This seems to be due to, among other things, a lack of resources, deficient coordination of responsibilities and inefficiency of administration. In addition, the engagement of the authorities with the civil society and the so-called grassroots level has been limited, which has discouraged participation in environmental decision-making and cooperation initiatives (Järvinen & Hakala, 2012).

Furthermore, and perhaps most problematically, none of these different forms of environmental cooperation are truly intra-regionally initiated. To some extent this can be explained by the prominent role of the international actors, which has lessened the need for action by the countries themselves. Yet, this situation does not seem to be changing even as the international community is increasingly starting to consider the Western Balkans as a “stabilized” region and therefore, scaling back its involvement and funding sources there. The regional countries therefore, needs to either truly adopt ownership of the cooperation between them or risk losing some of the results of the work done so far. This has proved to be a problematic task for reasons that will be discussed in more detail below.

PROBLEMS OF INTRA-REGIONALLY INITIATED ENVIRONMENTAL COOPERATION

The lack of regional ownership of cooperative initiatives does not only concern the environmental sector, but is a larger problem concerning regional activities as a whole. Therefore, many of the obstacles in environmental activities can be explained by problems in the overall framework of cooperation.

Firstly, the abundance of regional organizations, as mentioned above, has not only been a positive factor. While it may have contributed to opening up new channels of interaction between the regional countries and keeping a certain level of activity going on, it has also been a part of the problem with regard to deepening and rooting cooperation as a whole. Although the different initiatives have to some extent communicated with each other, there is a lack of comprehensive coordination and common direction, which has led to confusion over overlapping strategies and programmes (e.g. Ristevska Jordanova, 2009, p. 72; Dangerfield, 2004, p. 230). Even the Stability Pact and RCC have not had a strong enough status to assume such a leadership role (Solioz & Stubbs, 2009, p. 28). This problem also applies to cooperation

on environmental issues, as most initiatives have had their own activities on this sector. Overall, the lack of coherence may have reduced the regional countries' willingness to engage in new initiatives and to fully embrace cooperative activities.

The EU policy viewing regional cooperation as a condition for accession for the Western Balkan countries has no doubt increased their willingness to participate, but at the same time it has strengthened the idea of regional cooperation as a means to EU accession instead of being an end in itself (Ristevska Jordanova, 2009; Delevic, 2007). The EU policy has also been erratic, as the official line of regionalism has often been undermined by bilateral arrangements (Bechev, 2006, p. 41). This is not likely to inspire regional commitment or investment to independent regional cooperation in the long term and the post-accession period. Further still, the interest for building regional relations remains relatively low at the national level, as each of the countries seems to prioritize bilateral ties with the EU countries over those with their neighbours (Delevic, 2007).

A more overarching problem connected with the lack of commitment is the lack of an integrating regional identity. The Western Balkan history since the 19th century has been marked first by the efforts to build national identities and more recently by inter-state conflicts. This has not only hindered the formation of an identity in the regional sense, but also had the effect that any sense of a Balkan identity is likely to have the unfortunate touch of conflict and strife (e.g. Bechev, 2004; Delevic, 2007). The countries thus, have very little historical tradition of cooperation to build upon and this certainly is very difficult to encourage from the outside through funding or development programmes. Considering the urgency of the EU integration process they are also likely to find it more appealing and beneficial to work on adopting a European identity.

Paradoxically, the significant role of the EU, particularly as a source of funding, could also be the source of some problems. The involvement of international actors has come to be regarded as a condition for credible cooperation to such an extent that partners from the regional countries have little interest in initiatives without an outside element (Hakala, 2012, p. 395–396). Especially in the environmental sector, where financing from within the region generally is poorly available, this has generated a degree of dependency on the involvement of the EU or other international actors.

Furthermore, the majority of regional cooperation has taken place at a relatively high political level usually engaging ministries and national authorities. Regional cooperation within the civil society, on the other hand, has been less actively promoted. For example, only during the past few years the RCC has started to significantly add civil society activities on its agenda (see RCC Annual Reports 2008–2013). Moreover, merely including the civil society as a sector of activity is not enough to encourage actual interaction and cooperation between NGOs and other

civil society actors within the region. For example, REC has had a number of projects dealing with “Participatory governance”, yet, most of these have been much localized interventions targeting the civil society of a specific country or area (see REC, 2014). Far fewer projects have truly aimed at building a regional civil society, for example, by facilitating the cooperation of NGOs from different countries. Yet, when this has taken place, it has been deemed beneficial by NGO representatives (e.g. REC, 2006, p. 42). Indeed, it seems unlikely that the development of sustainable, integrative regional cooperation would be possible without the creation of networks and joint activities among NGOs and other key actors throughout the region. Neglecting this aspect, on the other hand, could further alienate the civil society from engaging both with regional and international partners.

The previous point is connected to the status of the civil society in the Western Balkans overall. The expectation that a strong civil society would be a key feature of post-communist politics in Eastern Europe has proven to be overly optimistic. In fact, the civil society development has been characterized by certain duality of actors. The most visible and influential part is formed by professional, policy-oriented NGOs that are typically very powerful and close to the political elite. They participate in policy-making and legislation and their funding opportunities are more secured both from national and international sources (Fagan & Sircar, 2010, p. 813). Meanwhile, other, non-professional NGOs are on the margins. They are usually very small and scattered and their capacity to collect funds and access political decision-making and media are very limited. They may be in touch with the grassroots and voice their concerns, but their influence remains very weak.

It is also important to observe that the Western Balkans is not influenced only by post-communism, but the post-conflict situation as well. It has been argued that in the post-conflict frame the civil society is significantly intertwined and influenced by international organizations along with a domestic political elite and a state-society relation blurred by the attempt of the state to extend its control over the society in the name of stability (Kostovicova & Bojicic-Dzelilovic, 2013, p. 1–3). These circumstances further foster the development and excessive strengthening of professional NGOs and at the same time, limit the formation and influence of autonomous grass-root initiatives.

This means that the part of the civil society that has political relevance is a *de facto* extension of the state power and to some extent harnessed to support the prevailing policies. NGOs tend to be semi-independent only because they are expected to reflect the interest of politicians and donors supporting their activities (Fagan, 2005, p. 529). This prevents organizations from fulfilling the critical task of the civil society of voicing the grass-root level interests to the political sphere. This dual nature of the civil society paralyzes civic engagement and weakens the civil society because it either has no capacity or interest in challenging or transforming policies.

An additional factor complicating cooperation specifically in the environmental sector is linked to the low level of priority given to environmental issues overall in the region. While its role has been strengthened through the need to fulfil EU accession requirements and other commitments, economic interests still tend to take precedence. Environmental issues have often been treated as complementary to other sectors, such as mining, agriculture or spatial planning, and they have been moved from one ministry to another. Overall, environmental institutions tend to be weak and understaffed, which makes it difficult to cultivate long-term partnerships with regional counterparts (e.g. UNDP, 2007, p. 57–64). As external funding for regional cooperation becomes more scarce, environmental issues are thus at a greater risk of being neglected than areas that are generally considered important, such as security.

It seems, then, that despite the various initiatives and externally funded programmes, the final stage of the efforts to root regional cooperation in the Western Balkans has failed. At least in the environmental sector, genuine political integration – and the kind of self-supported cooperation that could be expected to follow from it – has not been achieved. Meanwhile, the regional balance is changing as the countries are at very different stages of their EU accession paths. Having already joined the Union in 2013, Croatia is well positioned to benefit from internal EU cohesion funds, while the countries that are lagging behind, like Bosnia and Herzegovina, run the risk of falling by the wayside. It therefore, looks like the eleventh hour for progressing on regional cooperation.

It is also clear that in the changing circumstances, the countries need to find new ways of cooperating and forming partnerships. If the national level is not fully committed to act as a driver in these efforts, there might be an opening for the civil society to take a bigger role in developing links between the countries. Especially in the environmental sector, non-governmental actors could aim to transform the existing, externally funded forms of cooperation into regionally rooted and sustainable ones. This should also involve the integration of different actors into the cooperation, ranging from national and local authorities to the private sector. The following section will further discuss potential opportunities within regional environmental cooperation.

POTENTIAL FOR DEEPER REGIONAL COHESION IN THE ENVIRONMENTAL SECTOR AND THE ROLE OF THE CIVIL SOCIETY

It is possible to discern a number of factors that will be necessary for the Western Balkan countries to strengthen their environmental cooperation and improve its regional ownership. Firstly, it is clear that resources – both financial and administrative – will need to be committed. Secondly, there is a strong need for

more prominent political will, particularly from the regional elites. Thirdly, the regional civil society should be further reinforced to enable independent initiative and attendance to local needs. Finally, multi-level integration of political institutions from the grassroots to the top of the society will be necessary to implant the cooperation. It should be noted that these factors are highly inter-dependent and mutually reinforcing, meaning that a change in one factor can significantly influence the others. In addition, they are all difficult to affect from the outside by international actors.

The question of resources, usually understood in merely financial terms, seems at first the *sine qua non* for any cooperation to take place. Without financial means, it will not be possible to maintain the on-going initiatives or start new activities. However, it has perhaps not been adequately recognized by the regional countries that external funding is not likely to continue at the same level indefinitely and is therefore, not a sustainable resource to build upon. This reality is currently becoming increasingly concrete as the overall availability of funding is considerably falling, partly as a result of the financial crisis and partly due to the general tendency of international funding bodies to move out of the Western Balkan region. The situation either forces the regional countries to increase their own investment in the cooperation or to scale it back considerably and thereby, complicate their EU integration commitments.

However, two observations should help to make the picture look slightly less daunting. Firstly, the resources required for efficient cooperation are not only financial contributions but also human capacity. This is something that various initiatives over the past years have aimed at building with at least some degree of success. For example, the setting up of the RCC in 2007 as a regionally led body suggests that the countries could be expected to have the capacity to administer such a process (e.g. Kapetanovic & Kulundzic, 2009, p. 83–84). Instead of having to reinvent the wheel, the regional organizations have a relatively solid institutional groundwork to build upon.

In terms of financial resources, on the other hand, it is important to note that cooperation is usually about pooling resources and therefore “getting more with less”. In other words, instead of viewing regional initiatives as an additional cost, the countries could to a higher degree utilize it as a joint effort to find common solutions to the kinds of problems they are all facing. For example in the issue of climate change, it would make sense to invest in regional research and monitoring rather than building individual ones for each country, as the effects and circumstances in which they experience are very similar. This perspective seems to have recently taken a step further, albeit in the unfortunate context of the destructive flooding in the Balkans in April 2014, which has prompted the countries to discuss potential joint measures for disaster risk reduction (e.g. Politika, 2014).

But while economic incentives can work as an efficient carrot, the actual realization of cooperation always comes down to the question of political will. To suggest that there is a lack thereof, however, does not necessarily imply that there is distrust or antagonism between the countries (Trimcev, 2009, p. 42). Rather, what seems to be holding back the cooperation is the failure to see the regional dimension as a politically attractive option, at least when compared to developing bilateral ties with the EU. This factor does not look likely to be improving fast – in fact it might become accentuated as the divergence in the dynamics of EU accession between the countries increases. A significant change towards closer cooperation would require a clear change of policy and a calculated attempt at political leadership from one of the larger regional countries; or, in the worst case scenario, a particularly severe natural disaster prompting the countries to aid and assist each other in the environmental sector.

It is precisely the previous point that makes the role of the civil society so crucial. If the engagement of political elites continues to be sluggish, it is up to NGOs and other civil society actors to independently develop contacts and networks if they wish to operate at the regional level. For non-governmental bodies it is perhaps easier to see the benefits of joint efforts as they have fewer resources available overall and therefore, need to be innovative in order to maintain their activities in the first place. In addition, they tend to be particularly dependent on external funding as national or local sources of financing are practically non-existent (Fagan & Sircar, 2010, p. 811-812). While this is problematic from the point of view of building civil society at the national level, it does also mean that the NGOs are less dependent on the political leanings of the national or local administrations and more likely to welcome the priorities of international donors such as enhancing the regional dimension. What is more, the environmental sector might be suitable for initiating this kind of cooperation independent from state institutions since it is not very high on the political agenda and therefore, not as likely to cause controversy as security issues, for example.

Non-governmental organizations have also an important role in giving a voice to environmental concerns from the grassroots. In other words, they have the potential not only to raise topics from the local level to public discussion but also to bring the environmental debate closer to the ordinary citizen, thus making it more accessible. When carried out in joint regional projects, this work could also facilitate the local level recognition of shared environmental problems and the possibilities of cooperative measures to solve them. Therefore, there should be an increased emphasis in all regional environmental projects to support NGOs and increase the dialogue between local authorities, NGOs and decision-makers. For example, the already existing procedure of public hearings on environmental matters should be strengthened and made more influential. In addition, NGOs should be enabled to

become more independent by finding new ways to attract funding and putting effort on broadening their membership base.

Finally, the institutional challenges concerning the environmental administration are not only an obstacle for regional cooperation, but hinder the development in the environmental sector overall. In all of the Western Balkans, environmental issues tend to be delegated under the responsibility of local administrations, which, however, often lack adequate resources and capacity to implement the tasks they have been assigned with. This is particularly problematic in countries like Bosnia and Herzegovina, where the administrative structure overall is highly complex and the roles and responsibilities of different organs may overlap (UNDP, 2007, p. 68–72). The lack of institutional coordination makes it difficult to form the sustainable partnerships between relevant authorities in different countries, thus weakening the potential for effective cooperation. Moreover, the low level of effectiveness of local administration is likely to further discourage public participation in environmental decision-making. The improvement of institutional coordination is therefore, an absolute necessity on the way towards a more integrating, consistent environmental policy, which would also enable increased utilization of synergies from regional cooperation. Here, too, the reinforcement of a dialogue between different administrative levels, from the regional bodies all the way to the grassroots organizations, would be helpful.

CONCLUSIONS

Organized efforts to enhance regional cooperation on environmental issues in the Western Balkans have now been going on for nearly two decades. Although this article has focused on presenting the challenges and problematic aspects of the activities, it is also important to remember the successes that have been achieved. Several organizations and networks have been set up, while the overall cooperation has become increasingly institutionalized and comprehensive. It is precisely these successes that suggest that the cooperation should still be maintained. However, the changing economic and political circumstances make it more urgent than ever to solve the structural and operational problems that continue to hinder the work.

It is necessary that the regional countries now take the leading role and responsibility, both financially and in terms of setting the agenda. The EU accession requirements will ensure that environmental issues will continue to demand considerable attention and sometimes significant investments. By working together the countries can only be of gain as they can find common solutions or even adopt functional examples from the only regional member state, Croatia. As the discussion above has shown, the potential for successful cooperation hinges on many factors and these will not be easy to influence especially as the Western Balkan countries are simultaneously experiencing an array of other problems. Yet, it is interesting to

observe that it is increasingly also the non-governmental actors that have an interest in maintaining the cooperation. If they manage to gain a more prominent role and act more efficiently than their national governments, this might have favourable effects not just on environmental cooperation but also on the regional civil society overall.

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**OD OSNOVE DO REGIONA – CIVILNO DRUŠTVO KAO
MOGUĆNOST USPOSTAVLJANJE REGIONALNE SARADNJE
NA ZAŠTITI ŽIVOTNE SREDINE NA ZAPADNOM BALKANU**

Apstrakt: Životna sredina predstavlja važnu temu u okviru regionalne saradnje na Zapadnom Balkanu od kada su uloženi naponi na njevoj zaštiti nakon završetka konflikata iz devedesetih godina 20. veka. U članku se dokazuje da se uprkos nekim uspesima kao što su čišćenje zagađenih oblasti i stavljanja pitanja zaštite životne sredine na političku agendu nije uspelo u tome da ta saradnja postane regionalno vlasništvo niti da se postigne njena održivost. Većina važnih inicijativa je pokretana i finansirana spolja, što je problematično jer međunarodni akteri sve više smanjuju svoje aktivnosti na Zapadnom Balkanu. Moguće je utvrditi određeni broj faktora koji predstavljaju prepreku ostvarivanju regionalne saradnje na polju zaštite životne sredine uključujući nedostatak političke volje, prekomernu zavisnost od finansiranja spolja, neodgovarajuću saradnju vlasti na nacionalnom nivou i lošu integraciju civilnog društva u te aktivnosti. U članuku se zatim predlažu mere za proširenje saradnje i unapređivanjem regionalnog vlasništva i finansijske nezavisnosti. Posebno se navodi da civilno društvo igra ključnu ulogu u formiranju regionalnih mreža i jačanju saradnje odozdo na gore, čime se stvaraju mogućnosti za unapređenje sveukupnog učešća javnosti u rešavanju pitanja vezanih za oblast zaštite životne sredine.

Ključne reči: regionalna saradnja, životna sredina, civilno društvo, Zapadni Balkan.

Received: 1.6.2014.

Revised: 15.8.2014.

Accepted: 15.9.2014.

EUROPEAN ECONOMICS

UDC: 338.124.4(4-672EU)
Bibliid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 82–94
Original Scientific Paper

EUROPE: RECONSIDERING AND GOVERNABILITY

Gyöngyi MAJOR¹

*Because time and again, we have allowed doubts to spread.
Doubts over whether some countries are really ready to reform and regain competitiveness.
Doubts over whether other countries are really willing to stand by each other
so that the Euro and the European project are irreversible.’
(Barroso, 2012)*

Abstract: The sovereign debt crisis, which was caused in Europe as a consequence of the international economic crisis, brought the institutional shortcomings of European integration to the surface. The Economic and Monetary Union (EMU) is characterised by a number of asymmetries and cannot be managed as an optimal currency area.

Most of the reactions to the crisis have been national ones, though state debt crises would require continuous EU-level measures. There are an increasing number of arguments supporting the view that saving the Eurozone is possible through strengthening European economic governance. The idea also arises that there is a need for deeper political and budgetary integration.

It is still a question, however, along what reforms and in what model the process of dynamic development could continue in which the represented solidary and sustainable economic development theory can be enforced without hurting “the value of diversity” and, what is more, the EU could continue to function in the international system as a stabilising factor, taking advantage of its special nature.

This study outlines the new narratives, goals and routes along which the challenges that the European Union is facing – primarily the problems of the crisis, competitiveness, differences in the level of development, ageing of the society and the real convergence of the community system of institutions –

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may become manageable. It presents the solution proposals which are possible without giving up the European system of values, building on the shared interests of member states – integrating national interests, yet not making the survival of integration problematic.

Key words: crisis, integration, convergence, optimal currency area, reforms, economic governance

INTRODUCTION

The 2008 crisis posed serious challenges to European integration: not only did it make integration face its own shortcomings² by shedding light on the system-related problems which continuously lay a burden on the development of the community but also deepened the already existing problems, which became even more severe in the crossfire of globalisation and the demographic situation. The economic crisis brought to the surface the crisis of the Economic and Monetary Union (EMU), namely the fact that the problem cannot be narrowed down to the problems around “free riding”, i.e. the crisis of the euro area is rooted not only in the “lax” behaviour of the member states, which had got into a debt crisis, but is more pervasive: it indicates the governmental crisis of full integration. The lack of economic governance deepened the problems. The crisis made it clear that, even though the EU, as a centre of modernisation, offers the region a major opportunity for convergence, integration entails convergence and divergence simultaneously. As the monetary union is not an optimal currency area, a common interest and trade policy will not provide suitable frameworks and, moreover, the monetary union had been created without any thought of elements that would boost economic growth. (Benczes – Rezessy, 2013).

While the countries that introduced the euro as their own currency waive an independent monetary policy of their own, the monetary policy decisions made at the European Central Bank cannot substitute such policies. The euro area remained a heap of heterogeneous states, only relying on a limited number of “base figures”, without the zone countries’ economies really getting closer to one another. In the Economic and Monetary Union, differences between member states’ levels of development have not significantly decreased for more than ten years. However, if the monetary union is comprised of heterogeneous states, the regulations and harmonisation of budgetary policies and the importance of the establishment of a

² “This phenomenon is rooted not simply in governments’ lack of discipline but deeper. Namely the fact that to catching up member states located in the periphery of the euro area community monetary policy is not suitable and there is no institution within the EMU that could offer a solution to these problems. The fundamental problem that characterises these countries arises from real convergence, i.e. the convergence of their real economy to EU average.” (Vigvári, 2014)

budgetary institution operating as an umbrella organisation over member states may become a priority.

By the year 2030, every fourth citizen of the five largest EU member states will be over the age of 65 (Marján-Nagy, 2006, p. 77). According to the Hampton Court committee document (Hampton Court Consolidated Papers. 14 December 2005 Brussels), ageing is going to put an increasing pressure on both the labour market and the social care – healthcare systems. Ageing of the society primarily jeopardises the fragile balance which Northern European countries have established between economic efficiency, competitiveness and social cohesion – but the problem has also wider social aspects and relevance.

Consequently, crisis management in Europe makes unavoidable not only a discourse about the problems related to economic governance but also the redefinition of the European economic-social model – raising the question whether the unique European model³ can be sustained. The crisis made it clear that structural reforms were unavoidable and it is becoming more and more undoubted that the necessary measures have to be taken not separately or independently by the member countries. Robert Mundell, who elaborated the theory of the optimal currency area, stated at a conference in 2011 that the euro area, if looked at as a whole, did not have a debt problem more serious than that of the United States – but the difference was that the EU did not have a common fiscal policy. The proposal that Mundell makes is that European frameworks should be regulated similarly to how it is done in the American Constitution: along the idea of shared and overlapping sovereignty. (Kengyel, 2012). Community-level governance seems more and more unavoidable. As Gilpin (2001, p. 348) suggested, national interests were being redefined in the course of the integration process and, consequently, loyalty undergoes a shift from the nation state level towards global entities.

For the reasons outlined above, the EU's reactions to the problems that need to be tackled must deal with the challenges' exogenous aspect – the competitiveness pressure resulting from the strengthening of competitors – as well as endogenous aspects, first and foremost the ever more severe problems caused by the demographic situation.

“The EU is coping with a reproduction crisis, which seals its long-term prospects and necessitates major social reforms. Although these in themselves remain within the scope of competence of the individual member states, if we are

³ Professional literature uses the term “European model” to refer to the common denominator, i.e. the uniform features of the member states' economic and social systems: the enforcement of the common system of norms represented by the EU and economic and social philosophy rooted in shared traditions. However, clearly distinct models have always existed in Europe with regard to the role, nature and size of the state. All the four models of the varieties of capitalism (voC) discussed in literature are found within the EU – what is more, according to the cluster analysis of Farkas (2011), there also exists a fifth variety, called “the Middle-Eastern European model”.

to consider the community's sustainable and competitive development, they also raise the need for community-level coordination.” (Pálfiné, 2013)

The situation is further aggravated by the fact that the financial and economic crisis has sharpened a special feature of the catch-up process within the European Union: catching up through integration entails controversies. This becomes understandable if one considers the axiom of economics that as states with a higher GDP also have a higher price level, the inflation rates and nominal exchange rates of catching-up countries will also be higher as their very aim is to reach the average GDP per capita of the EU. “This leads to a controversial impact mechanism since the Maastricht criteria demand a low rate of inflation, while catching up as a process carries a higher inflation level. According to the Balassa-Samuelson effect, productivity will improve with products made for foreign trade, resulting in a higher nominal wage increase as the wage increase will carry over into sectors where no productivity improvement is experienced yet.” (Szijártó, 2014). A wage increase will trigger inflation, which will be a significant factor in the price level convergence. According to Szijártó (2013), however, the inflation surplus is an easier problem to manage than the lack of work productivity, which would cause competitiveness related issues in the long term. In the course of the ten years of integration, the change in the work productivity difference taking place between the centre and periphery countries had adverse effects on the latter, which suffered a competitive disadvantage. At the same time, with the integration of all the 27 countries, competitiveness is still behind that of the United States or Japan.

The deterioration of competitiveness has triggered ever stronger resistance to and scepticism about the European integration process⁴ – which ultimately manifests itself in a kind of identity crisis. For this reason, the European Union's long-term competitiveness may not be based only on economic aspects⁵ but must be planned for a context of the reproduction of social, cultural and political values.⁶

⁴ According to the 2013 Eurobarometer survey results, however, even though the media retained a negative perception even after the crisis, the European public opinion on the whole was positive regarding EU membership after the different enlargement rounds, even in site of the tribulations of the crisis years. 50% of the citizens had a positive attitude to EU membership, 31% were neutral and “only” 17% were rejecting (Eurobarometer, 2013).

⁵ In its broadest sense, the economic aspect means the resolution of the special dilemma of growth and balance, the special simultaneous management of the different aspects. Macroeconomic unbalances must be managed together with budgetary corrections and growth boosting measures. Besides analysing debt and deficit, a deeper and more comprehensive examination is required, which identifies and analyses the reasons for the deterioration of competitiveness, even within the economic context.

⁶ It is worthwhile to mention Karl Deutsch's interpretation of the term “integration”, which defines it, in a broad sense, as a security community. The intensity of cooperation, relations and communication (i.e. interactions) is the driving force of the building of integration, which strengthens trust between participants – and vice versa: the increase in trust increases the number of interactions. (quoted by Palánkai, 2004, p. 30–31)

In conclusion, we can see a rather complex picture of the possible scenarios of the development of integration: the European model is one which has generated development as a major focus point of development,⁷ though for it to keep moving, it must reinterpret itself into and at a higher level. This, however, becomes a rather touchy issue in the light of the fact that, for example, the United Kingdom, which is a non-euro area member state, could finance its doubled national debt under far more favourable conditions than euro area member states in the Mediterranean. According to De Grauwe (2011a), countries with financing troubles outside the euro area are in a better situation. With a comparison of the United Kingdom and Spain, he proves that while the Spanish sovereign state may be driven bankrupt by the financial markets, the United Kingdom can easily finance itself as it keeps the currency under control in which it has become indebted. In his comparison of the different economic indices of the United Kingdom and Spain, De Grauwe (2011, 2013) runs into the paradox that Spain, in spite of its better macroeconomic indices, has ended up in a more severe liquidity crisis since it could not take advantage of the opportunities offered by an independent monetary and exchange rate policy. From a system theory point of view we can say that integration has reached a bifurcation point⁸ – reached its own boundaries and will either collapse⁹ or redefine itself at a higher level (breakthrough).

The crisis has forced member states to cooperate in areas where the same would have earlier been unimaginable (economic policy coordination, financial surveillance, common stability mechanisms). However, redefining integration with the aim of giving it a higher quality would require the modification of the EU's fundamental treaties, which in turn, makes it unavoidable to redefine the ultimate goals of integration. (Ambrus-Szűcs, 2014)

⁷ In the EU, the expected lifetime at birth is 78 years, 12 years more than the international average (CIA, 2012). According to the UN's human development index – which is compiled for all countries based on the expected lifetime at birth, people's level of education, education services, standard of life and life quality in the given country – half of the top 30 countries are EU countries (UN, 2013). Based on the results of social welfare surveys applying the Sen-methodology, 12 of the 20 top countries offering the highest social welfare internationally are EU member states. (World Economic Forum, 2013)

⁸ A common currency cannot be operated if national interests conflict with each other.

⁹ “Certain circles consider the European Union as an entity which is uncertain, devoid of means of its own, estranged from its own citizens and has lost its aim and legitimacy, which had lost ground by the dawn of the twenty-first century. Such evaluations clearly exaggerate, yet they must be dealt with, since in many cases they get supported because there is some truth in them. Such, often populist, views, which distort and simplify reality, are gaining ground and supporters all over Europe as they tell the naked truth about the existing social problems, to some of which the mainstream cannot yet propose a solution.” Moreover, Ambrus-Szűcs also points out that the level of support of new, non-mainstream political formations, which question the traditional European integration consensus and the method of crisis management, has recently increased in several member states. Any further strengthening of this trend can make the EU decision-making system even more complex and slow. (Ambrus-Szűcs, 2014)

POSSIBLE BREAKTHROUGH SCENARIOS

Professional literature identifies three possible – sustainable – scenarios for the retention of integration: one is a scenario which remains within the boundaries of economics, it is strictly intergovernmental and is limited to the common market¹⁰, another one projects a gradual and well-considered deepening, while the third one is the concept of a federative political union.

According to the first scenario, the European Union can never become a complete economic and political union and, in fact, the efforts made towards deepening were wrong as Europe's dispositions preclude a political union, while each deepening is a step in this direction. What can be maintained is the concept of the common market and, therefore, integration – in this concept – must waive the already existing level of deepening and the already existing EU competencies must be reduced, which, in practical terms, means the re-delegation of such competencies to the national level.

The second scenario is that of a gradually deepening integration process, which “means a real economic and monetary union”¹¹ that can improve the EU's overall competitive power and, hence, the number of supporters and the level of support can be increased. “Gradually deepening integration would unavoidably require a sober and reasonable increase of the EU's budget and to use it primarily to eliminate regional inequalities and to strengthen competitiveness, which is required to support growth. A moderate, community-level fusion of member states' debts should be implemented through further strengthening of economic coordination (e.g. issuing EUR bonds for debt parts under or over 60% of the GDP), which would require an economic ombudsman with an increased level of competence. The *intergovernmental ESM* (European Stability Mechanism) and the *Budget Pact* should be integrated into EU law and the possibility should be accepted that European banks may have to be capitalised through the ESM, directly (i.e. not through member states' budgets). A prerequisite of all this would be the creation of a real, renewed alliance between the nation states that comprise the European Union.” (Ambrus- Szűcs, 2014)

The third scenario focuses on the creation of an economic and political union. For the real operation of the monetary union, it is inevitable to have a central, union-level financial and economic authority, to maintain a central EU budget in the order of magnitude of 10 percent of the member states' GDP and the availability of

¹⁰ Supporters of the common market, which offers only functional solutions, consider the euro and the economic coordination required for its operation a severe threat. They consider the monetary policy an intolerable limitation of member states' independence and think that the crisis is an indication that the EU itself, in its present form, is part not of the solution but of the problem.

¹¹ See: the European Commission's communiqué entitled “Genuine Economic and Monetary Union – Draft” and the report “The Goal is a Genuine Economic and Monetary Union”, approved by the Council of Europe (Council of Europe, 2012)

major internal (EU) funds. Without increasing the intensity of redistribution, convergence within integration is not a realistic plan and, moreover, with such a plan in place, individual regions' macroeconomic performance can also be improved – first and foremost through anti-cyclic support. Besides, national state debts could be raised to the community level, after the issuance of EUR bonds, both short and long term, by the EU.¹²

CONTINUOUS DEEPENING AND ECONOMIC GOVERNANCE

According to the *status quo*, the second scenario can be supported with the most arguments as the smooth implementation of integration makes (common) economic governance inevitable¹³, which, however, would be at the cost of giving up some of the sovereignty of the member states.¹⁴ Strengthening federal-level governance is the most likely one. This would require sacrifices by the member states, yet these sacrifices would be far less painful than paying the costs of the disintegration of the euro area. The consequences of disintegration are examined in two scenarios; according to one, only those states would leave the zone which really are in trouble, but even this would give rise to massive costs (see: UBS Research, 2011, for a detailed analysis of these consequences, please refer to the study of Feldstein (2010).

The other negative scenario is the complete collapse of monetary integration, which would lead to even more severe consequences than the first one and would also cause member states to make even bigger sacrifices. Moreover, it is likely that, besides the economic impacts, this route would also lead to catastrophic political consequences. “Thus, as this is though not impossible but at least unlikely to happen due to its huge costs, we can nearly reject this possibility as a potential solution” (Vigvári, 2014).

In summary, in agreement with the conclusion drawn by Vigvári, we can say that of the three possible scenarios strengthening global/federal level governance is the most likely one. In essence, there is still strong resistance against deepening towards a political union and, in this regard, the EU's identity crisis is also a threat, which in turn, may have counter-impacts on the second scenario that emphasise

¹² This scenario further deepens the current bank union concept by installing an EU-level financial regulatory authority, which is fully independent of national ones and a uniform and complete European bank deposit guarantee fund. (For a more detailed analysis of these scenarios, see: Ambrus-Szűcs, 2014)

¹³ For more about European economic governance, see the European Commission's official website: http://ec.europa.eu/economy_finance/economic_governance/index_en.htm

¹⁴ In the case of the EMU, economic governance means, first and foremost, the strengthening of the fiscal federation, which, by increasing the costs of integration, may end up in Europe progressing at different speeds.

the importance of gradualness, as even in that scenario the issue of economic governance must be addressed. Managing economic governance would require, besides a system of institutions, *par excellence*, a community identity. We must also make mention of the initiatives, however, which used to seem completely unrealistic, but became central elements of the reforms launched in 2010 (e.g. the six-pack, the two-pack or bank union related initiatives).

Co-authors Benczes-Rezessy (2013) point out, however, that this scenario entails the paradox that governance deteriorated in quality in several member states despite the introduction of the euro. And that may indicate that – at least with the current members and in the present EU governance system – efforts to establish an all-European governance system are hopeless, since there are significant differences between the participating states’ national governance systems. “These deep-rooted differences have a major influence on whether a country can progress together with the others and whether it can reach convergence in its macroeconomic performance. The lack of such convergence makes not only the individual member states vulnerable but jeopardises the entire euro area.” (Benczes-Rezessy, 2013)

In a cluster analysis, co-authors Benczes-Rezessy (2013) refuted the conventional approach that there would be two levels in a multi-speed Europe: one the euro area member states, the other the rest. The said authors could neither clearly prove that EMU membership would automatically strengthen convergence between members, either in the quality of governance systems or in the level of development achieved. It must also be pointed out that, according to the analysis results, Ireland has stabilised its place and performs similarly to the core countries, i.e. Ireland ought not to be considered a periphery country based on the quality of governance.

At this point, however, we must refer back to the argument that the problem of PIGS countries is rooted primarily in real convergence, i.e. the catching up of their real economy to the EU average and not particularly in a mistaken economic policy. (Vigvári, 2014) The states participating in integration and being at the lowest level of development, but achieving fast growth, with the exception of Portugal, have reached a state of overheatedness and, moreover, their high growth and inflation rates are accompanied by the EMU’s relatively low interest level giving way to a significant level of private and state indebtedness. “It is exactly the poor performance of Ireland’s economy that makes us think that this phenomenon is not only a consequence of governments’ lack of discipline but is rooted deeper. Specifically, to converging member states being at the periphery of the euro area, the community monetary policy is not appropriate and there is no institution available within the EMU that could correct it.” (Vigvári, 2014). Though Ireland has not always been exemplary in fiscal measures, the correction they applied in the middle of the nineties could be a textbook example to present the conditions of a successful budgetary reform (Benczes, 2008) and, what is more, the decade that followed this correction could be described as the “golden age” of the Irish

economy. “The Celtic Tiger became an example to converging and restructuring countries. After all this, seeing Ireland – again – on the dunce’s seat is a surprising change.” (Vigvári, 2014).

Artis - Buti (2000, p. 7) point out that fiscal discipline is a prerequisite of fiscal flexibility. In their examination of the member states of the Economic and Monetary Union, they drew the conclusion that countries with a relatively lower level of current deficit and state debt were able to implement an appropriate fiscal correction, as opposed to the countries where these were higher, which could not do the same.

Along with the above, one must also take into account the fact that the current system of fiscal surveillance institutions is incapable in itself of checking and deciding whether a given country follows a budgetary policy that is properly suited to its macroeconomic state.

By bringing the euro area’s “planning-related” weaknesses to the surface, the 2008 crisis work as a driving force towards further deepening.¹⁵ Economic governance, which was initially built simply on the Stability and Growth Pact, today entails a number of regulatory and institutional systems¹⁶, which are more and more entangled in the political dimension of integration. The complete reconstruction of European economic governance, which used to be built exclusively on the reformed Stability and Growth Pact, can be construed as a step towards turning the Economic and Monetary Union into a political union.

As a consequence of the debt crisis, which also reached Europe in 2008, the EU now wants to restrict the scope for action of fiscal policies through new regulations on the one hand, and to increase their flexibility through the expansion of the boundaries (and size) of the community-level budgetary policy on the other hand – at the same time. While, however, the treaty on the stability, coordination and governance of the EMU took real and specific measures through the implementation of fiscal regulations in member states, the fiscal union, whose aim is to implement institutional reforms, still continues to remain only an idea or, in a better case, a plan (Benczes, 2014).

¹⁵ Saving the euro area is possible primarily through the strengthening of European economic governance. We have also seen that these solutions point towards fiscal federalism at the theory level (for example, through stronger fiscal regulations or through the issuance of a uniform Eurobond) but may also mean larger member state contributions – for example, through the European monetary fund or its implementation, the ESM (European Stability Mechanism).

¹⁶ In the 2000s, exogenous OCA theories appeared, which lay an emphasis on institutional integration, the conscious building of an institutional architecture. Mongelli (2008) discussed the notion of an exogenous optimal currency area (OCA) arguing that in case individual member states fail to satisfy the classic theory’s conditions and the principle of endogenousness did not work, a system of institutions had to be created that enabled the operation of the monetary union.

Naturally, if the EU should sometime in the future be willing to create a real fiscal union¹⁷ with revenues of its own, the question of what exactly the EU should finance from its common sources will have to be answered (Benczes, 2014). This question is made even more important by the fact that while in the mid-1990s one could rightfully think that the Scandinavian welfare state model had failed once and for all, after the reform of their system¹⁸ Scandinavian countries opened a new route of development, which now – as Farkas suggests (2011) – makes us only wonder whether they are on a long-sustainable route¹⁹ and whether their model can serve as a real alternative to the Anglo-Saxon type of capitalism. This would mean the implementation of a model which better suits the features and system of values of the European economic-social model.

It is becoming ever more inevitable to face the fact that EU member states can successfully reduce their state debt only through profound reforms rather than through austerity policies. The successful renewal of Scandinavian countries – the new conservative model²⁰ – can teach a number of lessons other European countries in this regard.

CONCLUSIONS

Scandinavian countries applied conscious macroeconomic planning from as early as the 1990s, which would have brought success even without the introduction

¹⁷ A critical/sceptic approach to this issue is not ungrounded since “the fiscal union budget – even if there is one – is unlikely to be larger than 1-2 percent of the members’ GDP and, as such, it cannot be more than an occasional stabilisation tool, which the parties will use only in exceptional cases. And, clearly, that is very far from being a potential tool for laying the foundation of a political union by the members.” (Benczes, 2014) We agree with the statement of Benczés that for a political union to be implemented, increasing the size of the common budget does not suffice: a decision is also needed regarding the source of revenues as well as what payments the centre will undertake to make. For all this, however, to happen, a clear authorisation and rules are needed – a real EU constitution.

¹⁸ In this respect, the argument of Ryner (2002) seems to make sense according to which, reforms did not make the classic (Swedish) model operational again (as Anxo–Niklasson (2006) wrote) but, rather, rerouted the concept towards consolidated neoliberalism.

¹⁹ There was a heated debate about the long term sustainability of this model – time will tell which of the arguments prove true and more important. One thing is sure: Sweden, Finland and Denmark did not become indebted even during the crisis, their state debt remained well below the 79.1–83.8 percent debt-to-GDP EU average between 2010–2012. (European Commission, 2010).

²⁰ The new conservative model uses a smaller-scale redistribution by the state, lower tax rates and lower state debt and budgetary deficit levels, while it maintains a high level of competitiveness, a strong social capital, high mobility, the full employment of women, high quality education and strong innovation. All these have been achieved by Scandinavian countries through a reform of the welfare state: they implemented successful reforms of their pension scheme, education and healthcare services.

of the euro. At the same time, we are witnessing major shortcomings in the field of governance in some member states of the EU, even within the euro area, where tighter cooperation would be required. The European example thus, fails to prove the endogenous theory of optimal currency areas, i.e. that a common currency would cause convergence among zone members. The general convergence effect is thus, not achieved in the EU. “We can risk the statement that, in contrast to endogenous theories, the introduction of the euro did not support but, on the contrary, weakened the catch-up of the periphery countries to the central ones since, in an extreme view, EMU accession exempted these countries from further practicing disciplined, trustworthy and quality governance.” (Benczes- Rezessy, 2013)

However, the reformation of economic governance at the EU level can be successful only if national governance systems also display some accord: convergence manifests itself in the common denominator of shared norms and forms of behaviour without which further deepening is impossible. “The protraction of the crisis of the Eurozone can put an end to the dream about a European empire – or can bring about a new wave of intellectual rise to Europe and, in it, to Middle Europe.” (Matolcsy, 2013)

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Gyöngyi MAJOR

MOGUĆNOST REPOIMANJA I VLADANJA EVROPOM

Apstrakt: Suverena kriza duga, koja je u Evropi izbila posle svetske ekonomske krize donela je na površinu institucionalne probleme evropske integracije. Ekonomsku i monetarnu uniju karakteriše značajan broj asimetrija i ona ne može se tretirati optimalnom valutarnom zonom.

Na krizu su uglavnom bile definisane nacionalne reakcije, kriza državnog duga međutim zahteva konstantnost intervencija na nivou unije. Sve više argumenata se može navesti u kontekstu neophodnosti produbljivanja evropskog ekonomskog vladanja kao najrealnija opcija za spašavanje evrozona. Stvara se potreba za dubljom političkom i budžetskom integracijom.

Postavlja se međutim pitanje duž kakvih reformi i u kakvom modelu je moguć nastavak onog procesa dinamičkog razvoja, koji preferira zastupljenu solidarnost i filozofiju održive ekonomske politike tako da se ne ozleđuje vrednost raznobojnosti, a Evropska Unija bazirajući se na sopstvenim vrednostima može dalje funkcionisati kao faktor stabilizacije u međunarodnom sistemu.

Studija skicira nove narative, ciljeve i puteve, duž kojih se na izazove kojima se Evropska Unija suočava – pre svega problem krize, konkurentnosti, problematike različitog stepena razvijenosti, starenje stanovništva i problem stvarne konvergencije sistema institucija zajednice –, mogu definisati odovarajuća rešenja. Prikazuje one refleksije koje su moguće bez odricanja evropskog sistema vrednosti i nacionalni interesi mogu biti tako ugrađeni u zajedničke vrednosti članica država da ni opstanak integracije ne postaje problematičan.

Ključne reči: kriza, integracija, konvergencija, optimalna valutarna zona, reforme, ekonomsko vladanje.

Received: 15.7.2014.

Revised: 14.9.2014.

Accepted: 10.10.2014.

UDC: 339.54:061.1(100)
Biblid 0543-3657, 65 (2014)
Vol. LXV, No. 1155–1156, pp. 95–106
Original Scientific Paper

PROGRESS IN THE DOHA ROUND OF THE WORLD TRADE ORGANIZATION – THE BALI AGREEMENT

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Abstract: The World Trade Organization is the most important international organization that defines the rules of international trade and those rules contribute to creating an orderly world market. Multilateral trade agreements under the WTO are the result of negotiations. The set of rules are created in order to help trade flow as freely as possible and to keep the trade policies of member countries within the agreed limits. The first round of multilateral trade negotiations launched in the WTO, the Doha Round, clearly showed large differences between developed and developing countries. A conclusion of the Doha Round of negotiations is still not in sight, but the Bali Ministerial Conference brought some hope. Bali brought to a conclusion the first multilateral trade agreement under the WTO. The first agreement reached through the WTO that is approved by all its members is aimed at lowering global trade barriers, regulating trade facilitation and agricultural support.

Key words: WTO, Bali Ministerial Conference, Agreement, free trade, Doha Development Agenda, GATT.

INTRODUCTION

The creation of an international trade organization was a dream that had evaded trade negotiators of the post-war era for almost 50 years. The General Agreement on Tariffs and Trade (GATT) was considered a poor substitute to the aborted International Trade Organization (ITO), but the attempts to form a multilateral trade organization continued. When the Marrakesh Agreement concluded the Uruguay Round of Multilateral Trade Negotiations in 1994, the World Trade

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This paper was written as a part of the project “Serbia in contemporary international relations: Strategic directions of development and strengthening of the position of Serbia in international integrative processes –foreign policy, international economic, legal and security aspects”, Ministry of Education and Science of the Republic of Serbia, number 179029, for the period 2011–2014.

Organization (WTO) was born. Legally, the WTO came into existence on 1 January 1995 with a membership of 128 countries (Naligar, 2005, p. 22).

The creation of the WTO was certainly a response to the problems with which the old GATT structure could no longer cope. The founding of the World Trade Organization and the entry into force of its rules on 1 January 1995 was a turning point in the development of international economic relations today. The WTO today can be considered the most relevant regulatory body in global economic relations. After a long period of lesser significance and effectiveness of the international trade system, the WTO adopted an institutional framework and complex body of law (Tobias Stoll and Schorkopf, 2006, p. 1).

The GATT had undertaken eight rounds of multilateral trade negotiations which achieved major cuts in tariffs and since the 1970s, some reductions in related non-tariff barriers to trade. The latest round, the Uruguay Round, lasted seven years as its agenda broadened to include trade in services and intellectual property and a revised system of dispute settlement mechanisms. The WTO did not replace the GATT. An amended GATT (GATT 1994) remains as one of the legal pillars of the world's trade and, to a lesser extent, investment systems. The other pillars set up by the Uruguay Round's Marrakesh Agreement of 1994 include the General Agreement on Trade in Services (GATS) and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) (Rugman, 2001, p. 3).

At the heart of the WTO are the WTO agreements negotiated and signed by the bulk of world's trading nations. These documents provide the legal ground rules for international commerce; although negotiated and signed by governments, the goal is to help producers of goods and services, exporters, and importers conduct their business, while allowing governments to meet social and environmental objectives. They are essentially contracts binding governments to keep their trade policies within the agreed limits. The system's main purpose is to help trade flow as freely as possible because this is important for the economic development and well-being. That partly means removing obstacles and it also means ensuring that individuals, companies and governments know what the trade rules are around the world and giving them confidence that there will be no sudden changes of the policy. In other words, the rules have to be "transparent" and predictable.

The members of the WTO now account for well over 90 per cent of the world's trade and virtually all of its investment; on 26 June 2014 the organization's membership had increased to 160 members and 24 observer governments (WTO, 2014). Since the Uruguay Round, the WTO has been covering virtually all trade and a vast range of domestic regulations concerning foreign trade. Now, the WTO is stretching further covering foreign direct investment and the competition policy.

WTO – DOHA DEVELOPMENT AGENDA

The WTO was born out of negotiations and everything it does is the result of negotiations. The bulk of the WTO's current work comes from the 1986–94 negotiations called the Uruguay Round and earlier negotiations under the General Agreement on Tariffs and Trade. The WTO is currently the host to new negotiations under the “Doha Development Agenda” launched in 2001.

The topmost decision-making body of the WTO is the Ministerial Conference, which usually meets every two years. It brings together all members of the WTO, all of which are countries or customs unions. The Ministerial Conference can take decisions on all matters under any of the multilateral trade agreements. Until now, nine WTO Ministerial Conferences have been held under the World Trade Organization (view the table). The plan for going into the Seattle Ministerial was to launch a new round of multilateral trade negotiations. But the meeting was accompanied by the street protests and ended in a failure and no declaration was issued. The failure at Seattle to agree on an agenda to launch a new negotiating round represented the culmination of several issues that threatened to undermine the progress and at the end the very existence of the WTO. The Fourth WTO Ministerial Conference was held in Doha, Qatar from 9 to 14 November 2001. There was launched the Doha Round of multilateral trade negotiations. The Agreement on the Doha Declaration was influenced by concessions to developing countries since the aim was to strengthen the developmental aspects of the WTO. The Doha round is still in progress.

Table 1: WTO Ministerial Conferences

No.	Place	Time
1.	Singapore	9 – 13 December 1996
2.	Geneva	18–20 May 1998
3.	Seattle	30 November – 3 December 1999
4.	Doha	9–13 November 2001
5.	Cancun	10–14 September 2003
6.	Hong Kong	13–18 December 2005
7.	Geneva	30 November–2 December 2009
8.	Geneva	15–17 December 2011
9.	Bali	3–7 December 2013

Source: WTO

For the first round of multilateral trade negotiations under the auspices of the WTO it is difficult to predict exactly how this round will conclude. Not just the interests of particular countries but the very credibility of the WTO as an international organization hang around a successful conclusion of the round and completion of the Doha Development Agenda (DDA). This organization is seen to have failed developing countries. Disillusionment with the organization is very high; countries have begun to resort to bilateral and regional agreements that threaten any meaningful existence of the WTO and often also further undermine the position of the weak (Naligar, 2005, p. 99).

During the Doha Round negotiations quite big gaps have emerged between the demands of high-income countries, on the one hand, and those of the developing countries, on the other. After 13 years of negotiations high-income countries, in particular, should forgo the pleasures of using trade weapons to force others to behave in ways they desire, while insisting on their freedom to do as they please. During these negotiations much pressure has been being put on developing countries to accept minimum standards for the environment and labor backed by trade sanctions. Much pressure is also being placed on members to accept further increases in the scope and intrusiveness of the system (Wolf, 2001, p. 204). Given the small progress in many years of the Doha Round and the reluctance to bring Ministers together without the prospect of some success the World Trade Organization for some time has now fallen in a crisis.

By now it has been clear that developing countries are not going to agree to any unbalanced final deal. The old relationships between groups of countries have changed very substantially and they are likely to go on changing (Cottier and Elsig, 2011, p. 19). After a more than a century of negotiations the Doha Round is still no near any conclusion. But after the repeated failures to resuscitate the Doha Round Bali finally brought success.

BALI MINISTERIAL CONFERENCE

Roberto Azevêdo is the sixth Director-General of the WTO. His appointment took effect on 1 September 2013 for a four-year term. Ambassador Roberto Carvalho de Azevêdo, a Brazilian career diplomat, has been the Permanent Representative of Brazil to the WTO and other International Economic Organizations in Geneva since 2008.

Roberto Azevêdo took over the job of Director-General of the WTO in September and in December 2013 successfully brought the World Trade Organization to a conclusion of the first multilateral trade agreement. He succeeded in unlocking the deadlock in the Doha Round.

The Bali Ministerial Conference was planned to take place from 3-6 December 2013, but it lasted until 7 December. The Ministerial Conference on the island of

Bali, in Indonesia, brought a successful conclusion of the first multilateral trade agreement negotiated at the WTO.

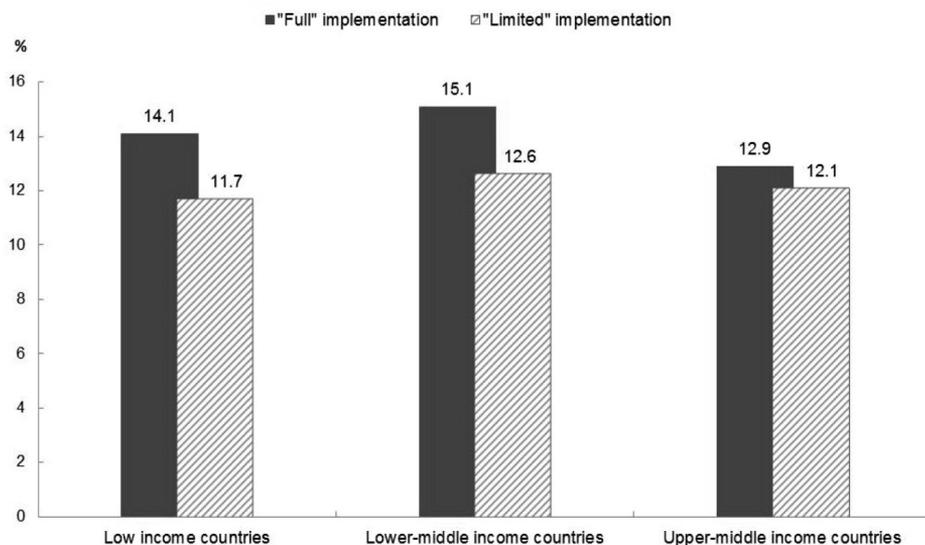
Doha, which began in 2001, suffered near-fatal breakdowns in 2003 and 2008. When trade officials worked to resuscitate discussions in 2012, they opted to keep the agenda as simple and attractive as possible. Even so, the talks almost collapsed on multiple occasions.

According to the estimates of the OECD Trade Facilitation Indicators comprehensive implementation of all measures currently being negotiated in the World Trade Organization's Doha Development Round would reduce total trade costs by 10% in advanced economies and by 13-15.5% in developing countries. Reducing global trade costs by 1% would increase worldwide income by more than \$40 billion, most of which would accrue in developing countries according to the OECD (OECD, 2014).

The Bali agreement or the so-called Bali package consists of ten decisions and agreements in the following three areas: trade facilitation, agricultural support policies, and economic development. The Bali package is the Bali Ministerial Declaration and the ministerial decisions that were adopted on 7 December 2013. The main part of the multilateral trade agreement is The Agreement on Trade Facilitation or measures to reduce trade costs by cutting red tape in customs procedures. One of the unique feature of the agreement is that developing countries can determine whether specific provisions will apply immediately, only after a transition period, or only after a transition period and the provision of technical/financial assistance. The latter option is an innovation for the World Trade Organization. This means that commitments that are conditional on receiving help cannot be enforced through the WTO dispute settlement provisions if the assistance is not provided (Hoekman, 2014). It is aimed at lowering global trade barriers and it is the first agreement reached through the WTO that is approved by all its members. The objectives are as follows: to speed up customs procedures; to make trade easier, faster and cheaper; to provide clarity, efficiency and transparency; to reduce bureaucracy and corruption, and to use technological advances. It has also provisions on goods in transit, an issue particularly of interest to landlocked countries seeking to trade through ports in neighboring countries (WTO, 2014).

The benefits to the world economy are calculated to be between \$400 billion and \$1 trillion by reducing costs of trade by between 10% and 15% increasing trade flows and revenue collection, creating a stable business environment and attracting foreign investment (WTO, 2014). (Figure 1)

The OECD estimates of potential cost reductions from the Agreement on Trade Facilitation, that was concluded at the Bali Ministerial in December 2013 are 14.1% of total costs for low income countries, 15.1% for lower-middle income countries and 12.9% for upper-middle income countries. The biggest impacts are

Figure 1: Overall potential trade costs reductions by income group

exerted by the same types of measures in almost all cases: for low income countries (LICs) indicators (f) documents, (g) automation, and (a) information availability (3%, 2.4% and 1.7% respectively); for lower-middle income countries (LMICs) (f) documents, (h) procedures and (g) automation (2.7%, 2.3% and 2.1% respectively); and for upper-middle income countries (UMICs) (h) procedures, (g) automation and (c) advance rulings (2.8%, 2.3% and 1.3% respectively).² The second scenario results in lower overall trade cost reductions.³ For LICs the potential trade cost reduction reaches 11.7%, 2.4 percentage points less than if all provisions were implemented (view the figure). The three most influential types of measures remain the same, but their impact is now more limited: (f) documents would potentially reduce costs by 2.5%, (g) automation by 1.7%, and (a) information availability by 1.3%. LMICs could benefit from potential trade cost reductions of 12.6%, 2.5 percentage points less than in the case of “full” implementation of best practices of which 2.4% for (f) documents, 2.1% for (h) procedures and 1.5% for (g) automation. In the case of UMICs the impact would be of 12.1%, 0.8 percentage points less than if they “fully” implemented best practices with a potential cost

² Using the OECD Trade Facilitation Indicators (TFIs) and a scenario where WTO Members would implement all the options contained in the agreement, including those formulated on the “best endeavours” basis.

³ The second scenario where WTO Members would only implement the mandatory provisions contained in the agreement leaving aside discretionary provisions.

reduction of 2.4% for (h) procedures, 1.9% for (g) automation and 1.2% for (c) advance rulings (OECD, 2014, p. 2).

The problem is that the one research in the World Trade Review finds that a trade community is much more divided than ten years ago. Today, trade community is influenced by the conflicting interests in the world trade with no leading group capable of influencing the negotiations. This fragmentation may be a long-lasting collateral cost of the Doha Round, whether it succeeds or fails (Messerlin and van der Marel, 2011, p. 555). Within the WTO this power shift has been articulated in the growing salience of China, India and Brazil in the Doha negotiations and trade governance matters more generally. Reaching collective accords will become increasingly, not less, challenging (McGrew, 2011, p. 35).

AFTER BALI

“The big question confronting the WTO now is whether Bali will generate momentum to develop a work programme that offers better prospects for a multilateral deal to liberalize trade in agricultural products, manufactured goods and services and addressing policy areas that so far have been kept off the WTO table, such as investment, competition and industrial policies. Much here will depend on whether current efforts to negotiate so-called mega-regional agreements (such as the EU-US Transatlantic Trade and Investment Partnership) are successful and their effects on excluded countries” (Hoekman, 2014).

The major tensions in the WTO relate to the issues of agriculture, trade in services and trade-related investment measures. The Bali decision launches a work programme with the mandate to find a way to address conflicting food security concerns throughout the WTO membership without increasing trade distortions. Food security does not mean that you need to abolish border protection and all forms of non-green box support. At the present, there is mistrust in the multilateral trading system represented in the WTO and this increases the inefficient food production. The complex issues of domestic support and export restrictions cannot be solved easily.

All over the world the liberalization process is advancing far more quickly at the regional level than at the multilateral level. Regional trade agreements (RTAs) exist in all regions of the world. They are no longer the privilege of developed industrialized countries, but developing countries are becoming active players in regionalism. Increasing trade between developing countries might be one positive result. Regionalism is undoubtedly on the rise and the depth and breadth of regional integration has far exceeded the expectations originally entertained when Article XXIV of the GATT was formulated. What was thought to be an exception to the rule of multilateralism and non-discrimination became the rule (Fisch, 2001, p. 16).

WTO members are required to give notification of the RTAs in which they participate. Regional trade agreements have become increasingly prevalent since the early 1990s. As of 15 June 2014, some 585 notifications of RTAs (counting goods, services and accessions separately) were received by the GATT/WTO. Of these, 379 were in force (WTO, 2014). Almost all WTO members are party to one or more regional trade agreements.

The Transatlantic Trade and Investment Partnership (TTIP, also known as the Transatlantic Free Trade Area, abbreviated as TAFTA) is a proposed free trade agreement between the United States and the European Union. Supporters say the agreement would result in multilateral economic growth, while critics say it would increase corporate power and make it more difficult for the governments to regulate markets for public benefit. The U.S. government considers the TTIP a companion agreement to the Trans-Pacific Partnership. The TTIP free trade agreement could be finalized by the end of 2014.

The Trans-Pacific Partnership (TPP) is being negotiated between United States and 11 countries throughout the Asia-Pacific region. The USA negotiating parties are Australia, Brunei Darussalam, Canada, Chile, Japan, Malaysia, Mexico, New Zealand, Peru, Singapore, and Vietnam. The negotiations over the huge trade agreement — which, when finished, will govern 40 percent of U.S. imports and exports. It is expected to eliminate tariffs on goods and services, terminate a host of non-tariff barriers and harmonize all sorts of regulations when it is finished. These two are at the moment the largest free-trade agreement negotiations.

Almost all Regional trade agreements exhibit an inherent dynamic towards greater liberalization and open markets. They have brought about liberalization in areas such as services and investment on a scale unlikely to be seen at the multilateral level for some years to come. Increasing competition is always seen as a source of economic growth. The story behind justification for the formation of regional trade agreement is that ultimately non-members will benefit as well. Today, motivation for forming regional trade agreements is to open up markets and promote competition. The best example of this free market orientation is the EU, where a single market and a common currency were introduced to strengthen internal competition and external competitiveness, among other reasons. The best-known exception is the EU's Common Agricultural Policy (Fisch, 2001, p. 214).

Since regional trade agreements discriminate against outsiders, non-members may respond to this situation by trying to join the club, which will then give the boost to regionalism. The academic interest in regional trade agreements is dominated by the question of whether regionalism is a building block or a stumbling block for multilateralism. A conclusive answer to this question has not yet been found and the chances for this to happen are small. In the case of unsuccessful multilateral negotiations regionalism might be one way to promote and secure trade liberalization.

The WTO General Council met on 12 May 2014. At the meeting, there were many topics. The Director-General Mr. Roberto Azevêdo noted that members had remained focused on the following two main priorities: a) implementing the Bali Ministerial outcomes and b) meeting the December deadline for the preparation of the work programme to complete the Doha Development Agenda. The Chairman of the Council also announced that he would soon start consultations on the date and venue for the WTO's 10th Ministerial Conference (2015) and on the possibility of appointing a "facilitator" for e-commerce. He announced the launch of a new initiative aimed at ensuring that developing and least developed countries receive the assistance they need to implement the trade facilitation pact. Trade ministers had agreed in Bali that the General Council – the WTO's highest decision-making body outside of ministerial conferences – would have to adopt the Protocol of Amendment until 31 July 2014 that would bring the Trade Facilitation Agreement into the organization's legal framework. In July 2014, despite intensive consultations, WTO members were not able to find a solution that would allow bridging the gap on the adoption of the protocol on the Trade Facilitation Agreement (WTO, 2014). That is now another setback for the WTO.

The WTO has become the most prominent symbol of globalization. But for all its great merits, the WTO has limits as a tool for liberalizing trade. Meanwhile, the WTO that raises regulatory barriers worldwide and eliminates both valid diversity among regulatory regimes and competition among them could even be worse than no WTO at all (Wolf, 2001, p. 195-6). There are a lot of concerns about the future of the WTO. The questions are being raised about the future of the WTO system that go beyond the issue of a new WTO trade round. Countries might even stop implementing WTO rulings. In such a case, the trade disputes system could break down, particularly if there were a fall in the world economic growth prospects that weakened support for trade governed by the WTO (Jordan, 2001, p. 244).

The WTO still has time to seize the momentum from the Bali Ministerial Conference, but the time is running and implementation of the reached agreement is an imperative for the new boost to the negotiations.

CONCLUSIONS

The establishment of the WTO was the biggest reform of the international trading system since the establishment of the GATT. Where countries faced trade barriers and wanted them to be lowered, the negotiations under the WTO should have helped to open markets for trade. Unfortunately, there is an evident lack of progress in multilateral trade negotiations under the auspice of the WTO. The Doha Development Round of negotiations broke all the deadlines set for completion. Because it was not able to bring to agreement many have questioned the entire future of the WTO as a forum for trade liberalization and have pointed to the

danger that the organization could collapse. But then the Bali Ministerial Conference brought a real breakthrough. It was a large boost to the World Trade Organization. The Bali package is aimed at lowering global trade barriers and is the first agreement reached through the WTO. The Bali agreement has created the chance to revitalize trade talks at the multilateral level. Now, there are potential cost reductions from the Agreement on Trade Facilitation, which was concluded at the Bali Ministerial in December 2013. This should deliver significant gains in growth and development. But, it is uncertain that it will transform the prospects of the WTO and the multilateral trading system over a longer term and finally lead to further negotiated outcomes. It is still too soon to give a definitive response.

Unfortunately, there are still too many questions and problems to resolve in the Doha trade negotiations. The continuing difficulties in making deals at the WTO, the need for substantive reform and the need to be more transparent are among many problems that the WTO must resolve. When there is a crisis of multilateralism regional trade agreements become increasingly prevalent and there are even some suggestions of institutional bypassing through expanding preferential trade agreements.

Still, the Bali package created once in a lifetime an opportunity to achieve a positive change and to revitalize trade talks at the multilateral level. The progress that the WTO makes in the months ahead will be critical and it will determine whether this multilateral organization can seize this opportunity.

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Sanja JELISAVAC TROŠIĆ

**NAPREDAK NA DOHA RUNDI PREGOVORA
U OKVIRU SVETSKE TRGOVINSKE ORGANIZACIJE
– SPORAZUM NA BALIJU**

Apstrakt: Svetska trgovinska organizacija je najvažnija međunarodna organizacija koja definiše pravila međunarodne trgovine, a ta pravila doprinose stvaranju uređenog svetskog tržišta. Multilateralni trgovinski sporazumi pod okriljem STO nastali su kao rezultat pregovora. Skup pravila je stvoren kako bi se pomoglo da se trgovina odvija onako slobodno koliko je to moguće i da bi se trgovinske politike zemalja članica održavale u okviru dogovorenih granica. Prva runda multilateralnih trgovinskih pregovora pokrenuta u okviru STO, u Dohi, jasno je pokazala velike razlike između razvijenih i zemalja u razvoju. Zaključenje Doha runde pregovora još uvek nije u izgledu, ali Bali Ministarska konferencija je donela neku nadu. Pregovori u Baliju doveli su do zaključenja prvog multilateralnog trgovinskog sporazuma pod okriljem STO. Prvi sporazum u okvirima STO, koji je odobren od strane svih njenih članica, je usmeren na smanjenje globalnih trgovinskih barijera, regulisanje trgovinskih olakšica i poljoprivrede podrške.

Ključne reči: STO, Bali Ministarska konferencija, dogovor, slobodna trgovina, Doha razvojna agenda, GATT.

Received: 11.9.2014.

Revised: 15.10.2014.

Accepted: 29.10.2014.

IIFE'S AMBASSADORS FORUM

Indian Diplomacy at Work OUR VIEW – INDIA IN BRICS¹

BRICS

The term BRIC (Brazil, Russia, India, and China) was first coined in 2001 by Goldman Sachs in the context of an exercise to forecast global economic trends over the next half century. As a grouping BRIC was first convened in September 2006 with a meeting of Foreign Ministers of four countries in New York on the sidelines of the UN General Assembly. Following a consensus amongst the BRIC Leaders, South Africa was invited to join the grouping at the 3rd Summit in Sanya, China in April 2011. BRICS as a group has demonstrated the shared will and capacity to engage with each other as well as with the world community in seeking sustainable solutions to contemporary regional and global challenges and promote global stability and well-being.

Together the five BRICS countries account for about 40% of the world's population, a quarter of the world's land area and a combined GDP (PPP) of \$ 24 trillion (2013 figures). The value of intra-BRICS trade was \$310 billion in 2012. BRICS countries have set a target to increase intra-BRICS trade to \$500 billion by 2015. BRICS Development Banks have signed a number of enabling MoUs/Agreements to promote intra-BRICS trade and investment.

Since its institutionalization in 2006, BRICS has evolved a number of mechanisms for consultation, coordination and cooperation. These include Summits, meetings of Foreign Ministers, Finance Ministers and Central Bank Governors, Agriculture Ministers, Health Ministers, Science & Technology Ministers, Education Ministers and National Security Advisers. A number of other cooperation mechanisms, including Academic Forum, Think Tanks Council, Business Forum, Business Council, Contact Group on Trade and Investment Issues [CGETI], BRICS Mayors and Friendship cities (Mumbai represents India), Urbanization Forum, meetings of Competition Authorities and National Statistical Authorities have also been established within BRICS in order to further deepen, expand and consolidate cooperation among the five member countries. All these

¹ Authorized Overview (Article) by Madam *Narinder CHAUHAN*, Ambassador of India in Belgrade, Serbia. E-address: indemb@eunet.rs. Further reading: (i) BRICS Long Term Vision [http://orfonline.org/cms/export/orfonline/modules/report/attachments/bricsvision_1376295709857.pdf]; (ii) BRICS Report [http://finmin.nic.in/reports/BRICS_Report.pdf].

cooperation mechanisms meet regularly. BRICS countries also consult each other on the margins of other multilateral meetings as and when required.

In addition to cooperating with each other in mutually agreed areas, BRICS countries exchange views and consult each other on contemporary regional and global issues including the reform of global governance – both political and economic, trade, finance, cooperation against terrorism and against transnational organized crime, climate change, post-2015 development agenda, etc.

So far, BRICS has had 6 Annual Summits, one standalone meeting of Foreign Ministers in Yekaterinburg, Russia in May 2008, regular meetings of Foreign Ministers on the margins of the UN General Assembly in New York and several other Ministerial meetings.

Each BRICS Summit has been an important milestone on the BRICS time-line in its own way; the Second BRIC Summit hosted by Brazil in April 2010 put greater economic content on the agenda through new cooperation mechanisms such as BRICS Business Forum, Financial Forum bringing together Development Banks [EXIM Bank from India] of member countries, and institutionalization of BRICS Trade Ministers meeting. The 4th Summit hosted by India in March 2012 was important as it proposed the creation of the New Development Bank and placed the subject on the BRICS Agenda. The 5th Summit in Durban in March 2013 proposed a BRICS Contingent Reserve Arrangement. The 6th BRICS Summit hosted by Brazil on 15-16 July 2014 assumed importance as, among other things, it witnessed finality of major initiatives relating to the New Development Bank and Contingent Reserve Arrangement.

INDIA IN BRICS

India shares close economic and cultural ties with her BRICS partners. India attaches high importance to engagement with BRICS as a platform for coordination, consultation and cooperation on current issues. India's engagement with BRICS countries may be seen in the context of our pro-active and broad-based international engagement to contribute towards building a peaceful and prosperous world.

India's trade with BRICS partners is about \$95 billion [2013-14 data from the Ministry of Commerce & Industry of India]. India's strengths lie in labour, services, generic pharmaceuticals, and information technology. There are significant synergies with other BRICS partners which may be tapped to further strengthen intra-BRICS linkages in these areas.

As mentioned above, India's notable contribution to BRICS is the proposal of the New Development Bank which was put on the BRICS agenda at the 4th Summit hosted by India in New Delhi in March 2012. Subsequently, India hosted the first Negotiation Meeting for taking this initiative forward in August 2012. After

several rounds of negotiations and Finance Ministers' meetings, the Agreement for setting up the Bank was signed at the 6th Summit in Brazil in July 2014. The Bank will be headquartered in Shanghai, with a regional office in South Africa. The first President of the Bank will be from India.

Other Indian initiatives include a BRICS Report focusing on synergies and complementarities between the BRICS economies and highlighting their role as growth drivers of the world economy. This Report was released by the Leaders at the Delhi Summit in March 2012.

India also added the Urbanization Forum to BRICS cooperation mechanisms to bring greater focus on intra-BRICS cooperation to learn from each other's experience in tackling challenges of rapid urbanization faced by all BRICS members.

India institutionalized the practice of holding BRICS Academic Forum meetings as preparatory meetings feeding into the Summit agenda by hosting the first such a meeting in New Delhi in May 2009 before the first BRIC Summit held in Yekaterinburg, Russia in June 2009.

At the 6th BRICS Summit in Brazil in July 2014, India proposed important initiatives in order to strengthen intra-BRICS cooperation. These initiatives relate to online education, an affordable health care platform, a virtual BRICS university, BRICS language schools, cooperation in small and medium enterprises, tourism, youth exchanges, a Young Scientists Forum and disaster management. India will continue to work closely with BRICS partners to take these initiatives forward as well as for overall strengthening and deepening of BRICS cooperation.

CONCLUDING REMARKS

As a subject of discussion, the developments relating to BRICS has attracted attention in Serbia/Western Balkans, particularly since 3 out of 5 BRICS countries, namely, India, Russia and China enjoy a traditional and historic relationship with Serbia and the region. Further, of the four countries that Serbia has strategic partnership with, 2 are BRICS countries (Russia and China). India and South Africa, two BRICS countries, are members of the Non Aligned Movement (NAM), a movement which took birth in Belgrade. Above all, Serbia binds all the 5 BRICS countries in their consistent opposition to UDI by Kosovo!

Equally, each of the BRICS countries have enjoyed civilizational and historic links with the countries of Europe which now form part of the EU, a body that Serbia aspires to join.

Time will tell how these synergies develop. Also, the model of cooperation among the BRICS countries is there for Serbia to selectively emulate in developing an action plan of bilateral relationship, for instance, with India, in the years ahead.

BOOKS REVIEW

FINANCING AND COMMON POLICIES OF THE EUROPEAN UNION

Vladimir Grbić, Miroslav Antevski, Dragoljub Todić, *Financing and Common Policies of the European Union*, Institute of International Politics and Economics, Belgrade, 2013.

The monograph that is before us represents a conjoint effort of three competent authors to present and explain to the interested reading public the ways in which the European Union and public policies that fall within the scope of its powers are financed. The authors have chosen to specifically focus on three common European policies (agriculture, regional policy and policies in the field of environmental protection, all of them belonging to the domain of divided or concurrent jurisdictions of the European Union), among other things, because the biggest share of costs of the common budget is made by funding these policies. In that sense, this book represents a welcomed contribution to the native literature on contemporary processes within the European Union. Moreover, there is an impression that our scientific thought is lesser dedicated to the research of the specific European sector policies. In short, as the authors in the preface highlight, the main idea behind their work is: “to show in one place the development of European ideas, institutions, decision-making and policies in the sphere of financing of the European Union.”

In terms of the content, the book is divided into eleven chapters. Chapters I, II, III, IV and VII were written by Dr. Miroslav Antevski, chapters V, VI and VIII by Professor Vladimir Grbić, and chapters IX and X by Professor Dragoljub Todić. The first four chapters deal with the following issues: evolution of integration in the European Union, characteristics and effects of regional integration on the European soil, common European policies and decision-making institutions of the European Union. The pertaining chapters represent an introduction for further considerations. The fifth chapter is devoted to the analysis of financing of the European Union, while the chapters that follow offer an analysis of the specific common European policies in the following order: agricultural, regional policy (cohesion), European Union policy in the field of environmental protection, climate change and, at the end, consumer protection policy. The last chapter evaluates the process of harmonization of national policies and regulations with the policies and regulations of the European Union in the field of environment, climate, and consumer protection. It is important to highlight that the authors have decided to

provide a list of references at the end of each chapter, which can be very useful for readers who would like to further deepen their research of the subject field. Also, it appears that while preparing it, each of the authors of this monograph found a foothold in his long-term field of research, which represents its added value.

Skills of the authors lay in the fact that in the introductory part of the book they have succeeded to in a concise, yet comprehensive way illustrate the history of the development of regional integration on European soil. As expected, the focus of the research has been the European Union, while other regional initiatives are mentioned as well. Especially, possible gains from economic integrations are highlighted.

Thus, for example, in the case of the European Union, the premise has been outlined that the establishment of a single market has brought unequivocal benefits to its members, while the general conclusion was that “only from the economic perspective, the regional integration results in a convergence of incomes, advancement of harmonious development of the regions, the faster development of less developed members and their catching-up with the most developed.”

The considerations that follow are devoted to the common policies of the European Union, with special emphasis on economic policy and then the focus would turn to the European Union institutions and decision-making within them. According to the authors, “the institutional framework of the European Union consists of three groups: major institutions, other institutions, agencies and other bodies of the European Union”. The above-mentioned classification of the Union institutions in this book differs to some extent from the usual ones, based on the letter of the Founding Treaty (see Treaty on European Union, Article 13). The institutional system of the European Union is concisely presented taking into account the essential facts. Due to its complexity the institutional apparatus of the Union (it differs from the nation-state type political systems, on the one hand, and the system of institutions in international organizations, on the other) can cause ambiguities. Thus, the chapter devoted to the EU institutions can serve the pedagogical purpose or informative purposes.

In part of the book devoted to financing of the European Union, a detailed analysis of the budget of this organization, the underlying principles, its existence, transformation, the present condition, and future tendencies of its development are presented. There is a special emphasis on the revenue and expenditure side of the budget. Despite the advanced integration, the general conclusion is that the common EU budget remains relatively small making only about 1% of the total GDP of the European Union. The authors share the view that “the size and structure of the budget are inadequate for the role the EU should play and therefore, necessary reforms would be needed in the near future”. However, given the fact that in recent years we have witnessed an apparent decline in the public support of

the European Union's deepening integration, it is possible to perceive the limitation of the budget growth as a way to set the limits to further expansion of the European Union powers.

The authors have included in their study the current economic crisis in the European Union. With the unravelling of the Eurozone crisis, the theoretical thought has witnessed revived interest in the Theory of Optimum Currency Area formulated by Robert Mundell back in 1961, which has been repeatedly theoretically upgraded since then. This theory represents the best analytical tool for understanding the causes of the crisis in the European Union. Such an approach has been chosen in this book as well. There is a clear explanation of the basic principles of this theory and its later developments through contributions of other theorists. Based on the analysis of opportunities for successful functioning of Optimal Currency Area, one may conclude that the introduction of the euro was a complex and uncertain project as an appropriate institutional structure has never been formed. Also, it is important to emphasize that the authors have been determined to analyse the causes of the euro crisis from different theoretical perspectives. The prevailing view on the crisis is that the paramount causes lie in the fiscal irresponsibility of the southern states (the so-called. "German view"); it has been amended by the opposite approach in which the explanation for the occurrence of the crisis should be sought in the current account surplus, which is beneficial for the northern countries, while the southern Eurozone countries with current accounts deficits have difficulties in dealing with them. Therefore, according to the second approach, the greatest benefit from the introduction of the euro has definitely achieved the most developed states of the Eurozone. The authors have completed this chapter with some possible proposals of measures for overcoming the crisis and more importantly by proposing some potential fiscal resources if, one day, the budget of the European Union is transformed into the so-called "Transfer Budget."

In the monograph, the recent data are presented indicating that most of the budget costs keep on being allocated for agriculture, the cohesion policy and the protection of natural resources. As they argue, this fact has made them choose these common policies for the subject of their work. Thus, only holistic analyses of the budget and sector policies that are largely funded from the budget (and consequently derive maximum of mutual funds) allow us to predict long-term trends of the budget development. Depending on the needs and interests of the readers (e.g. addressing only one of the aforementioned specific sector policies) the structure of the monograph provides the possibility of choosing a chapter and studying the particular aspect of the problem. Furthermore, in dealing with the common policies in question, the authors have highlighted their significance for Serbia, currently a candidate country for the EU membership and in the future a member country. Particularly indicative in this regard is to observe to which extent it has been made possible for new members to use the funds provided to support the agricultural

production and regional development in the first years after admission, which for Serbia is of the utmost importance.

Finally, it can be concluded that the book before us is of significance for those who wish to understand in a more comprehensive way the functioning of the European Union (primarily in the area of its funding) and its (previously mentioned in the text) particular public policies. So, the authors of this study have offered an elaborate, a theoretical and normative-based study of the ways in which some of the most significant European public policies are financed and how they are functioning. In the public eye it is not uncommon to hear inclusive attitudes and evaluations of the financial income and expenditure of the European Union, on its disproportionate spending on the maintenance of its growing bureaucracy, or the financing of international missions and operations with aspirations to portray it as the supposed global actor. For this reason, this book provides helpful information and clarifies ambiguities relating to how much money the EU really has on its disposal, how its budget revenues are generated and how its common policies are financed.

Dragana DABIĆ

TERRORISM – AN INTERNATIONAL OVERVIEW

Mina Zirojević Fatić, *Terrorism – An International Overview*, Institute of International Politics and Economics, Belgrade, 2014, p. 366.

Institute of International Politics and Economics from Belgrade has published the monograph “Terrorism - An International Overview”. The author is Mina Zirojević Fatić, one of the leading Serbian experts in terrorism.

The introductory part is dedicated to the concept of traditional Islam which was liberal for other cultural and spiritual traditions respecting Judaism and Christianity. With time, various Islamic heretical movements and sects (such as Fatima caliphate, Mahdi rebels, etc.) emphasized the political and religious thesis outside the borders of traditional Islam. Nowadays, globally dangerous movements are Islamic fundamentalism, reformism and Wahhabis. The author pays special attention to Wahhabis, whose main goal is jihad in any form including the use of violence against infidels and faith outlaws. Because of its extremist nature, this movement frequently causes resistance within moderate Muslim population and clergy. Wahhabism in former Yugoslavia steadily increased due to the fraught conditions of life, wars and economic stagnation. With the generous financial support of Saudi Arabia, the main goal of Wahhabi in the Balkans is the creation of the so-called „green transversal”- a territory inhabited by Muslims from Turkey to Bosnia and Herzegovina.

The author introduces terrorism through the concepts of hard and soft security. According to one of the most general classification, soft security includes the following: biological, environmental security, security from global terrorism and human security. Terrorism as a particular security threat is characterized by discrepancy in calculation between risks and potential benefits, organizational demands and flexibility as well as insensitivity to a classic repressive response. For a long time, terrorism was considered an inert problem of some state. After the attack on the World Trade Center in 2001, terrorism has become a subject of military actions against certain countries. It has become the reason for the formation of international military coalitions, the argument for the overthrow of governments as well as the justification for international governance and occupation of some countries. The author highlights potential dangers in the struggle against terrorism. One of them is the increasingly restrictive comprehension of law. The struggle against terrorism forms a framework for the repressive legislation which allows unlimited detention for persons suspected of terrorism, legitimization of many wars in the name of fight against terrorism, and restrictive legal provisions on privacy and rights relating to privacy.

The third chapter of the monograph is devoted to the normative conceptualization of terrorism. Many scholars and political leaders have tried to define

this phenomenon, but there is no a universally accepted definition. However, some general elements of the definition of terrorism include organized violence against some state inspired by political motives, fear and insecurity of innocent citizens caused by the use of destructive weapons which can endanger their lives and property. In their legal acts many international organizations provide a definition of terrorism. The Organization of United Nations is the closest to the adoption of the definition of terrorism. At its 60th session the UN General Assembly adopted the United Nations Global Counter-Terrorism Strategy. In 2008, the UN organized a global symposium for the support of the victims of terrorism. On the European continent important acts for defining and combating terrorism are “European Convention on the Suppression of Terrorism Act” (1977), “Protocol on Amendments and Supplements to the European Convention on the Suppression of Terrorism” (2003) as well as the Council of Europe’s „Convention on the Prevention of Terrorism” (2006). European police forces (EUROPOL) and Interpol cooperate with the aim of creation of communication systems between the national polices and formation of legal standards for the trial and punishment of terrorists. The author reviews the laws and measures the fight against terrorism in France, Germany, Spain, Italy and the USA as well as numerous documents of the EU.

Chapters four and five are devoted to the typology of terrorism and Internet abuse for terrorist purposes. The author lists several grounds for classification and they are as follows: classification according to the victims of terrorism, the categorization based on the destructive potential of terrorist activities, categorization based on the subject of terrorism as well as the program-target categorization. Especially danger is the misuse of Internet and the media for terrorist purposes. Adjustable computers, wireless networks and encrypted messages, social networks and detailed search programs of the country are abused not only for the terrorist activity, but also for the recruitment of young people. Terrorist web sites are used for direct attacks against the enemy citing their lofty goals, the moral basis and justification for the use of force, thereby avoiding the presentation and detailing of their own criminal and immoral activities.

Funds for financing of terrorist activities may be legal (in donations), but most of them come from illegal, but lucrative activities such as selling drugs, prostitution, smuggling and the theft of intellectual property.

In the end, the most important question is: how to fight against terrorism? There are two diametrically opposed ways. One way is retaliation - which implies certain actions at the moment after the terrorist attack happens. The other way contains preventive measures which affect the causes of terrorism. The author emphasizes that the struggle against terrorism requires not only the improvement of safety measures, the destruction of terrorist groups and arresting of their members, but also includes a deep understanding of hostility reasons that some individuals and social groups feel towards a particular country. Understanding causes

of anger and hate towards certain country has the same importance as the punishment of terrorists and destruction of their infrastructure.

The monograph by Mina Zirojević Fatić, Ph.D. “Terrorism- an international overview” is a logical entity in professional, scientific and methodological terms. It is enriched with valid arguments and numerous diagrams, tables, and classification. Written in simple and understandable language, it presents a valuable literature not only for members of the scientific community, but also for all students and individuals interested in the topics relating to terrorism and ways of its operations, financing and methods of prevention.

Jelica GORDANIĆ, M.A.

DOCUMENTS

Resolution adopted by the General Assembly – 68/262. Territorial integrity of Ukraine on 27 March 2014

[without reference to a Main Committee (A/68/L.39 and Add.1)]

The General Assembly,

Reaffirming the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations, *Recalling* the obligations of all States under Article 2 of the Charter to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, and to settle their international disputes by peaceful means, *Recalling also* its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, and that any attempt aimed at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter, *Recalling further* the Final Act of the Conference on Security and Cooperation in Europe, signed in Helsinki on 1 August 1975, the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (Budapest Memorandum) of 5 December 1994,¹ the Treaty on Friendship, Cooperation and Partnership between Ukraine and the Russian Federation of 31 May 1997² and the Alma-Ata Declaration of 21 December 1991, *Stressing* the importance of maintaining the inclusive political dialogue in Ukraine that reflects the diversity of its society and includes representation from all parts of Ukraine, *Welcoming* the continued efforts by the Secretary-General and the Organization for Security and Cooperation in Europe and other international and regional organizations to support de-escalation of the situation with respect to Ukraine, *Noting* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014 was not authorized by Ukraine,

¹ A/49/765, annex I.

² A/52/174, annex I.

1. *Affirms* its commitment to the sovereignty, political independence, unity and territorial integrity of Ukraine within its internationally recognized borders;
2. *Calls upon* all States to desist and refrain from actions aimed at the partial or total disruption of the national unity and territorial integrity of Ukraine, including any attempts to modify Ukraine's borders through the threat or use of force or other unlawful means;
3. *Urges* all parties to pursue immediately the peaceful resolution of the situation with respect to Ukraine through direct political dialogue, to exercise restraint, to refrain from unilateral actions and inflammatory rhetoric that may increase tensions and to engage fully with international mediation efforts;
4. *Welcomes* the efforts of the United Nations, the Organization for Security and Cooperation in Europe and other international and regional organizations to assist Ukraine in protecting the rights of all persons in Ukraine, including the rights of persons belonging to minorities;
5. *Underscores* that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol;
6. *Calls upon* all States, international organizations and specialized agencies not to recognize any alteration of the status of the Autonomous Republic of Crimea and the city of Sevastopol on the basis of the above-mentioned referendum and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

80th plenary meeting

27 March 2014

OFFICE OF THE UNITED NATIONS
HIGH COMMISSIONER FOR HUMAN RIGHTS

Report on the human rights situation in Ukraine

15 June 2014

I. EXECUTIVE SUMMARY

1. The present report is based on findings of the United Nations (UN) Human Rights Monitoring Mission in Ukraine (HRMMU) covering the period of 7 May – 7 June 2014. It follows two reports on the human rights situation in Ukraine released by the Office of the UN High Commissioner for Human Rights (OHCHR) on 15 April and 16 May 2014.
2. During the reporting period, the human rights situation in the Donetsk and Luhansk regions has continued to deteriorate. The 11 March “referendum” on “self-rule” held by the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic”,¹ albeit without effect under international law, was seen by their representatives as the first step to the creation of a “Novorossia”. In addition, armed groups have continued to physically occupy most of the key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”, however, the provision of administrative services to the local population remains with the State.
3. The presence of armed people and weapons in the regions of Donetsk and Luhansk has increased. Representatives of the “Donetsk People’s Republic” have recognised the presence within their armed groups of citizens of the Russian Federation, including from Chechnya and other republics of the North Caucasus. In the period following the elections, the HRMMU observed armed men on trucks and armoured vehicles moving around downtown Donetsk in daylight.
4. The escalation in criminal activity resulting in human rights abuses is no longer limited to targeting journalists, elected representatives, local politicians, civil servants and civil society activists. Abductions, detentions, acts of ill-treatment and torture, and killings by armed groups are now affecting the broader population of the two eastern regions, which are now marked by an atmosphere of intimidation and consequent fear. Armed groups must be urged to stop their illegal activities and lay down their arms.

¹ Hereafter referred to as the “Donetsk People’s Republic” and the “Luhansk People’s Republic”.

5. There has also been more regular and intense fighting as the Government has been trying to restore peace and security over the eastern regions of Donetsk and Luhansk through security operations involving its armed forces. Local residents of areas affected by the fighting are increasingly being caught in the cross-fire between the Ukrainian military and armed groups, with a growing number of residents killed and wounded, and damage to property. The HRMMU is concerned at the increasing number of reports of enforced disappearances as a result of the security operations. The Government must further use restraint of force, and ensure that its security operations are at all times in line with international standards.²
6. As a result of these developments, residents of the Donetsk and Luhansk regions live in a very insecure environment, coupled with social and economic hardships. Daily life is more and more of a challenge. The HRMMU is gravely concerned that the combination of the increased number of illegal acts by the armed groups, and the intensification of fighting between armed groups and Ukrainian forces is raising serious human rights concerns, including but not limited to, the fate of the general population, especially women and children, in the areas under the control of armed groups.
7. As of 6 June, the departments of social protection in Ukraine's regions had identified over 12,700 internally displaced persons (IDPs).³ However, the actual number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily.
8. Freedom of expression continues to be threatened, particularly in the eastern regions, where journalists face ongoing intimidation and threats to their physical security. Hate speech, particularly through social media, continue to fuel tensions and to deepen division between communities.
9. In Crimea, the introduction of Russian Federation legislation, in contradiction with the United Nations General Assembly resolution 68/262 and applicable bodies of international law, hampers the enjoyment of human rights and fundamental freedoms. It has created a legislative limbo as, while Ukrainian legislation was supposed to remain in force until 1 January 2015, the legal institutions and framework are already required to comply with the provisions of legislation of the Russian Federation.
10. Residents in Crimea known for their "Pro-Ukrainian" position are intimidated. The HRMMU is concerned that many may face increasing discrimination, particularly in the areas of education and employment. Leaders and activists of the indigenous

² Human Rights Watch Letter to former Acting President Turchynov and President-Elect Poroshenko dated 6 June 2014, on the conduct of security operations in south-eastern Ukraine in light of the growing number of credible reports regarding Ukrainian forces' use of mortars and other weapons in and around populated areas, and the recent intensifying of hostilities between Ukrainian forces and armed groups.

³ As of 16 June, UNHCR estimate there to be 34,336 IDPs in Ukraine. According to the Russian Federation Federal Migration Service, as of 6 June, 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

Crimean Tatar people face prosecution and limitations on the enjoyment of their cultural rights. During the reporting period, the situation of all residents of Crimea has deteriorated with regard to their right to freedoms of expression, peaceful assembly, association, religion or belief.

11. From 14 to 19 May, Assistant Secretary-General (ASG) for Human Rights Ivan Šimonović travelled to Ukraine. During his visits to Kyiv, Donetsk and Odesa, he discussed the 16 May report with the Government, regional and local officials, the Ombudsperson and representatives of civil society, and the international community. The ASG highlighted the importance of prompt follow-up to the recommendations made in the OHCHR report as a means to de-escalate tensions, in particular ahead of the Presidential elections.
12. The investigations under the Office of the Prosecutor General into the Maidan events continued. On 28 May, a Kyiv court sentenced two police officers who subjected a Maidan demonstrator to ill-treatment. On 15 May, relatives of those killed on Maidan, dissatisfied with the perceived slowness of the official investigation, created an initiative group to conduct their own investigation. The HRMMU remains in regular contact with the Office of the Prosecutor General and emphasizes the need for the investigation to be transparent, comprehensive and timely.
13. With respect to the incidents that took place in Odesa on 2 May, it should be noted that six official investigations have been established. The main bodies undertaking such investigations are the Ministry of Interior (MoI) and the State Security Service in Ukraine (SBU). It is with regret that the HRMMU reports a lack of cooperation from both governmental bodies, particularly at the central level with the HRMMU, which has been preventing the HRMMU from conducting a proper assessment of the progress made. The HRMMU reiterates the need for prompt and thorough investigations into the violent incidents on 2 May in Odesa. Some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to accept fully the results of such an investigation. Among those questions are the conduct of the police on 2 May: why it, and the fire brigade, either did not react, or were slow to react; what caused the fire in the Trade Union building; who are the perpetrators of the killings in the afternoon and the fire in the evening; and what measures are being taken to guarantee justice for the victims, and due process for the people detained in connection with these events. Furthermore, the Government must pay particular attention to ensure social media is not used for hate speech or incitement to hatred.
14. A key development during the reporting period was the Presidential election held on 25 May 2014. There were 21 candidates officially on the ballot. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote. In the regions of Donetsk and Luhansk, attacks had taken place every day during the week preceding the elections and multiplied on election day, with violent obstruction of polling stations. The pattern of such attacks consisted of representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic” and armed men entering the premises of the district election

commissions, threatening staff and sometimes beating and/or abducting them, often taking away voters' lists, computers and official documents. In some cases, the premises of these commissions were seized and blocked; others had to close either because they became inoperative, or for security reasons the staff were frightened to come back. Several attacks against district election commissions and polling stations were reported just prior to, and on, the election day, with armed men entering polling stations, forcing them to close and/or destroying or stealing ballot boxes. These illegal acts prevented many people living in the Donetsk and Luhansk regions to exercise their right to vote.

15. Residents of Crimea had to go to mainland Ukraine to vote. The HRMMU monitored the situation in the Kherson region, where most of the Crimean voters had registered, and spoke to representatives of the Crimean Tatars. As they crossed the administrative border by car to go to vote, representatives of "self-defence forces" reportedly recorded various personal details, including car license plates and passport numbers. The HRMMU was informed that many Crimean Tatars did not go to vote due to the cost of travelling, concerns about crossing the administrative border, and fear of reprisals by the authorities in Crimea.
16. During the reporting period, the Government of Ukraine continued to implement the Geneva Statement.⁴ National roundtables on constitutional reform, decentralization, minority rights and the rule of law were held in Kyiv on 14 May, in Kharkiv on 17 May, and in Mykolaiv on 21 May. These meetings brought together former Presidents Kravchuk and Kuchma, Prime Minister Yatsenyuk, political party leaders, members of the business community and other civil society organizations. In Kharkiv, Prime Minister Yatsenyuk declared that the Constitution should be amended in order to provide a special status for the Russian language and national minority languages.
17. On 13 May, the Parliament adopted the Law "On amending some legislative acts in the area of state anti-corruption policy in connection with the implementation of the European Union (EU) Action Plan on the liberalisation of the visa regime for Ukraine". The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities.
18. On 20 May, Parliament adopted by resolution № 4904 the Memorandum of Concord and Peace, which was drafted during the roundtable on national unity in Kharkiv on 17 May, and discussed on 21 May in Mykolaiv. Supported by 252 votes (all deputies except the Communist Party of Ukraine and Svoboda), the document

⁴ The Geneva Statement on Ukraine was issued on 17 April 2014 by representatives of the European Union, United States, Ukraine and the Russian Federation. It sets out the agreed initial concrete steps to de-escalate tensions and restore security for all: (1) All sides must refrain from any violence, intimidation or provocative actions; (2) All illegal armed groups must be disarmed; all illegally seized buildings must be returned to legitimate owners; all illegally occupied public offices must be vacated; (3) Amnesty should be granted to the protestors who left seized buildings and surrendered weapons, with the exception of those found guilty of capital crimes; and (4) The announced constitutional process will be inclusive, transparent and accountable carried out through a broad national dialogue.

foresees that the adoption of a constitutional reform package, including the decentralization of power and a special status for the Russian language; judicial and police reform, and the adoption of an amnesty law for anti-government protesters in the east who would accept giving up weapons, except for those who have committed serious crimes against life and physical integrity. The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

II. METHODOLOGY

19. The present report was prepared by the HRMMU on the basis of information collected during the period of 7 May to 7 June 2014. During this period, the HRMMU continued to operate pursuant to the objectives as set out at the time of its deployment in March 2014, and in accordance with the same methodology as outlined in its second monthly report on the situation of human rights in Ukraine issued by OHCHR on 16 May.⁵ The present report does not intend to present an exhaustive account of all human rights concerns in Ukraine that have been followed by HRMMU during the reporting period. It rather focuses on those violations and developments which represent particular human rights challenges at the current juncture or demonstrate trends for potentially longer-term human rights concerns in the country.
20. The HRMMU continued to work closely with the United Nations entities in Ukraine. It is grateful for the support and contributions received for the report from the Office of the United Nations Resident Coordinator, the Department for Political Affairs (DPA), the United Nations High Commissioner for Refugees (UNHCR), the World Health Organisation (WHO), the United Nations Children's Fund (UNICEF), the United Nations Development Fund (UNDP), the World Food Programme (WFP), the United Nations Population Fund (UNFPA), the United Nations Office on Drugs and Crime (UNODC), the International Labour Organisation (ILO), the International Organisation for Migration (IOM), and the Office for the Coordination of Humanitarian Affairs (OCHA).
21. The HRMMU appreciates the close cooperation with international and national partners, including among others, the Organisation for Security and Cooperation in Europe (OSCE).

III. ACCOUNTABILITY FOR HUMAN RIGHTS VIOLATIONS

A. Investigations into human rights violations related to Maidan protests

22. Five separate initiatives are ongoing in connection with the investigations into human rights violations committed during the Maidan events: (1) the official State investigation is undertaken by the Office of the Prosecutor General of Ukraine in

⁵ <http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>.

cooperation with the MoI; (2) a temporary “*commission on the investigation of illegal actions of the law enforcement bodies and individual officials and attacks on the rights and freedoms, lives and health of citizens during the events connected with the mass actions of political and civil protests that have been taking place in Ukraine since 21 November 2013*” was established by Parliament on 26 December 2013; (3) the Secretary-General of the Council of Europe initiated, in December 2013, a three-member International Advisory Panel to oversee that the investigations of the violent incidents which have taken place in Ukraine from November 2013 onwards meet the requirements of the European Convention on Human Rights and the case-law of the European Court of Human Rights; (4) a Public Commission on the investigation and prevention of human rights violations in Ukraine was created on 27 January 2014, initiated by a group of Ukrainian legal academics; and (5) an initiative group comprising family members of people who died on Maidan.

23. The Ukrainian Ombudsperson issued a special report on “Infringement of Human Rights and Freedoms in Ukraine - The Events of November 2013 – February 2014”.⁶

Forceful dispersal of Maidan protesters on 30 November 2013

24. As noted in the previous reports, the violent dispersal of protesters on 30 November was the first instance of the excessive use of force against peaceful demonstrators, and triggered further protests.
25. On 14 May, the Kyiv Pechersky Court postponed a hearing of Oleksandr Popov, former Head of the Kyiv City administration, and of Volodymyr Sivkovych, former Deputy Secretary of the National Security and Defence Council, who are under suspicion of being responsible for the forced dispersal of Maidan protesters on the night of 30 November 2013. The hearing was scheduled after the Kyiv city Court of Appeal cancelled the decision of the Kyiv Pechersky Court of 31 January 2014 to amnesty persons responsible for ordering the crackdown of demonstrators by the “Berkut” riot police under the law of 19 December, which has since then been rescinded.
26. The hearing planned for 14 May eventually took place on 26 May but was followed by an incident. About 15 members of the “Maidan self-defence” attacked Oleksandr Popov after he left the court room. He was doused with water, alcohol and iodine, and insulted. Members of the police, who were standing by, did not intervene.
27. During the following hearing, on 5 June, the plaintiffs (representing Maidan victims) submitted a petition for the revocation of the judge considering the case. The petition was accepted by the court, leading to the postponement of the hearings until a decision on the revocation.

⁶ Ukrainian Parliament Commissioner for Human Rights, Special Report on ‘Infringement of Human Rights and Freedoms in Ukraine - The events of November 2013 – February 2014’, issued on 28 February, 2014.

Criminal proceedings into the killings of 19-21 January and 18-20 February 2014

28. During 19-21 January 2014, fierce clashes broke out in central Kyiv between the police and protesters, resulting in the first three casualties among demonstrators. The death toll rose significantly between 18-20 February, with confrontations taking the lives of dozens of persons, mostly protesters.
29. Different figures continue being reported regarding the number of deaths during the protests in January and February. According to information from the Office of the Prosecutor General communicated to the HRMMU on 27 May, 76 protesters were killed as a result of firearm wounds on Hrushevskoho and Institutska streets due to armed confrontations. On 21 May, the Ministry of Health announced that 106 demonstrators had died during the protests. Information from the NGO "Euromaidan SOS", dated 3 June, refers to 113 casualties among protesters (109 in Kyiv and 4 in the regions).
30. There are also discrepancies concerning casualties among law enforcement officers: 14 according to the Office of the Prosecutor General; 17 according to the Investigation Commission of the Parliament of Ukraine on the Maidan events; and 20 according to the NGO "Euromaidan SOS".
31. For investigation purposes, all the killings of protesters by firearms were merged by the Office of the General Prosecutor into one criminal proceeding. As of 24 April, three "Berkut" officers had been arrested and officially charged with Article 115 (Murder) of the Criminal Code. The situation has not changed over the past month and a half. The killing of law enforcement officers is being investigated by a separate team within the Office of the Prosecutor General. As of 6 June, no suspects had been identified.
32. On 20 May, the deputy head of the Kyiv Department of the MoI, Serhiy Boyko, declared that all documentation related to the activities of the special police unit "Berkut" during Maidan had been destroyed upon the order of the unit commander in the last days of February 2014.
33. On 5 June, the HRMMU met with a representative of an initiative group claiming to represent about 320 relatives of people killed on Maidan. The group held its first meeting on 15-16 May, and is planning to initiate an independent investigation into the events, with the involvement of lawyers and journalists. They consider their initiative as necessary as they are not satisfied with the ongoing investigations. The group, which plans to register an NGO entitled "Family Maidan" also intends to support families of Maidan victims.
34. On 21 May, the Head of the Parliamentary Investigation Commission on the Maidan events reported that two persons who had participated in the protests were still missing. Eleven persons suspected in the killing of demonstrators have been identified, of whom three were arrested and eight remain at large, allegedly in the Russian Federation. The Commission is seeking to obtain full and reliable information on violations during Maidan and will forward evidence to the General Prosecutor's Office. It has a one-year mandate and must issue a report to Parliament no later than six months after its establishment that is by 26 June 2014.

35. The International Advisory Panel (IAP) of the Council of Europe overseeing the Maidan investigations held two working sessions in Strasbourg on 9–11 April and 5–7 May 2014. On 16 May, it issued guidelines for NGO submissions and requested input by 11 June 2014. It also decided to request ‘certain authorities’ to submit information mainly concerning the Maidan investigations. The first meetings of the IAP in Kyiv will take place at the end of June 2014.

Torture and ill-treatment

36. On 28 May, the Kyiv Pechersky Court sentenced two police officers for abuse of power and violence against a demonstrator, Mykhailo Havrylyuk, during the Maidan protests. Mr. Havrylyuk had been stripped naked in the street by the police in freezing conditions and forced to stand in the snow while being mocked, assaulted and filmed with a mobile phone. During the hearings, the defendants pleaded guilty. One of them was sentenced to three years of imprisonment with a probation period of one year, and the other to two years, including a one-year probation period.

B. Investigations into human rights violations related to 2 May Odesa violence

Summary of events

37. The most serious single incident of significant loss of life in Ukraine since the killings on Maidan occurred in Odesa on 2 May 2014.⁷ The events occurred on the same day that a football match was due to take place between the Kharkiv football team “Metallist” and the Odesa football team “Chernomorets”. On 1 May, the police authorities issued an official statement announcing that due to possible disorder because of the football game, an additional 2,000 police officers would patrol the streets of Odesa.
38. Early in the morning of 2 May, at least 600 football fans arrived from Kharkiv. Football fans from both teams are known to have strong “Pro-Unity”⁸ sympathies. A pre-match rally for “United Ukraine” had been planned for 3.00 p.m. on Sobornaya square and gathered, at least, 2,000 people, including supporters of the two football teams, Right Sector activists, members of so-called self-defence units, and other “Pro-Unity” supporters. Right Sector and “self-defence” unit supporters were observed by the HRMMU wearing helmets and masks, and armed with shields, axes, wooden/metallic sticks and some with firearms. By 3:00 p.m. the HRMMU had observed 15 police officers on Sobornaya square and two buses of riot police officers parked nearby.

⁷ See also OHCHR report on the human rights situation in Ukraine, 15 May 2014, (<http://www.ohchr.org/Documents/Countries/UA/HRMMUReport15May2014.pdf>)

⁸ The terms “Pro-Unity” and “Pro-Federalism” are used in the context as describing the motivations and orientation of the supporters / activists.

39. Meanwhile, the HRMMU observed that about 450 metres away from Sobornaya street, “Pro-Federalism” activists, comprising approximately 300 activists from “Odesskaya Druzhina” (radical “Pro-Federalism” movement), had also gathered one hour earlier. They reportedly intended to prevent the “Pro-Unity” rally; and were wearing helmets, shields, masks, axes, wooden/metal sticks and some of them with firearms.
40. The HRMMU observed an insufficient and inadequate police presence to manage and ensure security, and crowd control of the “United Ukraine” march towards the football stadium. The HRMMU noted that additional police officers arrived at the scene, but were unable to stop the violent confrontation.
41. At 3.15 p.m., the “Pro-Federalism Odesskaya Druzhina”, “Narodnaya Druzhina” and other activists approached the Sobornaya square and started to provoke the participants of the “United Ukraine” rally. Clashes arose and quickly turned into mass disorder, which lasted for several hours until 6.30 p.m. Police officers and supporters from both sides were injured during the afternoon. Six men were killed by gunshots fired by activists.
42. The HRMMU observed that following the clashes in the city centre, some “Pro-Federalism” activists ran from the area chased by “Pro-Unity” supporters. Approximately 60 “Pro-Federalism” activists took refuge in the “Afina” shopping centre, which had been closed during the day. The “Afina” shopping centre was then surrounded by “Pro-Unity” activists. Riot police (Special Forces “SOKOL”) arrived on the scene, and reportedly took away 47 “Pro-Federalism” activists, while letting women out of the complex. Other “Pro-Federalism” supporters ran from the clashes to the tent camp at the Kulikovo Pole square, where approximately 200 supporters had gathered (including all the “Pro-Federalism” leaders) during the afternoon.
43. Some “Pro-Unity” politicians called upon their supporters to march towards the Kulikovo Pole square. At 7.00 p.m., the “Pro-Unity” supporters marched in that direction, accompanied behind them by approximately 60 riot police.
44. The “Pro-Federalism” leaders were informed that “Pro-Unity” supporters were heading towards the tent camp, and between 6.00 – 6.30 p.m., they decided to take refuge in the nearby Trade Union Building.
45. At 7.30 p.m., when the “Pro-Unity” supporters reached Kulikovo Pole square, they burned all the “Pro-Federalism” tents. The “Pro-Federalism” activists, who had hidden in the Trade Union Building, and the “Pro-Unity” activists, then reportedly started throwing Molotov cocktails at each other. Gunshots could reportedly be heard coming from both sides. At around 8.00 p.m., the “Pro-Unity” activists entered the Trade Union Building where the “Pro-Federalism” supporters had sought refuge.
46. During the evening a fire broke out in the Trade Union Building. At 7.43 p.m., the HRMMU called the fire brigade, which has its base located 650 metres from the Trade Union Building. Reportedly, the fire brigade only arrived 40 minutes after receiving the first phone call about the fire. According to fire brigade officials, this was due to the fact that the police did not create a safe and secure perimeter allowing

- the fire brigade to easily access the Trade Union Building. The cause of the fire remains unclear at this stage.
47. As a result of the fire, officially 42 people died: 32 (including 6 females) were trapped and unable to leave the building and 10 (including one female and one minor) died jumping from windows.
 48. The HRMMU has received information from credible resources that some “Pro-Unity” protesters were beating up “Pro-Federalism” supporters as they were trying to escape the Trade Union Building, while others were trying to help them.
 49. 247 other people were brought from the scene requiring medical assistance: 27 people with gunshot wounds, 31 with stab wounds, 26 with burns and intoxication caused by combustible products and 163 with injuries by blunt objects. Of these, 99 people were hospitalised, including 22 policemen, with 35 in serious condition. According to various sources, all those who died were Ukrainian citizens. There are no more official reports of people missing in relation to 2 May events. Seven of those injured remain in hospital. The HRMMU received allegations that many who were treated in hospitals did not give their real names and addresses. Moreover, some people who were heavily injured from the violence did not go to hospital for fear of retaliation.
 50. During the evening, it was reported to the HRMMU that a bare minimum police force was present at the Kulikovo Pole square. Even when the special riot police force arrived at the scene, the officers did not intervene in the violence that took place on the Kulikovo Pole square. The HRMMU was told by high ranking police officers that the reason for this is that they did not receive any formal order to intervene.

Detentions

51. The HRMMU has noted slight discrepancies regarding the number of people arrested/detained/transferred during, and in the aftermath of, the 2 May violence. The Regional Prosecution Office and the Regional Ministry of Interior present different figures relating to these events. For example, figures for those arrested in the centre of town vary from 42 to 47 people, and figures for those arrested at the Trade Union Building from 63 to 67 people.
52. Criminal investigations have been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); Article 345 (Threat or violence against a law enforcement officer), Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty).
53. The 47 “Pro-Federalism” activists who took refuge in the “Afina” shopping centre were taken away (for so-called protection reasons) by Police Special Forces “SOKOL” and transferred to two police stations outside Odesa (Ovidiopol and Bilhorod-Dnistrovkyi) where they were detained for two days.

54. During this 48 hour period in police custody, detainees were not given food or water on a regular basis, nor were they provided a one-hour walk per day, as per internal MoI regulations⁹.
55. On 4 May, all 47 detainees were transferred to Vinnitsa (424 km from Odesa). According to information provided to the HRMMU by credible sources, during the transfer, which lasted for 12 hours, they received neither food nor water, nor were they allowed to use toilet facilities (they had to urinate in the detainees van). According to Ukrainian internal regulations, detainees during transfer should receive food and water.
56. On 6 May, video court hearings of the “Pro-Federalism” activists were organised with the Primorsky District Court of Odesa. All were charged with Article 294 (Mass riots) and/or Article 115 (Intentional homicide) of the Criminal Code; and during the following days some were given additional criminal charges of either: Article 194/2 (Intentional destruction or damage of property); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); or Article 345 (Threat or violence against a law enforcement officer). According to the court decisions of the 47 arrested, 14 were placed in the Vinnitsa pre-trial detention centre. Four of these, after appealing the court decision, were placed under house arrest and have since reportedly returned to Odesa. 33 of the 47 individuals originally arrested were placed under house arrest as of 10 June 2014. Late in the evening of 2 May, 67 people were arrested at the Trade Union Building and transferred to the Odesa City Police Station, where they were detained for two days. On 2 and 3 May, all were charged with either Articles 115 (Intentional homicide) or Article 294 (Mass riots) of the Criminal Code. On 4 May at 5.00 p.m., the Odesa City Police Station was stormed by relatives and friends of the “Pro-Federalism” movement. Under unclear circumstances all of the 67 detainees were “released” by the police.
57. In addition to those arrested on 2 May, the MoI arrested at least four other people. On 6 May, one of the leaders of the “Pro-Federalism” movement was arrested and charged under Article 294 of the Criminal Code. He is currently detained in a pre-trial detention centre. On 18 May, a “Pro-Unity” activist was arrested, accused of firing at, and injuring several people in the city centre on 2 May, including police officers, “Pro-Federalism” activists and journalists. He was first transferred to the Investigation Department of Odesa Regional Police Office, before being transferred to Kyiv. He is accused under Article 115 (Murder) and Article 294-2 (Mass riots) of the Criminal Code and on 21 May, he was placed under house arrest in Odesa by the Kyiv Pechersky District Court.
58. Of the arrests conducted between 2 May and 3 June, in connection with the investigations into the 2 May violence, 13 persons remain in pre-trial detention centres under the Penitentiary Services (either in Vinnitsa, Odesa or Kyiv) charged

⁹ Ministry of Interior regulation Number 60 dated 20/01/2001: warm food three times per day, and one hour walk per day.

with one or more of the following six articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).

59. In addition, reportedly 40 people were placed under house arrest in Odesa charged with the following articles of the Criminal Code: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property); Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).
60. Two cases concerning “Pro-Unity” activists suspected of shooting and killing persons during the 2 May violence, were heard by the Pechersky District Court of Kyiv, following the arrest of two suspects on 18 and 26 May. Both were given house arrest; both are charged under Article 294 (Mass riots), and one has been additionally charged under Article 115 (Murder) of the Criminal Code.

Due process rights during, and after, the 2 May violence

61. The HRMMU visited detainees held in the pre-trial detention centre in Odesa. The Penitentiary Services administration fully cooperated with the HRMMU and granted access to several detainees (including one female) with whom private interviews were carried out. The detainees did not complain about their conditions of detention or physical treatment in the pre-trial detention centre in Odesa. They confirmed they were able to meet privately with their lawyers.
62. The HRMMU also met with lawyers, victims, witnesses, detainees and relatives with regard to the 2 May violence. It also held numerous meetings with the Ombudsperson’s team, as well as representatives of law enforcement agencies, mass media, local politicians and officials, activists and local officials. Through its monitoring, the HRMMU has identified various human rights concerns with regard to the on-going criminal investigations, which include some of the following.

Timely notification of reasons for arrest and charges within short period of time

63. On 15 May, the SBU apprehended five additional people. Although this took place at 9.00 a.m., the official arrest time has been recorded as 11.50 p.m. – over 12 hours later. According to Article 208/4 of the Criminal Procedure Code ‘a competent official who apprehended the person, shall be required to immediately inform the apprehended person, in a language known to him, of the grounds for the apprehension and of the commission of what crime he is suspected’. Furthermore, the procedure applied for the arrest was not in line with Articles 9.2 and 9.3 of the International Covenant on Civil and Political Rights (ICCPR).
64. Similarly eight people apprehended by the SBU on 27 May at the Odesa railway station did not receive prompt notification of the reasons for their arrest.

Right to a fair trial

65. Law enforcement agencies resorted to an illegal practice in order to prevent prompt access to legal counsel. Indeed, during criminal interrogation procedures, police and SBU officers summoned individuals as “witness” and later then substituted their status as “suspect” and/or substituted their interrogation by interviewing. This resulted in violating the persons’ right to see and consult a legal counsel (as provided for in Article 208/4 of the Criminal Procedural Code) and gave an opportunity to “delay” the official time of apprehension.
66. For instance, the eight people who were arrested by the SBU at the Odesa railway station were transferred to the SBU for an alleged “interview”. They were not informed about their rights with regard to apprehension, nor were they provided with legal counsel, nor could they contact their lawyers before and during interrogation.
67. The HRMMU observed, based on interviews with detainees and their relatives, that the governmental Free Legal Aid scheme (established in connection with the new Criminal Procedural Code of November 2012) encountered gaps in its system. For the legal defence of detainees arrested during and after 2 May violence, the Free Legal Aid system could not provide enough lawyers.
68. As of 4 June, the legal status of the 67 “detainees” released on 4 May from Odesa city Police Station remained unclear. Due to procedural gaps following their alleged illegal release (i.e. without a court decision), they remain suspects. The measure of restraint was not applied to them as required in accordance with the Criminal Procedural Code.

Right to medical care

69. In Ovidiopol and Bilhorod-Dnistrovskiy Police Stations medical care was not provided to those among the 47 detainees who required such assistance due to illness. The relatives of detainees placed in custody in the Vinnitsa pre-trial detention centre also reported about the lack of medical care provided to their kin.

Personal data

70. Concerns have been raised with the HRMMU that on 19 May, the presumption of innocence may have been violated during an official press conference of the MoI, by the Deputy Minister of Interior/Head of Main Investigation Unit by disclosing personal data of 12 detainees. The HRMMU reminds the authorities of the importance of respecting international standards concerning the presumption of innocence and the prohibition of arbitrary interference with one’s privacy or attacks upon his/her honour and reputation.
71. Also on 3 May, the SBU published the names and passports of three citizens from the Russian Federation allegedly involved in the 2 May violence.

Legality of arrest

72. On 15 May, the SBU conducted an illegal search of an apartment from 8.00 p.m. to 3.00 a.m., without a search warrant and without preparing a report/protocol on the search. During the search, they broke the door, forced the family, including a girl to lie down on the floor. A woman (wife/mother) was subsequently arrested and taken to the SBU Office. The next day she was transferred to the Odesa Police Station. On 17 May, the Primorsky District Court placed her in custody under Articles 294 (Mass riots) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. She is currently detained in Odesa pre-trial detention centre.

Accountability: Update on investigations into the Odesa incidents

73. Six official investigations have been initiated to look into the incidents of 2 May in Odesa and are ongoing: 1) a criminal investigation by the MoI; 2) an investigation of the General Prosecution Investigation Unit into police conduct; 3) a criminal investigation by the SBU into alleged state level crimes (including actions aimed at forceful change or overthrow of the constitutional order); 4) an investigation by the Ombudsperson; 5) an investigation by the Parliamentary Commission; and 6) an investigation by a commission comprising civil society representatives under the auspices of the Governor. During his visit in May, ASG Šimonović met with interlocutors involved in these various investigations.
74. These parallel investigations by different bodies present a high risk of miscommunication between the various law enforcement agencies' commissions, which may impact the integrity of the criminal investigations. Furthermore, there appear to be widespread concerns among citizens regarding the ability of local law enforcement agencies to conduct independent and thorough investigations due to the politicisation of the 2 May events. The day after the violence, the former acting President dismissed several local high-ranking officials on the grounds of Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal Code). An interim government and new officials were appointed at the local level: the Governor of Odesa, the Head of the Regional MoI, the Head of the Odesa City Police, and the Head of the Regional Prosecution Office.

Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and fire in the Trade Union Building in Odesa City

75. During the late evening of 2 May, Vice-Prime Minister Vitalii Yarema was appointed Head of the Governmental Commission on the issues of numerous deaths of people during "Pro-Ukrainian" protests and the fire in the Trade Union Building in Odesa City, which is responsible for overseeing the investigation carried out by the law enforcement agencies at the Odesa regional and city level. The HRMMU has officially requested to meet with this Commission, but had not received a response as of 7 June 2014.

Criminal investigation by the Ministry of Interior Investigation Unit

76. On 2 May, a criminal investigation was launched by the Odesa Regional Police Investigation Department. On 6 May, the responsibility for the investigation was transferred to the Main Investigation Department of the MoI in Kyiv (under the lead of Deputy Minister of Interior). According to the law, the investigation process should be completed in 60 days. Investigators from Kyiv, Odesa and other regions are cooperating on this investigation, which has been launched under the following articles of the Criminal Code of Ukraine: Article 115/1 (Intentional homicide); Article 194/2 (Intentional destruction or damage of property; Article 294/2 (Mass riots/unrest); Article 296 (Hooliganism); Article 341/2 (Capturing of the state or public buildings or constructions); and Article 345 (Threat or violence against law enforcement officer).

General Prosecution Investigation Unit regarding police duty performance

77. On 3 May, the Odesa Regional Prosecutor Office launched a criminal case against four police officials under Article 365 (Excess of authority or official powers) and Article 367 (Neglect of official duty) of the Criminal code. On 6 May, this investigation was transferred to the Investigation Unit of the General Prosecutor.
78. According to information provided to the HRMMU by credible sources, the regional MoI did not enforce the special police tactical plan called “Wave” (“Khvyliá”), which would have allowed the use of special police means and forces, and ensured coordination of all official emergency units (e.g. health, and the department of emergency situations).
79. Furthermore, there are credible reports that during the 2 May violence, all high ranking officials from the Regional MoI and Regional Prosecutor’s Office were holding a meeting and were unavailable.
80. Since then, several criminal proceedings have been initiated against high-ranking police officials and policemen. The Deputy Head of the Regional MoI was placed under house arrest in relation with the 2 May violence and the “release” of the 67 detainees held in the Odesa Police Station on 4 May. His current whereabouts remain unknown but he is thought to be outside Ukraine. On 8 May, the Head of the Odesa City Police, the Head of the Odesa Police Detention Centre and the duty officer were apprehended and transferred to Kyiv. On 9 May, the Head of the Odesa City Police was released on bail. Both The Head of the Odesa Police Detention Centre and the duty officer were also released under obligations to make a personal commitment not to leave Ukraine.

Criminal investigation under the State Security Service of Ukraine (SBU)

81. In mid-March, the SBU initiated a criminal investigation throughout the country under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or take-over of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code in relation to threats to

national security and national integrity. As of 15 May, the SBU arrested several people in Odesa region. According to the HRMMU informal sources, 18 people were placed under investigation by the SBU and detained in the Odesa pre-trial detention centre between 2 May and 3 June.

82. On 15 May, the SBU arrested five people (four male and one female) who were allegedly leaving the Odesa region to join armed groups in eastern Ukraine. The woman was placed under house arrest. Later that day another female “Pro-Federalism” supporter, allegedly the organiser of the expedition, was arrested and placed in pre-trial detention in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no information on his whereabouts.

83. On 27 May, eight men were arrested at the Odesa railway station from a train about to depart for Moscow. The SBU stated that these people were planning to attend a “paramilitary training” in Moscow before joining the armed groups in eastern Ukraine.

On 29 May, the Primorsky District Court charged all of them under Articles 109 (Actions aimed at forceful change or overthrow of the constitutional order or takeover of government) and 110 (Trespass against territorial integrity and inviolability of Ukraine) of the Criminal Code. They have been placed in custody in the pre-trial detention centre in Odesa. One more person was arrested the following day in connection with the same case. As of 7 June, the HRMMU had no updated information on his whereabouts.

84. On 28 May, three men, members of the NGO “Orthodox Cossacks”, were arrested in Odesa and on 31 May, they were charged by the Primorsky District Court under Articles 109 and 110 of the Criminal Code, and placed in custody at the pre-trial detention centre in Odesa.

Parliamentary Interim Commission of inquiry into the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine.

85. On 13 May, the Parliament adopted decision 4852 establishing an “Interim Inquiry Parliamentary Commission on the investigation of the death of citizens in the cities of Odesa, Mariupol and other cities of the Donetsk and Luhansk regions of Ukraine”, further to a proposal by parliamentarians representing the Odesa region. The mandate of this Commission expires on 15 June, by which date it is to submit its report to Parliament.

86. The Commission informed the HRMMU that it had already gathered a lot of information on the violence of 2 May in Odesa, which should be properly analysed and processed. According to the Head of the Parliamentary Commission, its members met with officials from Odesa, including the regional SBU divisions, MoI, Prosecutor’s Office, independent experts, NGOs and suspects under house arrest. He believes many people are still frightened by the events with some afraid to share important information. Moreover, he highlighted that the situation in Odesa is not stable yet,

and it is important to optimise the activities of law enforcement bodies in the investigation. According to him, the criminal investigation by the MoI had only conducted approximately 7% of the necessary work. The perpetrators of the Odesa events have still not been identified, with some suspects detained for a few days and then released by courts. From information gathered by the Commission, there is much questioning within local communities as to why this happened. There is also a fear that the local population will use reprisals against suspected persons for the restoration of justice. Thus, according to the Head of the Commission, the Special Interim Parliamentary Commission has intensified its contacts with the local community representatives.

Investigation by the Ombudsperson's Office

87. The Ombudsperson's Office initiated an evaluation on human rights violations by law enforcement agencies during the 2 May violence in Odesa. The Ombudsperson and her team visited Odesa on several occasions and were provided with official documents from all law enforcement agencies.¹⁰

Commission investigating the 2 May violence

88. A commission was established under the auspices of the Head of the Odesa Regional State Administration (Governor). This commission, which includes civil society activists, journalists and experts, is conducting its own investigation and intends to play a public oversight role concerning the official investigation.
89. The commission members are undertaking their work through open sources, without interfering with the official investigation. It is foreseen that their conclusions will be published only if all members agree on its content. A first official briefing took place on 30 May.

Specialised Headquarters providing assistance in the aftermath of 2 May

90. In the aftermath of the 2 May events, the former acting Mayor of Odesa established an emergency headquarters (HQ) encompassing various departments of the City Council Executive Committee. It provided assistance to victims and their relatives, such as healthcare, information, social services. It also ran an emergency hotline in the aftermath of 2 May incidents. The HRMMU has been in daily contact with the staff on follow-up required, and to enquire about the situation of the victims, particularly medical care and the list of those declared missing. As of 7 June, the Social Welfare Department remained the only operational part of this emergency HQ.
91. After the 2 May violence the HRMMU has been monitoring the criminal proceedings launched by the Office of the General Prosecutor, the MoI and the SBU.

¹⁰ The Ombudsperson submitted a report of her findings to the Prosecutor General on 10 June 2014. It is not a public document.

92. As the investigations continue, some key questions must be addressed to ensure confidence in the investigation and to guarantee accountability, due process and to enable the communities to fully accept the results of such an investigation. Issues to be clarified include:
- a. the identification of the perpetrators who were shooting at protesters during the afternoon;
 - b. the conduct of the police on 2 May - why the police and the fire brigade either did not react, or were slow to react and who ordered what action;
 - c. what happened in the Trade Union Building and what caused the fire there;
 - d. what was the cause of the deaths in the Trade Union Building;
 - e. the identification of the perpetrators of the incidents and violence surrounding the fire in the Trade Union Building;
 - f. the need to guarantee justice for the victims and due process for the detainees.
92. The HRMMU regretfully reports the lack of cooperation from the MoI and the SBU at the central level.
93. The HRMMU reiterates the need for prompt, thorough and impartial investigations into the events so as to ensure accountability of all those concerned and to provide redress and reparations for victims and their families. This process is critical to restore people's confidence in the authorities.

C. Investigation into other human rights violations

94. The HRMMU continues to follow closely the investigation into the human rights violations that occurred in March in 2014 in Kharkiv, including into the “Rymarska case”, a clash between pro-Russian and pro-Ukrainian organizations “Oplot” and “Patriots of Ukraine” on 13 March. On 7 May, it was confirmed that the case had been transferred from the police to the SBU. Investigations were opened in connection with the role of the police in this case, as well as during the attack by protesters against the ATN TV station on 7 April. On 5 June, the Deputy Head of the regional SBU informed the HRMMU that the investigation into “Rymarska case” was ongoing - there were two suspects, who still had to be detained. The challenging aspect of the investigation is that many minors participated in the incident, which requires additional measures to ensure due process.

IV. HUMAN RIGHTS CHALLENGES

A. Rule of law

95. During the reporting period, the HRMMU monitored legal and policy developments affecting human rights and the rule of law. These include the adoption of a “Memorandum on Concord and Peace” resulting from national roundtable discussions; legislative amendments to combat discrimination, corruption, and on the situation of refugees; developments relating to amnesty, lustration of judges,

language rights, internally displaced persons (IDPs) from Crimea, ethnic policy, torture and ill-treatment, the media and the reform of law enforcement agencies.

Constitutional reform

96. Pursuant to an Order of the Cabinet of Ministers of 17 April 2014, debates were organized on constitutional amendments proposing the decentralization of power to regions. In accordance with the Geneva Statement of 17 April, roundtables on national unity, co-organized by the Government of Ukraine and the OSCE, were held on 14, 17 and 21 May. At the first roundtable in Kyiv, the eastern regions of the country were largely under-represented, with the only official being the Mayor of Donetsk, Mr. Lukyanchenko (Party of Regions). During the roundtable in Kharkiv, acting Prime Minister Yatsenyuk declared that the constitution should be amended in order to provide a special status for the Russian language and national minority languages. With more representatives present from the east, including local parliamentarians, various perspectives were raised; at the same time, this brought to the fore an array of diverging views on the way forward. The roundtable also prepared a Memorandum containing provisions for a unified society, changes to the Constitution, increasing the local authorities' role, and decentralisation of state power.
97. On 20 May, through resolution 4904, Parliament adopted the "Memorandum of Concord and Peace", which was drafted during the second roundtable discussion in Kharkiv. This document foresees the adoption by Parliament of a constitutional reform package, including the decentralization of power, a special status for the Russian language, judicial and police reform, and an amnesty law for anti-government protesters in the east who accept to give up their weapons (except for the perpetrators of serious crimes against life and physical integrity). The Parliament called on all to work together to protect, promote and build a democratic Ukraine, and the peaceful coexistence of all nationalities, religions and political convictions.

International Criminal Court

98. On 23 May, former acting President Oleksandr Turchynov requested the Constitutional Court to assess whether the Constitution of Ukraine would preclude the ratification of the Rome Statute of the International Criminal Court (ICC). The document was signed on 20 January 2000. On 25 February 2014, the Parliament recognised the jurisdiction of the ICC for acts committed in Ukraine from 21 November 2013 to 22 February 2014.

On 9 April, Ukraine informed the Registrar of the Court about this decision. On 25 April, the Office of the Prosecutor of the ICC announced a preliminary examination on the situation in Ukraine to establish whether all the statutory requirements for the opening of an investigation are met.

99. A Member of the Parliament of Ukraine from Odesa, Sergey Kivalov, registered on 15 May a draft resolution which aims to create the legal and institutional conditions for those responsible for the deaths of dozens of people in Odesa, on

2 May, to be tried by the ICC. As of 7 June, the draft resolution¹¹ had not been considered by Parliament.

Crimea

100. On 5 June, Parliament adopted, on first reading, amendments to the Law of Ukraine “On Securing Citizens’ Rights and Freedoms and the Legal Regime on the Temporary Occupied Territory of Ukraine”. These amendments aim at making the registration procedure for those displaced from Crimea easier and faster, especially for those who wish to re-register their business. Thus, IDPs from Crimea in mainland Ukraine will no longer need other documents than the national passport.

Amnesty

101. During the reporting period, no actual progress was made in adopting an amnesty law in relation to the events in the east of the country. On 18 April 2014, the Cabinet of Ministers prepared a draft law “On the prevention of harassment and punishment of persons in relation to the events that took place during mass actions of civil resistance which began on 22 February 2014”. The text would exempt from criminal liability all those who attempted to overthrow the legal government; took part in riots; seized administrative and public buildings; and violated the territorial integrity of Ukraine, provided they agreed to voluntarily cease all illegal actions and were not guilty of “particularly serious crimes”. Four other so-called “amnesty laws” were registered in Parliament by different political parties between 9 and 23 April. On 6 May, a draft resolution was registered, calling on Parliament to make the draft law submitted by the Cabinet of Ministers the basis for the adoption of an amnesty law. During his inauguration speech, on 7 June, President Poroshenko offered to amnesty protesters who did not have “blood on their hands”.

Discrimination

102. On 13 May, Parliament adopted amendments to the Law “On preventing and countering discrimination”. The amendments bring the definitions of direct and indirect discrimination in line with Ukraine’s obligations under the ICCPR and other international human rights instruments. They include, in particular, the prohibited grounds listed in Article 2(1) of the Covenant (except “birth”). It should be noted, however, that the amendments do not integrate the jurisprudence of the UN Human Rights Committee on the prevention of discrimination on the basis of sexual orientation. The amendments also provide for criminal, civil and

¹¹ Draft resolution “On the recognition by Ukraine of the jurisdiction of the International Criminal Court concerning crimes against humanity having led to very serious consequences, deliberate and planned of mass killing of citizens in a particularly brutal and cynical way during the peaceful protests on 2 May 2014 in Odesa, and concerning all perpetrators of these crimes, and on the request to the International Criminal Court to bring the perpetrators to justice”.

administrative liability in case of discrimination. While these are positive changes, other legal texts, notably the Criminal Code, must be brought in line with the anti-discrimination amendments in order to ensure effective remedies for victims and contribute to enhanced prevention of discrimination.

Anti-corruption

103. On 13 May, Parliament adopted the Law “On amending some legislative acts Ukraine in the area of state anti-corruption policy in connection with the implementation of the EU Action Plan on the liberalisation of the visa regime for Ukraine”. The Law provides for more stringent penalties for corruption offences committed by individuals or legal entities. In particular, the liability for providing knowingly false data in the declaration of assets, income and expenses is introduced to the Code on Administrative Offences. The Law also strengthens the protection of persons reporting on corruption, for instance, providing for anonymous phone lines for reporting corruption. An external control of declarations of assets, income, expenses and financial obligations is also to be introduced. While the amendments are welcome, the key to combatting corruption lies in the readiness of all government institutions to effectively tackle this phenomenon and to implement anti-corruption norms in place. In this regard, the HRMMU recalls that in its concluding observations adopted in May 2014, the UN Committee on Economic, Social and Cultural Rights called on Ukraine to “make politicians, members of parliament and national and local government officials aware of the economic and social costs of corruption, and make judges, prosecutors and the police aware of the need for strict enforcement of the law”.

Torture and ill-treatment

101. On 3 June, the Minister of Justice announced at a press-conference the establishment of a Special Committee to carry out random inspections of penitentiary institutions, with broad powers to check violations of human rights and the detention conditions of prisoners. The Committee will be a permanent body and is to produce monthly reports. It will comprise representatives of the Ministry of Justice and representatives of civil society.
102. While welcoming this step, the HRMMU notes that the Ombudsperson was designated by law as the National Preventive Mechanism (NPM) against torture, in line with the Optional Protocol to the United Nations Convention against Torture. As such, it is entrusted to conduct visits to places of deprivation of liberty, with the involvement of civil society, and with a view to preventing human rights violations affecting detainees or contributing to their elimination. Due to the obvious similarities between mandates of the Special Committee and the NPM, proper coordination and consultations between these bodies will be required to ensure the effectiveness of efforts to combat torture and ill-treatment.

Lustration

103. The Interim Special Commission on the vetting of judges was established on 4 June, pursuant to Article 3 of the Law “On the restoration of trust in the judiciary in Ukraine”, which entered into force on 10 May. The Commission consists of five representatives from the Supreme Court, the Parliament and the Governmental Commissioner on the Issues of the Anti-Corruption Policy. Legal entities and individuals will have six months from the date of advertisement of the establishment of the Commission in the newspaper “Voice of Ukraine” to request examination (vetting) of judges. Public information about the activities of the Interim Special Commission will be published on the official website of the High Council of Justice of Ukraine. The HRMMU reiterates its concern that the immediate dismissal of judges by the Special Commission may put in jeopardy the administration of justice. Any lustration initiatives should be pursued in full compliance with the fundamental human rights of the people concerned, including the right to individual review and the right of appeal.

Ethnic and national policy

104. The Minister of Culture stated on 4 June that the Cabinet of Ministers decided to establish a ‘Council of interethnic consensus’ and to create the position of a Government commissioner for ethnic and national policy. This official, who has not been appointed yet, will reportedly be responsible for the implementation of the ethnic and national policy developed by the Government.

Language

105. On 4 June, a draft law was submitted to Parliament “On the official status of the Russian language in Ukraine”. The draft law proposes to give “official status” to the Russian language without compromising the position of Ukrainian as the state language. The bill proposes to introduce the wide usage of Russian language in state institutions, courts, educational institutions, mass media, official publications of legislation and by-laws, pre-trial investigation, advertising and labelling of goods.

Media

106. On 4 June, the Cabinet of Ministers instructed the State Committee on television and radio broadcasting to prepare a draft law “On Amending Certain Legislative Acts of Ukraine regarding resisting informational aggression of foreign states”. Other ministries and agencies that will participate in the drafting of the bill will include the Ministry of Economic Development, Ministry of Finance, Ministry of Justice, Ministry of Foreign Affairs, MoI, State Security Service, the National Council on Television and Radio Broadcasting, and the State Committee on Entrepreneurship of Ukraine. This development comes after a Ukrainian court banned, in March 2014, broadcasting by four Russian TV channels in Ukraine, and armed groups in the east having disrupted broadcasting of Ukrainian channels.

107. The HRMMU is of the view that professional journalism and critical thinking, not prohibition, are the proper answers to the attempts to distort or manipulate facts. Everyone, in accordance with article 19 of the ICCPR, should have the right to hold opinions without interference and to freedom of expression, which includes freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers.

Refugees

108. On 13 May, Parliament adopted amendments to the refugee Law extending the definition of complementary protection to include persons fleeing armed conflict and other serious human rights violations. This brings the definition of complementary protection into line with international and European standards.
109. The HRMMU notes, that certain legal gaps remain, affecting particularly the quality of due process in the asylum procedure and the reception conditions for asylum-seekers. The quality of decision-making on asylum applications also remains of concern, as well as the fact that State funding for asylum matters is inadequate.

Martial law

110. On 3 June, former acting President Oleksandr Turchynov signed decree № 936/2014 “About considering the question of the introduction of martial law in certain areas of Ukraine”. The decree requests the Secretary of the Council of the National Security and Defence of Ukraine to “*immediately cooperate with the Ministry of Defence of Ukraine, the Ministry of Interior of Ukraine, the Security Service of Ukraine, the Administration of the State Border Service of Ukraine to consider the question about the need to impose martial law in the Donetsk and Lubansk Regions, where the security operation is taking place, to prevent further development and ensure the ending of the armed conflict on the territory of Ukraine, to prevent mass deaths of civilians, military personnel and members of law enforcement agencies, to stabilize the situation and restore normal life in these regions*”.

Law enforcement sector reform

111. On 4 June, Prime Minister Arseniy Yatseniuk instructed the Cabinet of Ministers to set up a working group that will prepare legislation to reform the law enforcement system by 1 August 2014. The working group will be headed by First Vice-Prime Minister, Vitaliy Yarema, who stressed the need to develop draft laws on the police, the security service and the prosecutor’s office. Experts from the European Commission and Poland will assist the working group.
112. On 5 June, Parliament adopted the Law “On Amendments to the Law of Ukraine on combating terrorism”. The law provides a definition of a Counter-Terrorist Operation (CTO), the authority of the CTO participants and other innovations. It also prescribes the possibility of “physical elimination of the terrorists” in case of resistance. Speaking at a press conference, the former acting Head of the Presidential Administration gave his support to the introduction of martial law in

the Donetsk and Luhansk regions, as well as in the border areas of seven other regions of Ukraine.

B. Freedom of peaceful assembly

113. After the 2 May events in Odesa, a police presence has been highly visible during peaceful assemblies in all major cities of Ukraine. However, the real or perceived inaction of law enforcement is a further challenge to ensuring accountability at such events such as demonstrations, rallies and pickets.
114. Ahead of 9 May (Victory Day), for instance, security was heightened with numerous checkpoints on roads in several cities the programme of celebrations was changed in order to avoid situations that could provoke unrests, for example by cancelling parades. Public commemorations and rallies took place in Kyiv, Kharkiv, Lviv and in many cities in western and central Ukraine. In Donetsk, a rally gathering 2,000 persons went peacefully.
115. However, legislation is required to regulate the conduct of assemblies in line with international standards, as previously recommended by the HRMMU.¹²
116. A trend of local administration requesting courts to take measures to prevent peaceful assemblies illustrates the need for relevant legislation. For instance, on 4 June, the Mykolaiv District Administrative court decided to ban until 30 June all rallies planned in the city centre further to a request from the City Council. The Mykolaiv City Council had requested such a prohibition after 2 June when the police intervened to prevent clashes between participants of two rallies running in parallel. The court justified the ban, arguing that the right to life and health was more important than the right to peaceful assembly.

C. Freedom of expression

117. The HRMMU remains concerned about the curtailment of freedom of expression, including harassment and threats to targeting journalists working in Ukraine, mostly in eastern regions (see section C, in Chapter V).
118. During the reporting period, a few isolated cases of obstruction to media work and attacks on journalists were registered across Ukraine.
119. On 23 May, two journalists of “Russia Today”, who were travelling to Ukraine to cover the elections, were denied entry at Odesa airport. The border officers reportedly forced them to buy return tickets to Moscow and fly back, without providing any reason.
120. On 25 May and shortly after, journalists were prevented from filming the vote counting. The HRMMU is aware of such cases having occurred in Sumy, Dnipropetrovsk, Kremenchuk (Poltava region), Lviv, Mykolaiv, Uzhgorod and Kyiv. To the knowledge of the HRMMU, none of these instances resulted in physical violence or damage to equipment.

¹²The OHCHR report on the human rights situation in Ukraine report, 15 April 2014, paras. 52-54.

121. On 23 May, the holding “Multimedia invest group”, based in Kyiv, reported that the accounts of the company were blocked and its building was searched by tax police. The management sees this as pressure against its media outlets (newspaper and website “Vesti”, TV Channel UBR and Radio Vesti) which are critical of the Government.
122. In general, the developments in eastern and southern regions of Ukraine and the large number of casualties have generated an escalation of hate speech and tension between the two rival sides. This is particularly obvious in social media.

D. Minority rights

123. The HRMMU regularly meets representatives of various minorities in Ukraine. In the reporting period no major incidents and human rights violations were reported in that regard.

National and Ethnic minorities

124. Ethnic minorities generally speak of positive relations and atmosphere conducive to exercising their human rights, including cultural rights. Some communities, particularly Russian, expressed concerns with the lack of financial allocations for the needs of ethnic minorities or bureaucratic obstructions by local authorities, for example, in establishing additional schools, churches, newspapers, etc.
125. On 20 May, during a press-conference, Josyf Zisels, the Head of the Association of the Jewish Organisations and Communities of Ukraine, underlined that there was no increase in anti-Semitism in Ukraine. He noted that the number of anti-Semitic incidents is declining since 2007. While pointing out that in the first half of 2014 more Ukrainian Jews had migrated to Israel compared to the previous year, he attributed this to the social-economic impact of the situation in Crimea and in the eastern regions.

Linguistic rights

126. The guarantees of using one’s mother tongue freely in private and public life without discrimination remain high on the public agenda. The Law “On the Basics of State Language Policy” currently in force (provides for the introduction of a “regional language” based on ethnic composition). However, the Government has recognised that a new language law was needed, reflecting broad consensus as well as the expectations of the Russian-speaking population. There have been attempts to amend legislation and a draft law has been developed. The latest draft law was submitted on 4 June, which proposes to provide Russian language with “official status” through extensive usage in State institutions and public documents (see section D, Chapter IV).
127. On 30 May, the Ministry of Education amended the framework curriculum and study plans for secondary school students of grades 5-9 for the learning of minority languages, such as Armenian, Bulgarian, Crimean Tatar, Gagauz, Greek, German,

Hebrew, Hungarian, Korean, Moldovan, Polish, Romanian, Russian and Slovak. The Ministry also increased significantly the number of hours prescribed for learning of a minority language in schools where the relevant language is the working one (it is now equal to the hours of learning Ukrainian language).

Sexual minorities

128. The HRMMU continues to receive reports from the LGBT community regarding lack of tolerance and daily discrimination based on their sexual orientation and gender identity, mainly bullying at school/university, difficulties in finding and/or preserving employment especially when persons disclose their sexual orientation and gender identity; access to health services, particularly for transgender people; and physical attacks.
129. On 7 May, the High Specialized Court of Ukraine for Civil and Criminal Cases issued a letter (N 10-644/0/4-14) to appellate courts, explicitly prohibiting discrimination in employment on the basis of sexual orientation. The Court stressed that, when considering cases of labour discrimination, it is important to take into consideration the existing anti-discrimination law, which prohibits discrimination on any basis.

E. Political rights

Human rights in the electoral process

130. On 25 May, the population of Ukraine voted to elect a new President among 21 candidates. On 3 June, the Central Election Commission (CEC) confirmed that Mr. Petro Poroshenko had won with 54.7% of the vote.
131. The elections took place in a challenging political, economic and, in particular, security environment, due to continued unrest and violence in the east of Ukraine, where armed groups control some areas, and the Government has been conducting security operations. This situation affected the general human rights situation and seriously impacted the election environment, also obstructing meaningful observation.
132. Notwithstanding, elections were characterised by a 60% voter turnout and the clear resolve of the authorities to hold elections in line with international commitments and with a respect for fundamental freedoms in the vast majority of the country. The voting and counting process were transparent, despite large queues of voters at polling stations in some parts of the country.
133. Despite efforts of the election administration to ensure voting throughout the country, polling did not take place in 10 of the 12 election districts in Luhansk region and 14 of the 22 election districts in Donetsk region. This was due to illegal activities by armed groups before, and on, the election day, including death threats and intimidation of election officials, seizure and destruction of polling materials, as well as the impossibility to distribute ballots to polling stations due to the general

insecurity caused by these groups (see Chapter V). The majority of Ukrainian citizens resident in these regions were thus deprived of the right to vote. Elsewhere, a few isolated attempts to disrupt voting were reported.

134. The HRMMU followed the participation of Crimean residents in the Presidential elections. Simplified registration procedures were put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions could take part in the elections. According to the CEC, 6,000 Crimean residents voted on 25 May.

Political parties/ Freedom of association

135. On 7 May, several political parties were allegedly banned in Luhansk region by a decision of the “people’s council”, including Batkivchyna, Udar, Svoboda and Oleg Lyashko’s Radical Party, as well as Right Sector. It also inferred “extended powers” on Valeriy Bolotov, the self-proclaimed “people’s governor”.
136. On 13 May, the Kyiv District Administrative Court banned the party Russian Bloc based on the fact that the party leaders had called for the overthrow of the constitutional order and violations of the territorial integrity of the country.¹³
137. It appears that the Communist Party of Ukraine is coming under increasing pressure. On 7 May, the Communist faction of the Parliament was expelled from a closed-door parliamentary hearing, which was denounced by the Party of Regions faction, allegedly, because of the “separatist” statements by its head, Petro Symonenko. The hearing was reportedly about the security operations in the east. Party of the Regions pointed out that information on these security operations should be made public.
138. On 18 May, former acting President Turchynov called on the Ministry of Justice to review documents gathered by the law enforcement bodies relating to the alleged illegal and unconstitutional activities of the Communist Party of Ukraine aimed at violating the sovereignty and territorial integrity of the country, undermining State security and illegal seizure of State power. On 19 May, the Ministry of Justice sent a request to the General Prosecutor’s Office and the SBU to investigate possible crimes by the leadership of the Communist Party of Ukraine.

F. Internally displaced persons

139. As of 6 June, the departments of social protection in the Ukrainian regions had identified over 12,700¹⁴ internally displaced persons (IDPs)¹⁵. However, the actual

¹³ On 15 April, the Ministry of Justice filed a lawsuit to prohibit the activities of the political parties Russian Bloc and Russian Unity in Ukraine. The activity of Russian Unity was banned on 30 April. According to Ukrainian law, a court can ban the activities of a political party upon a request filed by the Ministry of Justice.

¹⁴ UNHCR estimated that, as of 16 June, there were 34,336 IDPs in Ukraine, with 15,200 located in the Donetsk and Luhansk regions.

¹⁵ According to the Russian Federation Federal Migration Service, as of 6 June 2014, 837 persons had applied and were granted refugee status; and 3,750 persons had applied and were granted Temporary Asylum. Approximately 15% were minors under the age of 18. These figures do not include people from Crimea.

number of people who have fled the violence and fighting in the regions of Donetsk and Luhansk is believed to be higher and increasing daily. According to various estimates, around 64% are women; many are with children, including infants. The IDPs live dispersed across the entire territory, with significant concentrations in Kyiv and Lviv.

140. People have left Crimea for different reasons. The majority have economic, professional or family ties within Ukraine and do not wish to acquire Russian citizenship, which many feel compelled to do in order to continue a normal life in Crimea. Some Crimean Tatars fear limitations to their religious and cultural expression. Activists and journalists have been exposed to, or fear, harassment.
141. The main difficulties the IDPs from Crimea continue to face are: lack of temporary and permanent housing; access to social allocations, medical and educational services; access to bank accounts / deposits; possibility to continue entrepreneurship activity, and employment opportunities.
142. Despite efforts made, some of these issues, particularly housing, are very difficult to resolve without systemic changes and involvement of the Government. The HRMMU has been made aware of some instances when IDPs had to return to Crimea, since their basic needs could not be met in Ukraine.
143. Displacement from the Donetsk and Luhansk regions started in the days leading up to the “referendum” held in both regions on 11 May. People have been trying to leave the violence affected areas, particularly Slovyansk and Kramatorsk, after witnessing violence on the streets. Armed groups and increasing criminality have generated fear.
144. The HRMMU interviewed several IDPs from the eastern regions, who reported that apart from random violence, there were targeted attacks and intimidation of activists and increasingly of “ordinary” residents, known for their “Pro-Ukrainian” stance. Local NGOs confirmed that while seizing administrative buildings, armed groups obtained access to personal data of activists who participated in rallies. The latter and their families were reportedly being threatened and harassed.
145. One of the few interviewed activists reported being threatened and having to stay in a friend’s house for nine days without food, as her own apartment was under surveillance. Then other activists helped her escape and settle in another town. She has no information about her family and suffers from insomnia and anxiety attacks.
146. Political activists and journalists began to feel pressure from the armed groups who were consolidating their position in the region. After the “referendum” and with the intensification of violence, other residents of the region have started leaving their homes in areas affected by violence due to the illegal activities of armed groups and the security operations, particularly in the areas of Slovyansk and Kramatorsk. Many remain within the eastern regions in rural areas, as IDPs have been reporting harassment at checkpoints if they were perceived to be leaving the region to seek protection.

147. The majority of international humanitarian actors, due to security reasons, are unable to access persons displaced within the Donetsk and Luhansk regions and thus only some very limited assistance has been provided. IDPs, who leave the eastern regions, have generally maintained a low profile, fearing retribution against their relatives who have remained at home.
148. There are considerable gaps in the State's ability to protect IDPs. The central authorities have not issued formal instructions regarding how to register and assist persons displaced from Donetsk and Luhansk regions, leading to different practices across the country. The system for registering the IDPs is rudimentary, so the number and profile of IDPs and their needs remain largely invisible. As a result, the actual number of displaced persons is difficult to estimate.
149. Regional authorities are waiting for instructions on funding allocations for IDPs from the Luhansk and Donetsk regions. Temporary accommodation, while theoretically available, cannot be paid for and is thus rationed in many regions. Several administrative matters remain unresolved, hindering IDPs' ability to resume a normal life: many cannot obtain temporary residence registration; register business activities; or in the case of IDPs from Crimea, who have not registered on the mainland, they may find that they cannot access their personal savings in bank accounts in Crimea.
150. IDPs from the Donetsk and Luhansk regions describe leaving the region with few personal belongings in order to disguise the purpose of their departure. Many report having witnessed violence and experiencing feelings of fear. In dozens of interviews with UNHCR, IDPs have reported significant deterioration of the humanitarian situation in the areas affected by violence and the security operations. They are mostly concerned about security: people report staying in cellars to keep away from the fighting, facing harassment at checkpoints and fearing the increasingly common abductions, threats and extortion. They have been reporting to UNHCR and the HRMMU about the serious social and economic impact of the conflict. Families have run out of money since jobs are lost, banks closed and pensions unpaid. Public utilities like electricity and water work only intermittently. Thus, the IDPs from the eastern regions are particularly vulnerable. There are multiple reports that thousands of people are eager to escape the areas affected by violence and the security operations as soon as they can safely move.
151. Many IDPs have exhausted their resources. Having originally been hosted by friends, family or even generous strangers identified through social networks, they find themselves under pressure to move out of these temporary housing arrangements, as conditions are overcrowded and hospitality reaches its limits. Without sufficient support to find jobs and housing, IDPs report increasing levels of frustration and humanitarian needs. Increasingly, IDPs are trying to self-organise into NGOs to help each other, as illustrated by Crimea SOS, Vostok SOS, the Unified Coordination Centre of Donbas. On 23 May, the HRMMU attended the first all-Ukrainian meeting organized by an initiative group of IDPs from Crimea to bring the problems faced by IDPs to the attention of the Government and local authorities so as to develop joint solutions.

V. PARTICULAR HUMAN RIGHTS CHALLENGES IN THE EAST

A. Impact of the security situation on human rights

Deterioration of the security situation

152. The reporting period was marked by a significant deterioration in the security situation in eastern Ukraine. The HRMMU received credible reports illustrating an escalation of abductions, arbitrary detentions, ill-treatment, looting, as well as the occupation of public and administration buildings (with certain fluctuations, as some buildings are recovered by the Ukrainian military and law enforcement bodies, and some then again re-seized by armed groups). The period since the Presidential elections can be characterized by an increase of fighting in eastern Ukraine, with fluctuations in intensity.
153. The regularity and intensification of fighting between the armed groups and Ukrainian armed forces raises serious human rights concerns, including but not limited to: the fate of persons not involved in the fighting, especially children; the necessity and proportionality of the use of force; and the large-scale destructions, which only add to the social and economic hardship and a general lack of respect for international humanitarian law, when and where applicable to the fighting.
154. Violence and lawlessness have spread in the regions of Donetsk and Luhansk. Having gained access to deposits of weapons, including from the SBU building, the armed groups increasingly started spreading violence. Abductions of persons not involved in any fighting and related acts of arbitrary detentions, looting, and killings of persons not involved in any fighting and other activities in violation of international law have been carried out by the armed groups. Moreover there are reports of victims being subjected to degrading treatment, random shooting and provocations, particularly near the Ukrainian-Russian border. Increasingly, attacks target ordinary people, who take no part in the fighting.
155. The security operations by the Government, with military and National Guard forces particularly concentrated around the town of Slovyansk, are present in the regions of Donetsk and Luhansk. With their superior manpower and military hardware, the Ukrainian armed forces have controlled access to the cities through multiple layers of check-points.
156. Skirmishes between armed groups and the Ukrainian military also saw the inclusion of various territorial defence battalions under the command of the MoI.
157. The HRMMU observed an increasing presence of armed men on trucks and armoured vehicles moving around the city of Donetsk during daylight. For the first time, the HRMMU team members were stopped as they drove in their vehicle through Donetsk by armed persons who demanded to see their identity.
158. In the two regions, the situation has been made complex as some of the armed groups operating in the regions have reportedly slipped out of the control and influence of the self-proclaimed republics and their leaders. Examples of this can reportedly be found with the armed groups in the area surrounding the town of

Horlivka¹⁶ in the Donetsk region, and the armed groups operating in the border area of the Luhansk region near the border with the Russian Federation. Moreover, on the “official” “Donetsk People’s Republic” media outlet “Anna Info News”, the Slovyansk commander “Strelkov” Igor Girkin referred to “criminal groups” operating in the regions and that the “Donetsk People’s Republic” was lacking volunteers.

159. Regardless of the veracity of this information, the proliferation of armed groups has clearly exacerbated threats to the security of the population, posing a further challenge in ensuring the rule of law and accountability for the numerous illegal acts committed. The “Donetsk People’s Republic” has reported the presence among them of citizens of the Russian Federation, including from Chechnya and other republics in the North Caucasus. A particular call for women to join the armed groups was made on 17 May through a video released with Igor Girkin “Strelkov”, urging women of the Donetsk region to enlist in combat units.

“Referendum” on “self-rule” held in the Donetsk and Luhansk regions on 11 May 160. On 11 May, a “referendum” on “self-rule” that was neither in accordance with the Constitution of Ukraine nor with effect under international law, took place in the Donetsk and Luhansk regions. The following question was asked: “Do you support the act of self-rule of the People’s Republic of Donetsk / People’s Republic of Luhansk?” The Government of Ukraine deemed the “referendum” illegal. 161. Reports suggest that there were a limited number of polling stations for the two regions. The official voter registration of the Central Election Commission was not used as a basis for the vote. Media outlets and journalists observing the “referendum” reported a number of violations (e.g. one person filling out several ballots; multiple voting; voting without documentation). 162. In the aftermath of the “referendum” of 11 May, the level of violence by armed groups intensified. At the same time, a new “government” was formed, and Alexander Borodai, a Russian citizen, nominated as “prime minister” of the “Donetsk People’s Republic”. A call was made for Ukrainian troops to leave the region. *Casualties due to the escalation in intensity of fighting as Government aims to gain control of the territory* 165. Reports illustrate that over the past month, attacks and fighting have been intensifying with an increased number of casualties. Fighting remained concentrated in the northern part of the Donetsk region and the border areas and south of the Luhansk region. In the Kharkiv region, one Ukrainian serviceman was killed in an ambush, near the city of Izyum, on the border with the Donetsk region, which serves as a basis for the security operations of the Ukrainian forces. 166. On 3 June, the Prosecutor General Oleg Mahnitsky announced that 181 people had been killed since the start of the Government’s security operations on 14 April to regain control of the eastern regions. Of those killed, 59 were Ukrainian soldiers; the others were reported to be residents. 293 were wounded as a result of these security operations in the Donetsk and Luhansk Regions. This is a considerable increase since 14 May, when the Prosecutor General had announced

¹⁶ Now reportedly under the control of an armed group led by Igor Bezler.

68 killed (servicemen and residents). 167. The HRMMU is trying to verify these allegations and to obtain disaggregated data on the victims and perpetrators. This is, however, difficult to obtain due to either a lack of, or contradictory, information. 168. On 13 May, a Ukrainian military unit was ambushed near Kramatorsk, killing seven Ukrainian soldiers. On 22 May, 17 Ukrainian servicemen were killed and 31 injured near Volnovakha (south of Donetsk); that same day another soldier was killed and two others injured in an attack by armed men on a convoy of military vehicles near Rubizhne in the Luhansk region. On 23 May, the territorial defence battalion “Donbas” was ambushed and attacked by an armed group, reportedly controlled by Igor Bezler, near the town of Horlivka close to Donetsk. Nine soldiers were wounded and detained by Bezler’s group; one was reportedly killed. On 29 May, a Ukrainian military helicopter was shot down near Slovyansk, which killed 12 service personnel who were on board, including a General. 169. On 26 May, fighting broke out for control of the Donetsk airport between the armed groups and the Ukrainian military. Ukrainian military planes and helicopters were used against the armed groups who eventually conceded control. The airport terminal and the runway were damaged as a result of aerial bombing. According to the Interior Minister, there were no losses within the Ukrainian military but according to various sources, the armed groups suffered over 50 casualties, of these at least 31 volunteers were reportedly from the Russian Federation, including from Chechnya and other republics in the Northern Caucasus. Out of these casualties, 30 bodies of those fighting with the armed groups have not been recovered.

170. During the fighting around Donetsk airport on 26 May, the Mayor called on the population not to leave their apartments unless absolutely necessary. Notwithstanding, residents did become victims. A woman was killed by a shell at a bus stop. A man was killed as a result of an incoming explosion near the Children’s Hospital, with a further six people wounded, including a seven-year-old boy who was at home. A criminal case was opened under Article 258, Part 3 of the Criminal Code of Ukraine (“Terrorist act that led to the death of a person”).
171. On 2 June, an explosion of an unknown nature took place at the occupied building of Luhansk Regional State Administration. According to various accounts, it was either a failed attempt by the local armed groups to hit a Ukrainian fighter plane, or the bombardment of the occupied building by a Ukrainian plane. Seven people in, and around, the occupied building were reported killed as a result of the shelling, including the “minister of health” of the “Luhansk People’s Republic”, Nataliya Arkhipova.
172. The Ukrainian National Guard took control of the town of Krasnyi Liman (20 km North-West of Slovyansk) after fierce fighting on 3 June. The town hospital was badly damaged reportedly by shelling and most patients were evacuated to the basement of the hospital. Two civilians were killed. The chief surgeon of the hospital was gravely wounded, and died on 4 June.
173. IDPs from Slovyansk have described to the HRMMU the situation they have faced for the past weeks. They claim that the Ukrainian air force was shelling the city and

bombed a kindergarten. They also said that for two months they did not receive any social benefits. Some of them left male members behind, and/or their parents or grandparents. A hotline at the disposal of IDPs or people who are considering leaving the areas affected by fighting is run by a few Red Cross activists. Transport of people who come to the check points is mostly organized by “Auto-Maidan” activists. Reception centres for arriving IDPs organised the initial assistance they received, including psycho-social.

Widening protection gap and erosion of the rule of law

174. With the presence of armed groups in seized and occupied government buildings, and checkpoints, which shift hands as they are taken over by armed groups or the Ukrainian security and law enforcement units involved in the security operations, the human rights of the residents of the northern part of Donetsk region and parts of the Luhansk region are threatened.
175. With the demise of security, the rule of law and governance, the protection gap is widening. Armed groups physically occupy key public and administrative buildings in many cities and towns of the Donetsk and Luhansk regions, and have declared virtual “independence”. However, they are not undertaking any governing responsibilities. In addition, the atmosphere of fear and intimidation, particularly following the abductions and killing of town councillors and public civil servants, prevent many local officials from going to work.
176. Of particular concern is the continued erosion of the rule of law and the limited capacity of the Government to protect residents from the ever increasing acts of violence. Many of the attacks and abductions by armed groups target journalists, elected representatives and civil society activists. The number of armed robberies and shootings of residents has also been increasing.
177. The difficulty of providing public services impacts the daily life of residents of the regions, including the disruption of public transport (airports remain closed and rail services are disrupted); numerous checkpoints on the roads; lack of access to cash through banks; and earlier reports of schools and kindergartens being repeatedly closed before the summer holidays began in early June. Regional governments have endeavoured to make the necessary arrangements so that local residents are able to carry on with their daily lives. While this remains possible in the larger cities of Donetsk and Luhansk, and the less affected southern part of the Donetsk region, this is a challenge in the northern part of the Donetsk region. As a consequence, there are reportedly increased numbers of people leaving the area, in particular in the areas of Slovyansk; primarily women with children (see section B, Chapter V).
178. In the main cities, there were a few rallies supporting or opposing the self-proclaimed republics. On 13 May, hundreds of local residents of the Luhansk region addressed a petition to the Government of Ukraine, stating that they did not recognise the results of the “referendum”, and demanding more proactive and

effective action to free the region from “terrorists who do not allow us to live in peace” and to pay more attention to the concerns of the population.

179. According to NGOs, the week preceding the “referendum” of 11 May, over 500 apartments were reportedly put up for sale in Donetsk in just a few days as people were seeking means to leave. Since then, an average of 20 families leave the region every day.

Presidential elections

180. After the “referendum”, representatives of the “Donetsk People’s Republic” openly declared their intention to obstruct the 25 May Presidential election. Physical attempts to disrupt the election in these two regions were stepped up, with reports of attacks against electoral commissions. As a result, the CEC stated that in 24 districts of the Donetsk and Luhansk regions the election was obstructed due to illegal acts by armed groups and supporters of the self-proclaimed “People’s Republics”. According to official CEC figures, 82 % of the voters in the Donetsk region, and 88 % of voters in Luhansk region were thus deprived of their right to vote. Elections of Mayors due to take place in Antratsyt, Lisichansk and Severodonetsk in the Luhansk region also had to be cancelled due to such illegal activities.
181. There was a similar pattern of attacks on District Election Commissions (DEC) and Precinct Election Commissions (PEC). An armed group of between five to fifteen people representing the “Donetsk People’s Republic” would come to a Commission or polling station. Claiming that the Presidential election was illegal, they would seize office equipment and DEC/PEC protocols and stamps. Generally, they would detain the head of the commission for several hours or, in some cases for several days, subjecting individuals to interrogation and reportedly at times ill-treatment and torture.
182. On 13 May, representatives of the “Donetsk People’s Republic” reportedly entered a DEC in Horlivka, demanding documents and office equipment and requesting that the staff leave the premises. The electoral staff refused to obey this. Two hours later the men returned, armed with baseball bats. The staff left, grabbing the most important documents and official stamps. A similar incident occurred in a DEC in Starobeshevo (Luhansk region) on 14 May. The DEC members were ordered to leave the building with threats to their families, should they return.
183. On 7 May, unknown groups of people broke into a DEC in Kuybyshevskiy district, seizing equipment containing electoral information. Upon arrival at the scene, the police did not intervene. Other examples of attacks by armed groups on DEC and TECs include incidents in Artemivsk, Donetsk and Metalist (near Amrosiyivka) on 20, 21 and 25 May.
184. Election commission members also faced attacks, with many abducted and detained. On 9 May, an armed group abducted a member of the DEC in Kramatorsk. He was taken to the occupied City Council and released after being

- interrogated. On 20 May, a member of the PEC in Mariupol was detained by armed persons, beaten up and then released.
185. Skirmishes around the electoral process included an incident on 25 May, when a group of armed people of the “Luhansk People’s Republic” reportedly attacked and stole the ballots from the PEC in Novoaydarsk in the Luhansk region. Ukrainian soldiers pursued the armed group. A violent confrontation took place, during which two members of the armed group were reportedly killed and three Ukrainian army servicemen were allegedly wounded. 14 people were subsequently detained by the Ukrainian army. Other accounts claim that three people were injured and one person was killed.
186. On the election day, five election commission members from Donetsk were detained by armed persons and taken to the SBU building. Following an intervention by the HRMMU with representatives of the “Donetsk People’s Republic” at the occupied SBU building, they were released the next day.
187. Such attacks prevented DEC and PECs to continue their preparations for the Presidential election, which led to widespread limitations to exercise of the right to vote in eastern Ukraine, notably in the regions of Donetsk and Luhansk.
188. On 26 May, the “speaker” of the “Donetsk People’s Republic”, Denis Pushylin, announced that a visit of the newly-elected President Petro Poroshenko to the Donbas would “heat up” the situation in the Donetsk region, and that dialogue was possible only through mediation by the Russian Federation. According to him, the “Donetsk People’s Republic” had proclaimed “martial law” on “its” territory and that a curfew might be imposed in certain areas.

B. Right to life, liberty and security

189. On 9 May, as reported by the MoI, some 60 men armed with automatic weapons stormed and seized the Mariupol Department of the MoI. The security operations which involved the National Guard, the special unit “Azov”, the special unit “Dnepr” and the armed forces of Ukraine, tried to take back the building. As a result, nine people were killed and many were wounded, primarily residents.
190. Unidentified armed persons reportedly started firing from the second floor of the building, and the Ukrainian forces fired back. Reportedly, the National Guard servicemen who were outside started firing at the building with machine guns and rocket propelled grenades. As a result, a fire started in the building. The fire brigade arrived. Those who were inside started running out the building and dispersing in the city.
191. In the early afternoon, while retreating, the special unit “Azov” came across local “Pro-Russian” demonstrators who reportedly tried to stop them. Members of the special unit “Azov” reportedly fired warning shots, first into the air, and then at people’s legs. The HRMMU is verifying this information.
192. After the armed forces left the military base in Mariupol, it was looted by “Pro-Russian” activists, who reportedly took an unknown number of weapons,

ammunitions and two armoured vehicles. The Ukrainian security and law enforcement forces were relocated outside the city in an effort to decrease tensions, and for the safety of residents.

193. According to the MoI, 20 armed persons were killed and four captured; while the Public Health Department of the Donetsk Regional State Administration asserts that three persons were killed. The Chief of the Traffic Police was confirmed killed; and the Chief of Police was abducted and illegally detained. On his release on 11 May, confirmed by the MoI, he was found to have multiple injuries. The HRMMU is trying to verify this information.
194. Human rights activists from the NGO Memorial who visited Mariupol on 11 May reported finding 15 wounded men at Mariupol City Clinic Hospital № 1. Six police officers were hospitalised and the first civilian victims were brought later to the hospital. The Mariupol Emergency Hospital received 10 wounded persons, of whom one (a police officer) died. 15 wounded people were brought to Mariupol City Clinic Hospital № 2. As reported to the HRMMU by the human rights defenders, the majority of those wounded were not involved in the fighting.
195. The HRMMU continues to highlight the need for a prompt and comprehensive investigation into these events.

Abduction and detentions

196. In the regions of Donetsk and Luhansk, a reported escalation of violence and violations of international law (abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings) by armed groups illustrated the growing erosion of law and order. The HRMMU is increasingly concerned about guarantees for the protection of human rights of the general population. According to the MoI, from April to 7 June 2014, armed groups in the eastern regions abducted 387 people, among them 39 journalists.
197. Below are some of the many cases reported to the HRMMU during the period covered by the present report. The HRMMU is keeping track of reports of abductions and acts of arbitrary detention targeting persons not involved in the fighting, intimidation and harassment, torture and killings in eastern Ukraine. It is trying to verify such reports through direct contacts with the victims and/or relatives or through other reliable sources. From its own records, the HRMMU is aware of 222 cases of abductions and detentions by armed groups since 13 April. Of these, 4 were killed; 137 released; and 81 remained detained as of 7 June.
198. The pattern of abductions consists of groups of armed men taking people away and detaining them in one of the buildings they occupy on the grounds that they are members of the Right Sector and “spies”. Some are released after a few hours, some after a few days, and there are numerous accounts of allegations of ill-treatment and torture.

199. According to local activists from Kramatorsk, on 9 May, about 40 residents of the city were abducted by the “Donetsk People’s Republic”. On 10 May, three “Pro-Ukrainian” female activists not involved in any fighting were abducted and detained by armed persons in Kramatorsk. One of them was released the next day after being reportedly subjected to torture during interrogation. She was subsequently hospitalised in Slovyansk, suffering from broken ribs, a pierced liver, a head injury and multiple bruises. The other two women were released on 13 May and placed under so-called “house arrest”, reportedly prohibited from leaving Kramatorsk.
200. On 8 May, a woman went to Slovyansk to try to secure the release of her son detained by the “Donetsk People’s Republic” and was reportedly abducted by the same armed persons. She has cancer and was undergoing chemotherapy. The whereabouts of a female interpreter was unknown from 4 to 18 May. Upon her release, she reported having been detained by armed groups in Donetsk and to having being subjected to ill-treatment and sexual assault.
201. On 26 May, the OSCE Special Monitoring Mission (SMM) lost contact in the town of Antrazyt, with one of its Donetsk-based teams, consisting of four persons. On 29 May, contact was lost with another team of four in the Luhansk region. As of 7 June, the eight remained detained and their whereabouts unknown. 11 other OSCE SMM members were stopped on 28 May for a few hours at a checkpoint in Mariynka (Donetsk region) before being able to return safely to Donetsk.
202. On 25 May, two officers of the SBU were reportedly detained by the “Luhansk People’s Republic” while attempting to negotiate the release of their colleagues who were being detained. Their current location remains unknown. On 2 June, three police officers of the Amvrosievka District Department of the MoI were reportedly abducted; their whereabouts remain unknown although there are reports they might be detained by armed groups in Horlivka. Two senior police officers went to Horlivka to negotiate their release. They have not returned and their whereabouts is also unknown.
203. The HRMMU was involved in efforts to negotiate the release of individuals detained by the armed groups under the control of the “Donetsk People’s Republic and the “Luhansk People’s Republic”. Following repeated interventions, several civic activists and members of district election commissions were released from the SBU building in Donetsk on 27 May. During the night of 29-30 May, 20 civilians detained in the SBU building were released following discussions between the HRMMU and representatives of the “Donetsk People’s Republic”.
204. The HRMMU appealed to the leadership of the “Luhansk People’s Republic” on 26 May for the release of two detained journalists at the occupied building of the SBU in Luhansk. A similar release took place of a third journalist. They were all detained by armed groups for having covered the elections in the Donetsk region. While in detention, two of the journalists were badly beaten, and were hospitalised upon their release.
205. The emergence of ransom demands is a worrisome trend, following abductions of people from their homes and in some cases accompanied by looting and stealing

of valuables, including cars. For example, on 9-10 May, an armed group together with police officers allegedly abducted the parents of a local activist from “Svoboda”, from their home in the village Khanzhenkovo (near Makyivka, Donetsk region). On 10 May, the home of an activist from Kramatorsk was allegedly attacked and items stolen by armed persons. Applicable international law prohibits the taking of hostages for purposes of demanding ransom or political concessions, regardless of whether the victims are of the general population or involved in the fighting.

206. On 26 May, three deputy prosecutors were abducted by armed men, but two were immediately released. The third was subsequently exchanged for three supporters of the “Donetsk People’s Republic” who were being detained in the Lukyanovskoe pre-trial detention centre in Kyiv. That same day, a traffic police officer was taken hostage by an armed group of “Cossacks” in Antratsyt in Luhansk region. The family was asked for a ransom of one million UAH (approximately 80,000 USD).
207. Although most of the persons detained are activists, journalists, and town councillors, NGOs in Donetsk have highlighted to the HRMMU a growing pattern of the systematic persecution against civil society. According to them, fear is spreading in the Donetsk and Luhansk regions, with an increasing number of acts of intimidation and violence by armed groups, targeting “ordinary” people who support Ukrainian unity or who openly oppose the either of the two “people’s republics”.
208. Among cases brought to the attention of the HRMMU, on 14 May, four armed men in camouflage reportedly abducted the principal of a school in Luhansk from the school premises. Allegedly, she had opposed holding the “referendum” on the school premises. She was released a few hours later, but refused to speak about the incident. The same day in Kramatorsk, armed men came to the apartment of an employee and reportedly abducted him. Reportedly they were looking for his 16-year old son, allegedly because of his active “Pro-Ukrainian” position, including in the social media. Since the son was not to be found, they took the father to the occupied building of the Kramatorsk City Council where he was beaten. Allegedly, they eventually found the son and took him to the city council. Both were released a few hours later, and the whole family left the region the same day.

Killings

209. Increasingly residents have been killed by armed groups. On 8 May, the burned body of Valeriy Salo, a farmer and head of a local cultural organization known as a “Pro-Maidan” activist, was found a day after he had been abducted by armed persons from his village. There have also been several reports of killings at checkpoints held by armed groups. That same day, an Orthodox priest was shot dead at a checkpoint near his hometown of Druzhivka, and a couple was also shot dead in their car at a checkpoint in the Luhansk region. Their daughter survived with head injuries. In the same region, on 23 May, a woman who allegedly did not stop at a checkpoint died when heavy gun fire was opened at her car.

210. The HRMMU is also concerned about reports of “summary executions” by representatives of the “Donetsk People’s Republic”. On 18 May, in a village near Slovyansk an elderly farmer was accused of bringing food to the Ukrainian forces, taken out of his house into the yard, where according to witnesses a “sentence” was read in the name of the “Donetsk People’s Republic” and shot dead, in front of his family and neighbours. Reportedly, on 26 May, by order of Igor Strelkov, Dmytro Slavov (“commander of a company of the people’s militia”) and Mykola Lukyanov (“commander of a platoon of the militia of ”Donetsk People’s Republic”) were “executed” in Slovyansk, after they were “sentenced” for “looting, armed robbery, kidnapping and abandoning the battle field”. The order, which was circulated widely and posted in the streets in Slovyansk, referred to a decree of the Presidium of the Supreme Council of the USSR of 22 June 1941 as the basis for the execution.

Torture

211. The HRMMU has been following cases of individuals who have been abducted and detained by armed groups in eastern Ukraine. Several interviews conducted with persons who were abducted provide vivid accounts of human rights abuses committed by representatives of the “Donetsk People’s Republic” and the “Luhansk People’s Republic”, including beatings, psychological torture and mock executions. There are instances of relatives of detained persons, including women and children, having been threatened and terrorised. Witnesses also mention having seen supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” being detained and subjected to harsh punishment for looting or insubordination.
212. Among the numerous cases reported to the HRMMU, a journalist from Lutsk who was abducted by armed groups in Donetsk on 25 April, stated that during 23 days of his detention, he suffered from permanent lack of drinking water. He was reportedly tortured with electric shocks, beaten repeatedly over the head with a heavy book, and his captors reportedly tried to cut off one of his fingers.
213. An activist of “Batkivschyna”, abducted on 22 May and detained by supporters of the “Donetsk People’s Republic” in Donetsk, reported being subjected to torture and forced labour while in detention. He stated that he only received food twice in the five days he was detained. He was interrogated about affiliation with the “Right Sector”, with “Euromaidan”, and trips to Kyiv. During one of the interrogations he was reportedly subjected to a mock execution.
214. Three activists of a local human rights NGO were detained in Donetsk on 27 May and released on 1 June. They were taken to the occupied building of the Makiyivka Department of Organized Crime Control, and interrogated on a daily basis, accused of being affiliated to the “Right Sector” and the Ukrainian military. Both of them allege having been tortured.

Enforced disappearances

215. The HRMMU has received credible reports of individuals being detained in conditions that amount to enforced disappearance, and has a list of 11 such cases.
216. On 10 May, units of the Ukrainian armed forces allegedly detained a streamer, who was covering the activities of armed groups, in particular, the attacks on the government buildings in Donetsk region. The HRMMU filed a request to the Ministry of Foreign Affairs (MFA), asking about the current location of the individual. On 15 May, the HRMMU was informed by the MFA that a criminal case was opened by the MoI under the Article 115 (Murder) of the Criminal Code.
217. In an earlier case of concern, working with the National Preventive Mechanism (NPM), the HRMMU was able to identify the location of an individual whose whereabouts had been unknown for nine days. The location of an activist of the “Donetsk People’s Republic” was identified on 26 May, after he had been allegedly detained by the National Guard on 17 April in the area of Amvrosiyivka. After enquiries made by the NPM, the activist was located in the pre-trial detention centre in Dnipropetrovsk. It remains unknown who exactly arrested the activist and why access was not granted to him for nine days. The NPM confirmed that he had no health complaints, besides having “a few minor bruises” on his body. It is checking on access to legal counsel for him. It is also unclear whether the activist has been officially charged.
218. This has put in motion a good practice for partnership with the NPM on such cases, which was key in drawing attention to the case of the enforced disappearance for six days of two LifeNews journalists, Oleg Sidiyakin and Marat Saychenko. Both were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against armed groups. The whereabouts of the two journalists was unknown until their release on the evening of 24 May, when they were flown to Moscow via Grozny. All attempts by their lawyers to be in contact with them, and gain some access to the two individuals, had failed. The HRMMU worked with the lawyers of the two journalists, and with others including the Ombudsperson, the NPM and the MFA. Through these institutions, requests were made on the case to the General Prosecutor, MoI and SBU. Upon their release, the journalists asserted that they were beaten in the first two days of their detention, initially held in a hole, blindfolded with hands tied, and then transferred to Kyiv. For the period from 18 May to 24 May, the journalists were effectively held in conditions that amounted to enforced disappearance.
219. The HRMMU was also looking into the detention conditions of supporters of the “Donetsk People’s Republic” and “Luhansk People’s Republic” detained by the Ukrainian forces during the security operations. Regular visits to places of detention take place, including in Kyiv when persons arrested have been transferred to detention facilities in the capital. The HRMMU actively cooperates with the Ombudsperson and the NPM to make sure the human rights of detained persons are upheld, including from the point of view of access to medication and to the services of a lawyer.

Children

220. The HRMMU is particularly concerned about the impact of the situation in eastern Ukraine - especially in the area between Donetsk and Slovyansk - on the human rights of women, and the most vulnerable persons - children and persons with disabilities, including those in institutional care, older persons, and those needing medical assistance.
221. According to a rapid psychological assessment of 204 children conducted by the UNICEF¹⁷ in four cities of the region of Donetsk from 15 to 22 May, nearly every second child experienced fear, anger, sadness or problems with sleep. Other behavioural changes were also observed in a number of children.
222. According to Donetsk Regional State Administration, in the period between 9 – 30 May, seven children had been wounded as a result of the illegal activities of the armed groups. According to credible reports received by the HRMMU, 14 children from the children's institution in Slovyansk have been evacuated from the city. An NGO in Kharkiv expressed concern that there were no evacuation plans for persons with disabilities living in closed institutions. On 7 June, the Ministry of Social Policy informed the HRMMU that out of 1,494 children who are in closed institutions (children's institutions, shelters, and so forth) in Donetsk region, 663 have been evacuated; in Luhansk region out of 760 children, 464 have been evacuated.
223. As fighting intensifies and with the end of the school year on 30 May, parents are reportedly increasingly looking for ways to evacuate their children to safety. There is information that a group of children from Slovyansk has arrived in Crimea and most recently on 6 June to Odesa. On 30 May, various media outlets informed that a group of 148 children from Slovyansk was taken to a summer camp in Crimea. There were also reports that on 31 May, a group of 21 children crossed into the Russian Federation on foot, after having to disembark from their bus at the border. This information cannot be verified by the HRMMU.

C. Freedom of expression

224. Journalists' safety continues to be a serious issue in the Donetsk and Luhansk regions due to fighting between the Government's security forces and armed groups. On 24 May, an Italian photojournalist, Andrea Rocchelli, and his interpreter, Andrey Mironov, Russian citizen, were killed under mortar fire, while covering fighting between government forces and armed groups in Andreyevka near Slovyansk, Donetsk region. On 9 May, it was reported that a freelance cameraman of the video agency RUPTLY, which is part of the TV channel Russia Today, was wounded while filming events in Mariupol. Reportedly, he received necessary medical treatment and is in satisfactory condition.
225. The working environment for journalists has become increasingly dangerous, with the threat of abduction and illegal detention by armed groups. On 7 May, it was

¹⁷ UNICEF, Rapid Psychosocial Assessment of Children in Donetsk Oblast, 2014.

reported that armed groups in Luhansk offered a reward of USD 2,000-10,000 for each detained journalist. The HRMMU continues to closely monitor cases of detentions of journalists in Donetsk and Luhansk regions. Although all but one of the journalists abducted and known to the HRMMU before 6 May (cut-off date of the previous report) have been released, the HRMMU is aware of new cases abducted after that date. The HRMMU interviewed many of the released journalists, who reported ill-treatment, beatings, and sexual harassment (of women). They also confirmed the fact that other detainees were being kept in the seized administrative buildings; but the exact number and their identities remain unknown.

226. Also, journalists and editorial offices continue to be threatened and intimidated by armed groups. For instance, on 14 May, the HRMMU received credible reports that those journalists who work in the region but refuse to comply with the orders of the “Donetsk People’s Republic” are threatened and harassed. Reportedly, the state regional television is in a particularly difficult situation; its office has been practically blocked by approximately 100 heavily armed men. On 21 May, an unidentified man called the editorial office of the Public television of Donetsk region and threatened its journalists.

227. Local journalists have reported having to flee Donetsk and Luhansk regions due to such threats and intimidation. On 8 May, two journalists from Donetsk had to move to Lviv out of fear of persecution and threats. On 13 May, an internet resource in Severodonetsk (Luhansk region) announced the forced suspension of activities and advised its journalists to leave the town because of growing pressure and threats against their lives from the armed groups. On 27 May, the editorial office of another local web-based outlet was forced to relocate to a different town, reportedly, due to threats from the self-proclaimed “Army of the South-East”. On 26 May, it was reported that the publisher and editor in chief of one of the local newspapers in Kramatorsk was forced to flee the region with his family due to threats they were receiving after he had refused to publish materials armed representatives of “Donetsk People’s Republic” demanded him to publish.

Arbitrary arrests of journalists

228. In the reporting period, Ukrainian and Russian journalists have been arbitrarily arrested; this raises concerns about the possibility for journalists to conduct their professional activities safely.

- On 10 May, a journalist of Russian TV channel Kuibishev 61, was allegedly detained by the Ukrainian security forces at a checkpoint on the road between Slovyansk and Kramatorsk. His whereabouts remain unknown to the family. On 22 May, the HRMMU sent an official inquiry to the MoI (via the MFA) about the case. On 5 June, the HRMMU was informed that as of 15 May a criminal investigation had been opened under Article 115 (Murder) of the Criminal Code. The HRMMU has requested more information on this case.
- On 15 May, a journalist and cameraman of the ICTV Ukrainian channel were arrested on the border (Kharkiv / Belhorod) while performing editorial tasks by

the Border Service and Federal Security Service of the Russian Federation,. Reportedly, after more than 15 hours of questioning without water and food and deleting all photo and video materials, the journalists were released.

- Two LifeNews journalists, Oleg Sidyakin and Marat Saychenko, were detained on 18 May near Kramatorsk during a raid by Ukrainian forces against the armed groups. They were released on 24 May (see section B, chapter V).
- The HRMMU also followed closely the case of a British journalist working for Russia Today detained by the National Guard in Mariupol on 20 May for allegedly filming military objects. He was released on 21 May and transferred to the Consulate of the United Kingdom in Kyiv. After his release he tweeted details of his detention, including that he had been treated fairly.
- On the night of 6 June, two journalists of the Russian TV station “Zvezda” were detained by the National Guard of Ukraine (NGU) at a checkpoint near Slovyansk. According to their driver, who was also initially detained and later released, the journalists were cuffed, balaclavas were put on their heads, and they were forced to kneel down in a ditch (allegedly, to protect them from possible shooting). On 7 June, the NGU issued a statement saying that journalists were suspected of monitoring and collecting information. The MFA of the Russian Federation reportedly filed a note of protest to the MFA of Ukraine. On 8 June 2014, the TV station “Zvezda” received information from the SBU that the two journalists were in good health. They were released on 9 June and transferred to the Russian Federation.

Obstruction to lawful professional journalist activities

229. On 11 May, it was reported that Ukrainian journalists were not allowed to photograph or film the voting process during the “referenda” in the Donetsk and Luhansk regions.
230. The same instances were reported prior and during the election day on 25 May. For instance, the journalists of the Voice of America were warned not to film the seizure of one of the polling stations in Donetsk.

Attacks on editorial offices and TV towers

231. In the reporting period, there has been a growing number of armed attacks on the editorial offices of the local media outlets by armed men. Some of the examples are provided below.
- On 7 May, the office of the local newspaper “Hornyak” in Torez (Donetsk Region) was reportedly attacked and its equipment was broken and damaged.
 - On 8 May, the independent newspaper “Provintsiya” in Kostyantynivka was attacked by armed, masked men, allegedly members of the “Donetsk People’s Republic”. The editors were told the paper was “closed” and taken to the “city commander’s office” situated in the occupied building of the City Council, where

they were threatened and suggested to leave the town. The police was called, but did not interfere or arrested the attackers. The editors did not file a complaint because they do not trust the police will act and because they feel threatened and fear for their lives.

- On 11, 13, 19 and 20 May, armed groups shelled the TV tower in Slovyansk, which led to interruptions in broadcasting. On 14 May, in Kramatorsk, the armed groups blocked the TV tower, which transmits the channels not only for Kramatorsk, but also Slovyansk, Horlivka and Makiivka.

Censorship / access to information

232. According to NGOs, freedom of media in the Donetsk region is severely curtailed, with Ukrainian TV channels switched off by the “Donetsk People’s Republic” and replaced by the its own media programmes and Russian TV. Some of the examples include the following:

- On 8 and 25 May, armed group stormed the office of the local TV Channel “Union” with demands to report about the activity of “Donetsk People’s Republic” and declared their intent to control the activity of journalists. The target audience of the channel is about 3 million people in nine towns of Donetsk region.
- On 8 May, under threat of physical violence from the armed groups, the company “Vokar Holding” was forced to stop retransmission of Ukrainian TV Channels: “Inter”, “Ukraine”, “1+1”, ICTV, STB, “New Channel”, “5th Channel”, “112 Ukraine”, and “TVI” in Severodonetsk, Luhansk region. Instead the Russian channels were broadcasted. The same incidents occurred throughout May in Luhansk and its region (Krasnyi Luch, Alchevsk).
- On 2 June, armed members of the so-called “Donbas People’s Militia” arrived at the office of the newspapers “Donbas” and “Vecherniy Donetsk” and blocked all entrances and exits. They abducted the editor-in-chief of the “Donbas” and his deputy and the editor-in-chief of “Vecherniy Donetsk”. The armed men reportedly used psychological pressure and death threats to change the editorial policy of the newspapers and ensure more positive coverage of the “Donetsk People’s Republic”. The three editors were eventually released on 3 June after which all the “Donbas” employees were sent on leave and the newspaper stopped its publication. Also, the HRMMU has noted specific hate speech on the “official” media outlet of the “Donetsk People’s Republic” “Anna Info News”. On 20 May Oleksandr Mozhayev, known as “Babai” (a fighter participating in the armed groups) referred to the on-going operations as a “Holy War” and spoke of exterminating America.
- On 5 June, a local cable TV and Internet network provider in Donetsk terminated the broadcast of Ukrainian channels: “1+1”, “Donbas”, “UBR” and “News24” at the demand of “Donetsk People’s Republic” representatives.

Propaganda

233. The HRMMU reiterates the importance to counter misinformation, incitement to hatred, discrimination, and violence. As an example, the “Donetsk People’s Republic” denied all responsibility for the attack near Volnovakha, claiming that it was the National Guard “paid by Kolomoiskiy” which perpetrated this attack on the Ukrainian military. On 27 May, LifeNews posted a photo of a wounded child stating he was shot in the Donetsk International Airport; however the StopFake.org experts discovered that the photo was from the Syrian city of Aleppo in April 2013. Although the original publication in twitter was deleted, the photo was widely used for similar posts on alleged shootings of children. A different photo with a dead boy’s body in a coffin was used for similar messages of alleged shooting of children in eastern Ukraine. The photo, however, was made in 2010, in the Crimean city Dzhankoy, of a boy killed by a local criminal.
234. Similarly, various videos became viral, allegedly showing either atrocities by the Ukrainian army, seizing of “Grad” complexes by armed groups, or of the use UN symbols on Ukrainian helicopters used in the security operations. It was also demonstrated that originals of such videos were also filmed earlier in the Russian Federation or in other countries, and had nothing to do with the current events in Ukraine.
235. Misinformation adds to the instability and fear which affect the lives of people in the region, and all sides should refrain from using it, especially to the extent that it amounts to advocacy to national hatred that constitutes incitement to discrimination, hostility or violence, which is prohibited under Article 20 of the ICCPR.

D. Freedom of religion or belief

236. On 15 May, the Ukrainian Orthodox Church of the Kyiv Patriarchy (UOC-KP) condemned the violence and threats to the life and health of the clergy and the faithful of eastern Ukraine by armed groups. The statement by the Holy Synod of the UOC-KP calls for the Moscow Patriarchate to condemn collaboration with the supporters of the self-proclaimed “people’s republics” and distance itself from it. The UOC-KP requested the Government of Ukraine to protect the clergy and congregation of the Kyiv Patriarchy in the Donetsk and Luhansk regions from the attacks and threats of the “criminals”.
237. In the statement, the Church also appeals to the international community and inter-religious social human right organizations to pay attention to the infringement of rights of the believers of UOC-KP in the eastern parts of Ukraine and in Crimea.
238. In Donetsk, numerous attacks against the inter-religious Prayer Marathon (attended by all major denominations except the Moscow Patriarchy) took place almost on a daily basis in May, including heavy beatings of participants, the destruction of property, and threats to organisers and volunteers. On 23 May, after a repeated attack by 15 representatives of the “Donetsk People’s Republic”, in an attempt to

discuss security arrangements for the Prayer Marathon, its coordinator allegedly went to the occupied building of the Donetsk Regional State Administration. While there he was allegedly heavily beaten and had to seek medical assistance. The Prayer Marathon has continued gathering in June. No incidents have been reported.

239. Reports have also been received of other denominations being attacked, for example, Protestants.

E. Economic and social rights – impact of the violence

240. As background to the situation in the eastern regions and the current impact on economic and social rights being faced by the local population, the HRMMU recalls that Ukraine is a middle-income country, ranked 78 in the Human Development Index in 2013.

241. The recent evaluation of the UN Committee on Economic, Social and Cultural Rights (ESCR) published on 23 May 2014, highlighted the positive steps of the Government in ratification of, or accession to, various human rights instruments. At the same time the Committee identified major problems that have an adverse impact on the enjoyment of all human rights, including the large extent of corruption, discrimination against Roma and Crimean Tatars, a low level of social standards, unemployment among youth, around 30% gender pay gap, employment in the informal economy, a stable poverty rate of 24.7%, absence of a health insurance system, and low expenditure on health care.

242. The Committee made related recommendations to address the root causes of the aforementioned challenges.

243. The violence and security operations in the eastern regions has had a direct impact on the existing level of enjoyment of economic, social and cultural rights, and has also influenced the State capacity to progressively realize the rights and comply with the Committee's recommendations in the areas struck by the conflict.

Right to education

244. Despite the efforts of the Donetsk Department of education and science, as well as school administrations, studies had to be suspended in several towns of the Donetsk region in May. In Slovyansk, Krasnyi Lyman and Krasnoarmiysk, 62 schools and 46 kindergartens were not functioning, which affected 21,700 students and 5,600 children, respectively. On 28 May, it was reported that during the fights in Slovyansk two school buildings have been damaged; no one was injured.

245. In other towns in the Donetsk region schools remained open, but attendance varied from 25% in Slovyansk district to 98% in Makiivka district.

246. Most schools in the Donetsk and Luhansk regions managed to complete the academic year, which finished on 30 May. The main concern had been the organisation of the "External Independent Assessment"¹⁸ for the students of these

¹⁸ A final test for the high school students to enter universities in Ukraine.

eastern regions. On 29 May, the Ministry of Education announced that testing in these regions would be postponed until 11 July to 27 July, and if necessary could be postponed again.

247. Following instructions issued by the Ministry of Education and Science, all universities in the eastern regions had to ensure that foreign students finished their studies earlier, by 20 May, so that they could leave the country.¹⁹
248. Reportedly, school administrations have faced various forms of pressure from representatives of the “Donetsk People’s Republic” including in the preparation and holding of the “referendum” of 11 May, as well as establishing temporary “hideouts” in school premises.

Right to health

249. Due to the growing number of wounded, hospitals are overcrowded and understaffed. As of 28 May, in order to minimize the risk to life and security of patients, the Regional Hospital of occupational diseases in Donetsk partially discharged patients whose medical condition did not require in-ward treatment. A sanatorium for children with cerebral palsy was closed in Donetsk due to its proximity to the occupied Security Service of Ukraine building. On 26 May, Children’s Hospital Nr 1 and city hospital Nr 18 had to close due to the proximity to Donetsk airport.²⁰
250. Access to medical services, treatment and supplies for residents in areas most affected by the fighting is becoming more and more challenging. This is of particular concern as more residents are caught in the crossfire between the armed groups and Ukrainian forces. The situation is most difficult in Slovyansk. The overcrowded, understaffed and under resourced hospitals are only admitting those who are severely injured. Primary Health Care services are overloaded and at times called to provide treatments and care that are within their capacity. Patients from the Mental Health Hospital (229 persons) were evacuated from Slovyansk. All emergency services have been relocated to the nearby village of Mykolayivka, with a number of medical number units set up in Svyatohirsk (location of a large Russian Orthodox monastery - the Lavra). Some patients were transferred to Poltava region. Pharmacies are open only a few hours per day.

¹⁹ On 29 and 30 April, The Ministry of Education and Science issued two letters Nr 1/9 - 228 and Nr 08.01-47/12033 instructing all universities of Ukraine, particularly in the East, to terminate the studies of all foreign students by 20 May, which is much earlier than usually. Reportedly, the decision was made upon request of the embassies of foreign countries so that foreign students could complete exams and leave the country if they wish so due to the security situation. Allegedly, at the end of April there were two attacks in eastern regions on foreign students; however the HRMMU could not verify these facts.

²⁰ On 26 May 2014, approximately 20-30 armed representatives of the “Donetsk People’s Republic” reportedly arrived at Donetsk International Airport. According to the Press-Secretary of the Donetsk International Airport Dmytro Kosinov, they demanded the Ukrainian Armed Forces, which were guarding the airport, to withdraw. Fighting broke out at 7.00 a.m. and at that time the airport was closed. It was reported that it will stay out of service till 30 June. According to some reports the main terminal was partially destroyed and some fighting is still on-going there.

251. The delivery of supplies, particularly medicines, becomes more complicated every day; especially with the Donetsk airport being out of service. Reports and requests sent to the UN agencies indicate the lack of specific medications, including some antibiotics, pain-killers, vaccines and consumables. In Donetsk, insulin was distributed to various locations; however, such deliveries are becoming more difficult. Supplies of food in hospitals are running low.
252. There have been reported difficulties to ensure uninterrupted provision of opioid substitution therapy (OST).²¹ This directly affects 759 persons (56% of whom are HIV positive) in Donetsk region and 609 (13% are HIV positive) in Luhansk region. According to the HIV/AIDS Alliance and the World Health Organisation, in a number of cities, such as Slovyansk, the healthcare facilities providing OST are completely controlled by armed groups. The fact that pharmaceuticals in the healthcare facilities in the districts have fallen beyond the legitimate authorities' control, is in its essence a certain risk factor for medical staff and patients. On 30 May, OST treatment was stopped for more than 100 patients in Mariupol, due to drugs not being delivered because of the security situation. As of 2 June, HIV service organisations reported that for some patients such an interruption in treatment had resulted in people using illegal drugs. In the long run, this may lead to an increase in cases of HIV and hepatitis infections due to intravenous drug use. Due to the numerous check-points and blocked roads, as well as interruptions in public transport, the specialized hospital for HIV/AIDS patients in Yasynovata, Donetsk region, is practically inaccessible.

Conditions for treatment of patients

253. The conditions for the treatment of patients, including those who have been wounded in fighting and violence, are precarious. As the security situation deteriorates, so does the access to hospital care and the quality that can be provided by medical professionals. For example, in Slovyansk, medical personnel were already highlighting the problems with the delivery of medical supplies to the city. In the regions affected by violence and the ongoing security operations, hospitals are trying to allocate what funds they have to purchase the medical supplies they require. In early June, some hospitals in Donetsk discharged patients, except those in critical condition or those who were immobile, leaving the hospitals almost empty.
254. Due to the lack of trust regarding law enforcement, both the medical personnel and patients try to conceal the facts and nature of wounds (the standard protocol is that medical institutions have to report any gunshot and/ stab wounds to the police). The HRMMU has received credible reports that doctors are at times trying to ensure the security of the wounded.

²¹ This has been an integral part of the widespread implementation of harm reduction programmes. These programmes are an essential element in controlling HIV/AIDS and other infectious diseases among injecting drug users in Ukraine, as elsewhere in Eastern Europe.

255. Cooperation with local civil society and community volunteers is an important part of treatment of those who suffered in the recent months. The volunteers, local NGOs, political parties and priests donated money, clothes, food, and medical drugs and provided psychological support. In some cases, when expensive purchases were necessary – such as plates for head surgery – they were purchased by charitable organizations, which also provided financial support to the victims after they were discharged from the medical institutions – to receive rehabilitation treatment in sanatoria. In the local hospitals where the wounded were brought – such as after the shooting on 22 May near Volnovakha in the Donetsk region – there were instances when the local community cared and protected the wounded, bringing them medical drugs, food and clothes.
256. Security in hospitals has been reported to the HRMMU as a concern with patients having to be protected from potential abductions by armed groups. The officials from the Donetsk Regional State Administration confirmed that such kidnappings of the wounded had taken place, however there is no official record of such cases, thus no exact figure could be provided. There is also an increased risk for healthcare professionals themselves, particularly if it involves moving around in the case of ambulance medical teams.

Right to an adequate standard of living

257. Since 17 May, prices for basic commodities (including bread) have been rising by a minimum 0.73 Hryvnia (UAH) and 1-2 UAH on average due to higher risks of production and delivery of goods into the occupied towns through numerous checkpoints. Seasonal vegetables and fruits are 4-5 UAH more expensive than usual.
258. Also, due to increased cases of looting, private businesses and retailers prefer to close down, which creates scarcity of supply. Consequently, while the minimum set of products is always available, the variety is much less. Often times there are interruptions in delivery of dairy products, fruits and vegetables, and non-alcohol drinks.

Housing

259. The HRMMU is concerned when security operations take place in residential areas of towns and villages of the Donetsk and Luhansk regions. As of 30 May, there had been reports of ruined residential buildings in Slovyansk, Kramatorsk and Donetsk. Additionally, on 7 June, it was reported that nine houses were damaged by the Ukrainian army shelling in Semyonovka near Slovyansk.
260. The HRMMU will raise this and other similar issues with the Ukrainian Government, including advocating for monetary compensation to be awarded to the victims for damages to their property in the course of these security operations.

Electricity and water supply

261. As of 18 May, in the Slovyansk region, 22 electrical sub-stations stopped functioning. As a result, more than 2,000 households were left without access to

electricity. According to the Press-service of the company “Donetskoblenergo”, the company has all the necessary material and human resources for reconstruction. However, repair crews are unable to access the site due to the ongoing security operations.

262. In the northern part of the Donetsk region, the supply of water supply is increasingly under threat, with regular interruptions. Moreover, as of 3 June, residents of Slovyansk, Konstantynivka, Druzhkivka and Kramatorsk (cities in Donetsk region) had no access to running water, due to damage to the water supply reportedly as a result of the security operations.

Social security (services and benefits)

263. Due to the deteriorating security situation in the Donetsk and Luhansk regions, it is a growing challenge to ensure continuous work of State institutions. On 14 May, the Pension Fund department resumed its work (after the seizure of its building on 5 May) in Slovyansk, but the department’s office hours were cut. On 15 May, it was reported that the National Bank of Ukraine suspended²² the operations of its office in Donetsk region due to the threats by the representatives of the “Donetsk People’s Republic”. On 15 May, the Ministry of Revenue and Duties of Ukraine also evacuated the staff of its directorate and tax inspections in the region.
264. On 7 June, the Ministry of Social Policy informed the HRMMU that all social payments had been made to the regions of Donetsk and Luhansk. However, there were major challenges in delivering cash to Antratsyt in Luhansk region and Slovyansk and Kramatorsk in Donetsk region. The Ministry has already addressed the MoI and SBU to develop a mechanism of the safe delivery of cash to these regions if the situation remains the same or aggravates.
265. On 30 May, the head of Department of Marketing Communications of the Novokramatorskiy Machine-Building Plant Volodymyr Zhuliy spoke of the imminent “humanitarian catastrophe” in Kramatorsk, due to the termination of the work of the city department of the State Treasury of Ukraine since 20 May. In particular, Mr Zhuliy mentioned that thousands of the city’s pensioners, local governance workers, educators and public health workers were deprived of the means for existence. Reportedly, the Treasury’s debt to the workers and pensioners in Kramatorsk for the payments due in May already amounted to UAH 61.4 million.

Increased lawlessness resulting in loss of individual property

266. On 15 May, the Parliament Commissioner for Human Rights informed the HRMMU that there are numerous incidents in Donetsk and Luhansk regions when the armed groups’ members seize personal phones and especially cars from ordinary citizens. The police rarely intervene or take any action, as they are usually

²² The staff of the Bank was evacuated, and online banking in the region was reportedly suspended.

unarmed and thus unable to perform their functions in the current situation. Consequently, although criminality is increasing, there is nobody to apply to in case of an alleged crime, and no effective means to intervene for police. It also becomes dangerous for persons to report about such crimes, so in most cases they chose to leave the region. The increase in criminality is, in the view of some, returning the regions to the “lawlessness of the 1990s”:

- For example, on 8 May, the private residence of a local activist was allegedly shot at from a car; the attackers broke into the house and looted everything of value. The police called by the neighbours, allegedly made several photos of the location, but did not even walk into the building. Reportedly, the activist left the region to Kharkiv with his family, due to previous threats to his life, including attempted arson of his home with Molotov cocktails on 4 May.
- On 15 May, owners of car-dealerships in the cities of Donetsk and Luhansk regions formed rapid response groups to protect their businesses against attacks aimed at robbery that have multiplied since the beginning of May.
- On 28 May, the HRMMU spoke to one of the local political leaders in the Donetsk region. He reported that his legal firm’s office was ruined when attackers took his computers, documentation on the legal cases and stole the firm’s car. He was also detained for 7-8 hours and subjected to life threats, inhumane treatment and beating. After his release he fled the region together with his family.

Labour rights

267. There are growing concerns about the ability of enterprises in Donetsk and Luhansk regions to continue functioning due to the on-going fighting, targeted attacks and intimidations by the armed groups.
268. The presence of uncontrolled armed groups and rise of criminality obstruct the business activity of entrepreneurs, which first of all affects small companies in the sphere of services and retail (banks, logistic companies, stores, petrol stations, and bakeries).
269. On 20 May, the Mayor of Donetsk, Oleksandr Lukyanchenko, stated that a wide range of enterprises do not work in full capacity and some of them suspend production, in particular, “Donetsk Metallurgical Plant” employing approximately 2,100 persons.
270. On 29 May, the Secretary of the National Security and Defence Parliamentary Committee, Sergey Kaplin, stated that due to the current events in the Donetsk and Luhansk regions, approximately 60 % industrial enterprises of companies were forced to suspend their work, leaving thousands of employees without regular income.
271. There also have been armed attacks on mining companies, which constitute the main share of the regions’ economy. On 9 May, it was reported that local miners repelled an attack by the pro-Russian supporters of the “Donetsk People’s Republic”, who attempted to take down the Ukrainian flag and threatened the

miners that they would throw explosives into the mine's shafts for their disobedience. Allegedly, the miners decided to organize their own "self-defence" to protect themselves. On 19 May, there were armed attacks on the operational and closed coal mines in Horlivka, Donetsk region. On 22 May, a group of unidentified armed individuals allegedly captured four operating mines of the JSC "Lysychanskvuhillya" in Luhansk region. All of the four attacked mines temporarily suspended production activities. Reportedly the armed men pointed guns at the mines' workers, demanding to supply them with explosives. The Ministry of Energy of Ukraine appealed to the SBU demanding that necessary steps be taken to protect the mines. Previously, on 26-27 May, due to pressure by the armed representatives of the "Donetsk People's Republic" on the "Donetsk Coal-Mining Company", coal production was suspended at several mines, including "Octyabrskiy Rudnik", "E. Abakumov", "A. Skochinskogo" and "Trudovskaya".

272. On 20 May, Denys Pushylin, "speaker" of the "Donetsk People's Republic", announced the launch of the nationalization campaign in the region. According to their official sources, Mr. Pushylin blamed the local oligarchs' unwillingness to pay taxes to the "republic's" budget, and their opposition to the interests of Donbas as the reason for the adopted decision to start the nationalization. In particular, Mr. Pushylin blamed Renat Akhmetov, owner of the company System Capital Management.

The broader impact of the crisis in the eastern regions of Ukraine

273. Recent developments in the country have already negatively affected the financial and banking system. In the first quarter of 2014, the national currency depreciated by 27%, dramatically reducing incomes and salaries. Whereas the average monthly wage in December stood at \$453, by March it had dropped to \$343. This also puts significant pressure on those who have loans in foreign currencies.

274. After remaining quiescent for more than two years, inflation rates have shot up with a 6.8% increase in consumer prices reported for the beginning of May being the highest year-on-year inflation rate recorded since 2011.

275. Food prices have increased by 8.2% above 2013 levels, bringing the socio-economic crisis to many households in Ukraine. Large price hikes were reported for sugar (59%), vegetables (33%), and dairy products and eggs (10%).

276. Other inflationary pressures are now gathering, for example in the form of increases in communal service tariffs. Household gas prices shot up 56% on average in May; a 40% increase in heating tariffs is scheduled for July. These higher tariffs are projected to increase the numbers of low-income households from 1.4 to 4 million during this time.

277. Should these tariff increases be accompanied by a further weakening of the UAH, Ukraine's inflation rates could dramatically accelerate. Even in the best case scenario, consumer and food price inflation rates seem likely to remain in double figures for the rest of 2014, and going into 2015. These developments will place increased

- pressure, and need, for Ukraine's social welfare system to cushion the impact, particularly for the most vulnerable.
278. The 63 billion UAH deficit recorded on the consolidated government budget in 2013 (some 9% of GDP) is regarded as unsustainable by both the Government and the International Monetary Fund (IMF). Fiscal austerity in 2014 is therefore required. Although a justified measure, it may do little to boost the country's long term competitiveness or development prospects. Already in the first quarter of 2014 Government expenditure²³ in the health sector declined by 5%, and in the education sector by 8%, compared to the budget allocations in 2013. At the same time, the Government has been able to increase spending on social protection by 2% (which includes expenditures on both social assistance and social insurance) for 2014, which may lessen the hardships and pressures that many Ukrainian households are now facing.
279. The economy of the eastern region has already been in decline since April 2014, and it is likely to deteriorate further in any protracted situation of violence and fighting. Business is in decline in the region; personal income is decreasing; investments are dwindling. Compared to 2013, in the first quarter of 2014 investments in the eastern regions had significantly declined. In the annual rating Donetsk region moved from third place in 2013 to twenty-second place in 2014, and the Luhansk region from ninth to twenty-third.
280. Any exacerbation of the violence will lead to the further decline of industrial production in the region and Ukraine as a whole. The industries of the Donetsk and Luhansk regions account for 18.5% and 6.1% of all production in the country respectively. Such a decline would therefore increase the imbalance between the income of the state budget from the Donbas and expenditure provided to the region. This will augment the budget deficit. One result could be that it would jeopardise compliance with the agreed parameters of the IMF loan.
281. Official statistics released in May indicate that Ukraine's GDP dropped 1% in the first quarter of 2014. The recession is expected to worsen over the course of the year: IMF and the Ministry of Economic Development and Trade forecast a 3% decline in GDP, while other, more pessimistic forecasts point to 5-10% declines in output and income. The largest decline in exports (70-85%—relative to the fourth quarter of 2013) has already been recorded in the regions of Donetsk, Luhansk, Cherkasy, and Khmelnytskyi, as well in the Autonomous Republic of Crimea. Any collapse in exports could trigger a decline in industrial output, and subsequently in household incomes and livelihoods. These trends should be closely monitored.
282. There are concerns that if these macro-economic tendencies continue, the State will no longer be able to guarantee existing social standards, which could lead to the social unrest spreading throughout the country.

²³ Changes are given in real terms: changes in nominal expenditure amounts divided by changes in the consumer price index.

VI. PARTICULAR HUMAN RIGHTS CHALLENGES IN CRIMEA

A. Civil and political rights of Crimean residents

283. Crimean residents faced difficulties in exercising their civil and political rights. A very small number participated in the Presidential elections of 25 May. Simplified registration procedures had been put in place to ensure that residents of Crimea and persons who resettled from Crimea to other regions can take part in the vote. Ukrainian citizens living in Crimea had to register in person at any polling station on the mainland no later than five days prior to the elections. The HRMMU monitored the situation near Kherson, where most of the Crimean voters had registered. Some 20 cars had left Crimea and were welcomed by local authorities. They drove to the polling station in a column with Crimean and Ukrainian flags. Prior to the election they had been summoned by the Crimean police for “conversations” and issued ‘warnings’ about the unacceptability of ‘extremist activities’. While the cars were crossing the administrative border, representatives of the Crimean ‘self-defence’ reportedly wrote down license plates, passport numbers and driving licenses’ details. Among those who intended to vote, many allegedly did not do so because of the cost of travelling, the uncertainty linked to having to cross the administrative border and the fear of reprisals by the authorities in Crimea.
284. During its month-long monitoring of events in Crimea, the HRMMU noted a continuation of worrying trends, including instances of enforced disappearances, arbitrary detentions, violence and ill-treatment committed by the so-called ‘Crimean self-defence’, often targeting journalists, human rights defenders and political opponents, and impunity for human rights violations. Furthermore the enforcement of the Russian Federation law on the territory of Crimea, at variance with UN General Assembly resolution 68/262 and applicable bodies of international law, is creating difficulties for Crimean residents to enjoy their human rights, as there are many differences with Ukrainian laws.

Rule of law and the judiciary

285. The judicial system remains practically paralyzed. Ukrainian laws will be in effect in Crimea until 31 December 2014.²⁴ Nevertheless, the judicial system is already being transformed to use Russian laws: restriction measures are implemented pursuant to the Criminal Procedural Code of the Russian Federation, and judicial decisions are adopted in the name of the Russian Federation. Pending cases that have not been decided by 18 March 2014 must be tried in accordance with the laws of the Russian Federation. This poses numerous problems in practice, especially in administrative and criminal cases, when Russian and Ukrainian legislation differs on the existence, nature and scope of rights and obligations; and

²⁴ Paragraph 2 of Article 23 of the Federal Constitutional Law of 21 March 2014 N 6-FCL “On Acceptance of the Republic of Crimea into the Russian Federation and the Creation of the New Constituent Entity within the Russian Federation – the Republic of Crimea and the Federal City of Sevastopol”.

remedies and sanctions available. The outcome of court decisions that are currently being appealed is unclear.

286. There are reports that, at least, 15,000 judicial cases are in legal limbo between Ukrainian and Russian laws. The Ukrainian “Law on the occupied territories” allows the transfer of judicial cases from the peninsula to Kyiv. However, in practice, this is unlikely to happen. The HRMMU notes that the current situation has detrimental consequences affecting access to justice, the right to fair trial and due process for Crimean residents.

Right to life, liberty and security

287. The Russian Security Service (FSB) confirmed on 30 May, the detention of four Ukrainian citizens in Simferopol (Crimea), including film-maker Oleg Sentsov. The other three are Aleksandr Kolchenko, Gennady Afanasiev and Aleksei Chyrnyi. The HRMMU spoke to Mr. Sentsov’s lawyer who stated that while his client had been arrested on 11 May, he managed to speak to him for the first time on 27 May. He also claims his client has been tortured while in detention to confess to criminal intentions he did not have. According to the FSB press release, the people detained are members of the Ukrainian ‘Right Sector’ party and were planning acts of sabotage and terrorism in Simferopol, Yalta and Sevastopol. On 6 June, Sentsov was, according to his lawyer, officially charged with terrorism and arms trafficking under Article 205, Part 2; Article 205.4, Part 2; and Article 222, Part 3 of the Criminal Code of the Russian Federation.
288. On 26 May, Timur Shaimardanov (born in 1980) left his home in Simferopol and did not return. He had participated in campaigns against Crimea becoming a part of the Russian Federation. The day before he went missing, he allegedly said that the whereabouts of one of his friends, Leonid Korzh, (born in 1990) had not been known for 3-4 days. On 30 May, Seiran Zinedinov, who had been coordinating the efforts to find Korzh and Shaimardanov also went missing.
289. Mr. Mustafa Dzhemilev, former head of the Crimean Tatar Mejlis (Assembly) who was banned from the authorities in Crimea to enter the peninsula on 3 May, informed the HRMMU that the “Crimean police” had brought to his Crimean house a summons for an interrogation related to illegal possession of weapons. Dzhemilev assumes that this could be an attempt to initiate a criminal case against him. Ms. Ella Panfilova, Ombudsperson of the Russian Federation, announced that her office has requested from the relevant Governmental bodies an explanation of the actions undertaken by officials towards Mustafa Dzhemilev, particularly regarding his ban on entering Crimea.
290. The Head of the Kurultai (Congress) of the Crimean Tatars, Zayr Smedlyayev, informed HRMMU that he had received a written “warning” from the Crimean police about the “inadmissibility of extremist activities and unlawful assemblies”, in line with Russian legislation. The notice says that on 3 May, the leaders of the Mejlis publicly spoke in support of ‘extremist statements’ by Mustafa Dzhemilev and provoked extremist manifestations from people.

291. On 15 May, three houses of Crimean Tatars in Simferopol were searched by FSB officials. Two houses belong to the head of the External Relations Department of the Mejlis, Ali Khamzin. The searches were performed at his actual place of residence (Bakhchysarai) and his place of registration (Strogonovka village, Simferopol region). FSB officials explained that these persons were suspected of preparing terrorist attacks.
292. On 15 May, the “Chairman” of the Council of Ministers of Crimea, Sergey Aksyonov, announced that the so-called “Crimean self-defence” would become regular and receive budgetary support to ensure public security. The HRMMU underlines that such an intention raises concern as the “Crimean self-defence” has reportedly been involved in numerous human rights violations.

Accountability

293. The HRMMU is concerned that after more than two months of investigation of the murder of 39-year-old Reshat Ametov, the Crimean law-enforcement authorities have not yet established the identities of perpetrators, although a video of the attackers is available that would allow their identification. Crimean Tatar Reshat Ametov was abducted by unidentified persons wearing military uniform in the centre of Simferopol in early March during a picket near the Council of Ministers of Crimea. On 17 March, his corpse was found with traces of torture in the Zemlyanichnoye village of the Belogorsk district.
294. The acting Prosecutor General of Ukraine reported on 27 May that an interagency ‘working group for legal issues relating to the temporarily occupied territory of Crimea’ had been established. The working group will coordinate the activities of the Ukrainian authorities on a wide range of legal issues connected with the violations that took place after the March “referendum”.

Citizenship

295. The HRMMU received worrisome information that, in some cases, Crimean residents were forced to give up their Ukrainian citizenship, which may amount to arbitrary deprivation of nationality. Judges of the Crimean Commercial Court in Simferopol and the administrative staff, who were granted Russian citizenship on a priority basis, were reportedly compelled to complete application forms renouncing Ukrainian citizenship. In general, the procedure of issuing Russian passports is slow. According to different calculations, providing passports to the whole population of Crimea will take up to 15 months while Russian laws allocated only three months for this procedure. Besides, it is unclear how citizenship issues, applications for social benefits and payments and other rights and entitlements are organised for persons in closed institutions: orphanages, geriatric institutions, psycho-neurological hospitals, penitentiaries, and others.
296. The status of refugees and asylum seekers has not been regulated. Prior to the “referendum” there were 18 refugees on the territory of Crimea. It is unclear how their situation will be affected by the changed legal regime.

297. On 4 June, the President of the Russian Federation signed amendments to the law “On citizenship of the Russian Federation”, introducing criminal responsibility for concealment of dual citizenship. According to the amended law, those concealing their second citizenship will be fined up to 200,000 Rubles (\$5,700) or subjected to compulsory community service of up to 400 hours in case of a failure to notify the Federal Migration Service within two months from the date of the acquisition of the second citizenship. The new provisions will become effective on 1 January 2016.

Freedom of expression

298. The HRMMU is alarmed by excessive limitations placed on freedom of information and expression in Crimea. Journalists, human rights defenders and other individuals must be able to freely exercise their right to freedom of expression, in accordance with article 19 of the International Covenant on Civil and Political Rights. Any restrictions should comply with the strict requirements of article 19, paragraph 3 of the Covenant.

299. On 15 May, a photojournalist of the “Crimean telegraph” newspaper Maksim Vasilenko was briefly detained and ill-treated by members of the “self-defence of Crimea” in Simferopol while preparing a report about the training of the special police forces before the commemoration of the 70th anniversary of the Crimean Tatar Deportation. A cameraman of the “FM” television channel was also attacked; his phone was taken and his equipment was broken. 300. On 18 May, Osman Pashayev, Chief Editor of “Open Crimean Channel” internet project, and his crew (correspondent, cameraman and driver) were detained by members of the “Crimean self-defence” during the mourning events related to the anniversary of the Crimean Tatar Deportation. They were deprived of their equipment, phones and personal belongings, and subjected to physical and psychological pressure for four hours. No reasons were given for the detention. After being brought to the central district police station of Simferopol, they saw their lawyers and were released. Their money and personal belongings were not returned. Russian Human Rights Ombudsperson Ella Pamfilova condemned the incident, saying that the detention and interrogation of Pashayev and his crew without the presence of a lawyer for several hours constituted a human rights violation. 301. On 19 May, the “Crimean self-defence” detained for a short period of time Petr Ruzavin, a correspondent of Russian television company “Dozhd”, subjected him to violence and damaged his equipment. According to Ruzavin, camouflaged people approached him when he was filming the central square of Simferopol and they were filmed as well. They requested him to delete his records, which he did. Ruzavin said he was beaten and his equipment was damaged. After being interrogated he was released. 302. On 2 June, the “Acting Prosecutor” of Simferopol summoned the Chief Editor of the Crimean Tatar newspaper “Avdet” Shevket Kaybullayev for questioning over possible “extremist activity”. According to the notice, Kaybullayev had to appear on summons to the Prosecutor’s Office. As written in the summons, the Prosecutor is investigating violation of the Russian law “On

counteraction to extremist activity”. The ‘Avdet’ newspaper is a press organ of the Mejlis of the Crimean Tatar people, published since 15 June 1990. 303. On 2 June, the Editor of the “Crimean Centre for Investigative Journalism”, Sergey Mokrushyn, and his cameraman Vladlen Melnikov were attacked by members of the “Crimean self-defence” in Simferopol, taken to their headquarters (on Kirova 26) and beaten. They were eventually transferred to the police station for questioning, and released without any explanation being given for their detention and or any protocol of detention having been drawn up by the police. 304. The HRMMU recalls that acts of aggression, threats and intimidation against journalists must be investigated, prosecuted and punished and victims provided with appropriate remedies. 305. In the period of 12-25 May, the Russian Ministry of Communication and Mass Media and the Federal Service for Supervision of Telecom, Information Technologies and Mass Communications held seminars for Crimean journalists to explain requirements of Russian legislation with respect to the media. The HRMMU is concerned that the imposition of Russian media legislation is already negatively impacting the conditions for journalists to freely perform their functions. There is also concern that media representatives can be subjected to criminal prosecution pursuant to Article 280 (Public calls for extremism), Article 282 (Organisation of the activities of an extremist organisation) and Article 319 (Insult of a public servant) of the Criminal Code of the Russian Federation, which are too broad and can be used to criminalize conduct that is protected under international human rights law.

Freedom of movement

306. While air connections between other parts of Ukraine and Crimea were suspended in March 2014, it still remains possible to travel by train and car. However, freedom of movement is affected by a number of factors related to the status of Crimea and different regulations - Russian Federation and Ukraine’s - being applied. This creates difficulties to maintain personal and professional ties.
307. Pursuant to the Law of “On guaranteeing citizens’ rights and freedoms and legal regime in the temporarily occupied territory of Ukraine”, which entered into force on 10 May, foreigners and stateless persons may enter and leave Crimea through security check-points only subject to special permission. The procedure for obtaining such permission remains unclear. On 16 May, the Press Secretary of the Chairman of the State Border Service of Ukraine, Sergey Astakhov, confirmed that Ukrainian border guards around the Melitopol checkpoint (in the Kherson region bordering Crimea) obliged persons going from Crimea to continental Ukraine with Russian passports and Crimean residence permits to get off trains. He reported that the Crimean residents with Russian passports are considered as foreign citizens and, consequently, shall entry into Ukraine and leave it only through special border points. According to him, the administrative border of Kherson and established control line is not a border of Ukraine. Therefore, the foreign citizens, including Russian citizens, may not be allowed via this line. He also noted

that the Crimean residents with Russian passports who wish to enter Ukraine shall go to the Russian Federation first, for example, to Rostov-on-Don, and cross the borders there.

308. The Russian Federation illegally established its State border at the northern entrance to Crimea on 25 April. Citizens of Ukraine who are not registered in Crimea are regarded as foreigners and obliged to fill out an immigration card. Such a category also comprises the people who permanently reside in Crimea, own real estate or are employed there, but whose place of registration is mainland Ukraine. The Federal Immigration Service issued warnings that foreign nationals must promptly (within 90 days) leave the territory of Crimea and re-enter it pursuant to Russian laws applicable to foreign nationals. Inter alia, such regulations will create inconveniences for students who study in other regions of Ukraine and are temporarily registered there. While returning home to the territory of Crimea during summer vacations, they will be regarded as foreigners with an admitted stay of up to 90 days.

Freedom of association

309. Since the “referendum” on 16 March, many NGOs and human rights activists left Crimea out of fear of being prosecuted, detained and subjected to ill-treatment. Legislation of the Russian Federation – the so-called “foreign agents” law – has discouraged the activities and development of NGOs. Besides, Crimea does not yet have an institution to register civil society organisations; consequently, those that have not been registered before the Crimean “referendum” are deprived of such a possibility.

Freedom of peaceful assembly

310. Dozens of Crimean Tatars have been summoned to courts for participating in protest actions against the prohibition imposed on 3 May by the Crimean authorities on their leader, Mustafa Dzhemilev, to enter the peninsula. As of 8 May, the courts of Crimea had examined 55 cases related to those events. In 52 cases, the activists were fined on the basis of Article 20.2.2 (Public disorder) of the Code on Administrative offences of the Russian Federation.
311. On 16 May, the authorities in Crimea issued a decree prohibiting all mass events until 6 June. A similar prohibition was issued in Sevastopol. The decrees were motivated by security developments in south-eastern Ukraine and the need to prevent “possible provocations of extremists which can penetrate into the Republic of Crimea”. The HRMMU recalls that under Article 4 of the ICCPR, a derogation from the right to freedom of assembly and association is only permissible “in time of public emergency” and “to the extent strictly required by the exigencies of the situation” and would require immediate notification to the other State Parties to the ICCPR through the UN Secretary-General.

Freedom of religion or belief

312. The HRMMU is concerned about reports of violations of freedom of religion and belief on the territory of Crimea.
313. On 8 May, the League of Muslim Women “Insaf” informed the HRMMU that some 150 persons from Kirovskoye and Stary Krym, including women, were being called in for interrogations. Reportedly, they were being invited to the local police stations for “a conversation”. They were reportedly fingerprinted and photographed.
314. On 20 May, the Head of the Ukrainian Greek Catholic Church made a statement expressing concern for the safety of the Greek Catholic priests remaining in Crimea. He reported that all five Crimean parishes had experienced pressure, allegedly from the representatives of the Orthodox Church of the Moscow Patriarchate.
315. On 1 June, men in Russian Cossack uniforms reportedly broke into the local Orthodox church of the Kyiv Patriarchate in the village of Perevalnoe (Crimea), shouting and terrorizing churchgoers. The car of the priest was allegedly damaged. The “Cossacks” said they were seizing the building for the Moscow Patriarchate. After three hours, the “Crimean self-defence” arrived with assault rifles and sided with the attackers. The police were called but reportedly did not show readiness to properly investigate the incident. On 2 June, the local authorities of the city of Evpatoriya conducted a check of the church documentation and called it an “illegal building”. In addition, the authorities in Crimea significantly raised the rent for the main Ukrainian Orthodox Cathedral in Simferopol. The rent increase has not affected Crimean Tatar mosques or Russian Orthodox churches. Mosques and Russian churches on the peninsula either belong to the religious communities (mosques) or to the Moscow Patriarchate (Russian churches) or are rented for a token fee.

B. Economic, social and cultural rights

316. Crimean residents face serious challenges in realizing their rights under the International Covenant on Economic, Social and Cultural Rights (ESCR). This can be attributed, in part, to the complicated transition between two different legal systems, but also to the absence of appropriate reactions of the authorities in Crimea to human rights violations affecting certain communities. This concerns, in particular, the Ukrainian and Crimean Tatar communities who are being harassed, assaulted and prosecuted for speaking Ukrainian or Tatar languages in public places or using national symbols. Such conditions are also reflected in the diminishing possibilities to receive education in another language than Russian, particularly in Ukrainian.

Language and education

317. There are only two Ukrainian schools in Crimea: in Yalta and Simferopol. According to the head of the Department of Education in Simferopol, three out

of four classes in the Simferopol gymnasium will now use the Russian language. The decision is motivated by the decision of 86 % of the parents who reportedly decided to switch to Russian-language studies. The director of the gymnasium was allegedly forced to resign. There is information that the local authorities in Sevastopol are planning to close the only Ukrainian boarding school/orphanage.

318. On 14 May, the press service of the Ministry of Education and Science of the Russian Federation reported that teachers of the Ukrainian language and literature of general educational institutions could be re-trained to become teachers of the Russian language and literature. The Presidential Council for Civil Society Development and Human Rights of the Russian Federation recommended to keep the study in the Simferopol Ukrainian gymnasium in Ukrainian language and to resume the work of the Faculty of Ukrainian and Crimean-Tatar Philology in the Tavrida National University.
319. In light of Article 27 of the ICCPR, the HRMMU recalls that all the national communities in Crimea must be supported to preserve, develop and promote their identity, language and culture, and to use their mother tongue in education and daily life.

Property rights

320. In early March, public notaries stopped documentation of property acquisition and sale deals in Crimea, when Ukraine blocked access to the peninsula for the State Register of Real Estate and Land Plots. Crimean residents face serious difficulties in exercising their right to property due to the pending court decisions, transactions, and the privatisation process. On 10 May, the Russian Minister of Crimean Affairs stated at a press conference that the Russian authorities would deal with cases of unauthorized acquisition of land in Crimea “with full responsibility and caution”. On 28 May, a draft law “On the special procedure for real estate registration in Crimea” was introduced in the Russian Parliament. The text proposes to delegate to the local authorities, during a two-year transitional period, the right to resolve land issues.
321. The HRMMU stresses that decisions concerning such important issues as land and property must be taken through an inclusive, transparent and fair process that will eliminate the risk of corruption and tensions.

Right to an adequate standard of living

322. On 13 May, the Ukrainian State Water Resources Agency stated that Ukraine shut off water supplies to Crimea via the North-Crimean Canal, which accounts for 85% of all fresh water on the peninsula. The Canal water is mostly used for irrigation purposes, and its closure could severely impact agricultural land and the upcoming harvest. This situation has reportedly had no negative implications for drinking water, according to the ‘First Deputy Chairman’ of the Council of Ministers of Crimea, Rustam Temirgaliyev. Having no access to Crimea, the

HRMMU does not have additional information about the impact of the shut-off of water supplies on the economic and social rights of the Crimean residents.

Banking

323. Access to banking services remains complicated for Crimean residents. On 7 May, the National Bank of Ukraine (NBU) decided to suspend operations of Ukrainian banks in Crimea until 6 June. However the activities of Ukrainian banks were terminated on 2 June, by decision of the Central Bank of Russia motivated by the need to protect the interests of depositors and customers. Compensation payments will reportedly be made by a non-profit organization, the “Depositor Protection Fund”, which acquired the rights to deposits.

C. The rights of indigenous peoples

324. The 18 May marked the 70th anniversary of the massive deportation of Crimean Tatars and other minorities by the Soviet authorities. A Decree of the President of the Russian Federation, in force on 21 April, had instructed the authorities in Crimea and Sevastopol to support events commemorating the deportation. However, referring to security considerations linked to the events in south-eastern Ukraine, the authorities in Crimea issued on 16 May a decree prohibiting all mass events until 6 June. Eventually, the “Council of Ministers” of Crimea decided on 17 May that the commemoration could go ahead, although not in the centre of the capital of Crimea, Simferopol. The commemorations passed without incidents, albeit with significant and sometimes intimidating police presence.

325. On 29 May, the State archive of the SBU handed over the documents on Crimean Tatar deportation from Crimea in 1944 to the representatives of the Crimean Tatar Mejlis. The head of the SBU, Valentyn Nalyvaichenko, and the former head of the Crimean Tatar Mejlis, Mustafa Dzhemilev, participated in this event.

326. On 4 June, the Crimean Parliament adopted a Decree providing for social guarantees to the people who were deported on an ethnic basis in 1941-1944 from the Crimean Autonomous Socialist Soviet Republic. The Decree will provide social benefits in the form of one-time payments to the Crimean Tatars, Armenians, Bulgarians, Greeks and Germans, along with their families and children who were born in exile. This document was adopted pursuant to a Decree signed by Russian President Vladimir Putin on 21 April 2014, rehabilitating formerly deported people from Crimea.

VI. CONCLUSIONS AND RECOMMENDATIONS

327. During the reporting period, the HRMMU identified acute human rights concerns particularly in the eastern regions, Crimea and in the aftermath of the Odesa 2 May violence. They are symptomatic of the particular local contexts, not least involving the presence of armed groups, the breakdown in law and order and on-

going security operations. As highlighted in the report issued on 15 April 2014 by OHCHR, short-term human rights concerns should be addressed within the broader and longer term framework that will see institutional reform and enable change that will impact on the enjoyment of all rights – civil, cultural, economic, political, and social. The root causes of the current crisis were initially due to the systematic and structural curtailment of human rights and widespread corruption. The way out of the current crisis, to ensure reconciliation of communities through peaceful and democratic means, will be through the accountability for violations and the full respect and guarantee of all human rights for all.

328. With the election of President Poroshenko, there is the opportunity for the Government of Ukraine to prioritise addressing these systemic and structural concerns through institutional reform focusing on human rights challenges in the short-term, and progressively paving the way for the establishment of a system that promotes and protects human rights for all, ensures justice, good governance and the rule of law through inclusive, non-discriminatory and participatory means. A comprehensive national human rights action plan reflecting all recommendations from the international and regional mechanisms is highly recommended, as well as the creation by the Government of a senior level coordination mechanism of implementation open to state institutions, civil society and having the combined support of the UN, regional organisations and the international community.
329. Recommendations have been made below on Crimea to both the authorities in Crimea and the Russian Federation, which exercises de facto control over the peninsula. With the negative impact of the current situation, including the legal uncertainty, on the full enjoyment of human rights by the residents of Crimea, the HRMMU is advocating for the legal framework of Ukraine to remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
330. The recommendations should be read in conjunction with - and seen as complimentary to – those outlined in the OHCHR reports on the human rights situation in Ukraine, issued on 15 April and 16 May 2014, which have not yet been fully implemented.
331. The HRMMU takes note of the joint report by the OSCE Office for Democratic Institutions and Human Rights and the OSCE High Commissioner on National Minorities issued on 12 May 2014, and calls upon all relevant parties to implement its recommendations.

To the Government of Ukraine and other stakeholders

- a) There should be constitutional inclusive and meaningful consultations with all political parties, regardless of their ideology, as well as representatives of civil society and minority (national and ethnic, linguistic, religious and other) groups and indigenous peoples in order to embrace all components of society, including women in the dialogue for the new constitution, which will reflect the new reality

of the country with a full-fledged system of checks and balances. The peaceful population of the east should participate in these consultations.

- b) As a representative body of the country, the Parliament should reflect the new political and social reality of the country; therefore there is a need for new parliamentary elections.
- c) All armed groups must immediately put an end to their violent activities and lay down their arms.
- d) The Government must ensure that its armed forces refrain from using excessive force, and ensure that its ongoing security operations are at all times in line with the relevant international standards applicable to different types of operations. In all circumstances, it must ensure the protection of those who are not involved in the fighting.
- e) All people detained in the context of the security operations should be treated in line with international norms and standards and guaranteed their human rights under the International Covenant on Civil and Political Rights and other applicable bodies of international law. In order to protect its security personnel and persons not involved in the fighting, the Government should consider providing assurances that acts of abduction and detention by armed groups will not be prosecuted provided that they do not target people not involved in the fighting and the victims are treated humanely at all times.
- f) The role and position of the Ombudsperson and National Preventive Mechanism, as the main bodies / institutions working towards the strengthening of the national human rights system and the protection and guarantee of human rights for all, should be enhanced.
- g) All gaps of legislation should be brought in line with the recommendations of the international human rights mechanisms (treaty bodies, universal periodic review and special procedures); the Judiciary, Office of the Prosecutor General and the Bar Association should operate in line with relevant international norms and standards in order to ensure fair trial without which it is impossible to tackle corruption.
- h) The Constitutional Court should be enhanced – legal, social and all other guarantees need to be elaborated in order to ensure the genuine independence of the Constitutional Court.
- i) The State Migration Service should propose amendments to bring the refugee law in line with international standards, and to allocate sufficient funds to ensure due process in the asylum procedure, as well as reception conditions meeting humanitarian needs.
- j) A language law should be adopted in line with international standards that enables the promotion of the official national language as well as other languages.
- k) A central authority should be established to respond to the humanitarian needs of IDPs, including by establishing a comprehensive registration system, formulation of legislative and regulatory acts to ease access to important social and economic

rights, establishing public assistance programmes, mobilization and coordination of civil society-initiated relief efforts, and cooperation with international donors and technical assistance.

- l) All stakeholders should refrain from using messages of intolerance or expressions, which may incite hatred, violence, hostility, discrimination or radicalisation.
- m) Access for international organisations to the areas affected in eastern Ukraine by the security operations (urban areas in the epicentre of the fighting) should be facilitated so that the real needs of the population can be assessed and addressed.
- n) Normative acts to ensure freedom of movement for residents of Crimea should be enacted as soon as possible.

To the authorities in Crimea and the de facto governing authority of the Russian Federation

- o) Reaffirming UN General Assembly resolution 68/262, entitled “Territorial integrity of Ukraine”, measures must be taken to protect the rights of persons affected by the changing institutional and legal framework, including on issues related to citizenship, right of residence, labour rights, property and land rights, access to health and education.
- p) Journalists, human rights defenders and individuals must be able to fully exercise their right to freedom of expression, in accordance with Article 19 of the International Covenant on Civil and Political Rights.
- q) Ukrainian legislation should remain in force, considering the adverse human rights impact of legislative changes imposed and also bearing in mind UN General Assembly resolution 68/262.
- r) Intimidation, harassment and abductions of residents must stop, with guarantees ensured for the respect for the right to life, liberty and security
- s) Criminal and administrative liability should not be used as a mechanism of intimidation against Crimean Tatars and other residents of Crimea, but used in line with international law.
- t) Human rights violations should be independently, promptly and comprehensively investigated and perpetrators brought to justice.
- u) All forms of intimidation and harassment of religious communities must be put to an end and all incidents, including those where there have been attacks on Ukrainian Orthodox Church, Greek Catholic Church and the Muslim community must be properly investigated, thus enabling the effective promotion and protection of the freedom of religion or belief.
- v) The promotion and protection of the rights of national minorities, including the Crimean Tatars and other indigenous peoples must be ensured, enabling them to participate fully and inclusively in public and political life.
- w) The deployment of independent and impartial human rights monitors, including by the HRMMU, should be agreed upon.

Address by President of the Russian Federation¹

PRESIDENT OF RUSSIA VLADIMIR PUTIN: Federation Council members, State Duma deputies, good afternoon. Representatives of the Republic of Crimea and Sevastopol are here among us, citizens of Russia, residents of Crimea and Sevastopol!

Dear friends, we have gathered here today in connection with an issue that is of vital, historic significance to all of us. A referendum was held in Crimea on March 16 in full compliance with democratic procedures and international norms.

More than 82 percent of the electorate took part in the vote. Over 96 percent of them spoke out in favour of reuniting with Russia. These numbers speak for themselves.

To understand the reason behind such a choice it is enough to know the history of Crimea and what Russia and Crimea have always meant for each other.

Everything in Crimea speaks of our shared history and pride. This is the location of ancient Khersones, where Prince Vladimir was baptised. His spiritual feat of adopting Orthodoxy predetermined the overall basis of the culture, civilisation and human values that unite the peoples of Russia, Ukraine and Belarus. The graves of Russian soldiers whose bravery brought Crimea into the Russian empire are also in Crimea. This is also Sevastopol – a legendary city with an outstanding history, a fortress that serves as the birthplace of Russia's Black Sea Fleet. Crimea is Balaklava and Kerch, Malakhov Kurgan and Sapun Ridge. Each one of these places is dear to our hearts, symbolising Russian military glory and outstanding valour.

Crimea is a unique blend of different peoples' cultures and traditions. This makes it similar to Russia as a whole, where not a single ethnic group has been lost over the centuries. Russians and Ukrainians, Crimean Tatars and people of other ethnic groups have lived side by side in Crimea, retaining their own identity, traditions, languages and faith.

Incidentally, the total population of the Crimean Peninsula today is 2.2 million people, of whom almost 1.5 million are Russians, 350,000 are Ukrainians who predominantly consider Russian their native language, and about 290,000–300,000 are Crimean Tatars, who, as the referendum has shown, also lean towards Russia.

True, there was a time when Crimean Tatars were treated unfairly, just as a number of other peoples in the USSR. There is only one thing I can say here: millions of people of various ethnicities suffered during those repressions, and primarily Russians.

¹ President of the Russia. Accessed March 20, 2014, from <http://engkremlin.ru/transcripts/6889>.

Crimean Tatars returned to their homeland. I believe we should make all the necessary political and legislative decisions to finalise the rehabilitation of Crimean Tatars, restore them in their rights and clear their good name.

We have great respect for people of all the ethnic groups living in Crimea. This is their common home, their motherland, and it would be right – I know the local population supports this – for Crimea to have three equal national languages: Russian, Ukrainian and Tatar.

Colleagues,

In people's hearts and minds, Crimea has always been an inseparable part of Russia. This firm conviction is based on truth and justice and was passed from generation to generation, over time, under any circumstances, despite all the dramatic changes our country went through during the entire 20th century.

After the revolution, the Bolsheviks, for a number of reasons – may God judge them – added large sections of the historical South of Russia to the Republic of Ukraine. This was done with no consideration for the ethnic make-up of the population, and today these areas form the southeast of Ukraine. Then, in 1954, a decision was made to transfer Crimean Region to Ukraine, along with Sevastopol, despite the fact that it was a federal city. This was the personal initiative of the Communist Party head Nikita Khrushchev. What stood behind this decision of his – a desire to win the support of the Ukrainian political establishment or to atone for the mass repressions of the 1930's in Ukraine – is for historians to figure out.

What matters now is that this decision was made in clear violation of the constitutional norms that were in place even then. The decision was made behind the scenes. Naturally, in a totalitarian state nobody bothered to ask the citizens of Crimea and Sevastopol. They were faced with the fact. People, of course, wondered why all of a sudden Crimea became part of Ukraine. But on the whole – and we must state this clearly, we all know it – this decision was treated as a formality of sorts because the territory was transferred within the boundaries of a single state. Back then, it was impossible to imagine that Ukraine and Russia may split up and become two separate states. However, this has happened.

Unfortunately, what seemed impossible became a reality. The USSR fell apart. Things developed so swiftly that few people realised how truly dramatic those events and their consequences would be. Many people both in Russia and in Ukraine, as well as in other republics hoped that the Commonwealth of Independent States that was created at the time would become the new common form of statehood. They were told that there would be a single currency, a single economic space, joint armed forces; however, all this remained empty promises, while the big country was gone. It was only when Crimea ended up as part of a different country that Russia realised that it was not simply robbed, it was plundered.

At the same time, we have to admit that by launching the sovereignty parade Russia itself aided in the collapse of the Soviet Union. And as this collapse was legalised, everyone forgot about Crimea and Sevastopol – the main base of the Black Sea Fleet. Millions of people went to bed in one country and awoke in different ones, overnight

becoming ethnic minorities in former Union republics, while the Russian nation became one of the biggest, if not the biggest ethnic group in the world to be divided by borders.

Now, many years later, I heard residents of Crimea say that back in 1991 they were handed over like a sack of potatoes. This is hard to disagree with. And what about the Russian state? What about Russia? It humbly accepted the situation. This country was going through such hard times then that realistically it was incapable of protecting its interests. However, the people could not reconcile themselves to this outrageous historical injustice. All these years, citizens and many public figures came back to this issue, saying that Crimea is historically Russian land and Sevastopol is a Russian city. Yes, we all knew this in our hearts and minds, but we had to proceed from the existing reality and build our good-neighbourly relations with independent Ukraine on a new basis. Meanwhile, our relations with Ukraine, with the fraternal Ukrainian people have always been and will remain of foremost importance for us.

Today we can speak about it openly, and I would like to share with you some details of the negotiations that took place in the early 2000s. The then President of Ukraine Mr Kuchma asked me to expedite the process of delimiting the Russian-Ukrainian border. At that time, the process was practically at a standstill. Russia seemed to have recognised Crimea as part of Ukraine, but there were no negotiations on delimiting the borders. Despite the complexity of the situation, I immediately issued instructions to Russian government agencies to speed up their work to document the borders, so that everyone had a clear understanding that by agreeing to delimit the border we admitted *de facto* and *de jure* that Crimea was Ukrainian territory, thereby closing the issue.

We accommodated Ukraine not only regarding Crimea, but also on such a complicated matter as the maritime boundary in the Sea of Azov and the Kerch Strait. What we proceeded from back then was that good relations with Ukraine matter most for us and they should not fall hostage to deadlock territorial disputes. However, we expected Ukraine to remain our good neighbour, we hoped that Russian citizens and Russian speakers in Ukraine, especially its southeast and Crimea, would live in a friendly, democratic and civilised state that would protect their rights in line with the norms of international law.

However, this is not how the situation developed. Time and time again attempts were made to deprive Russians of their historical memory, even of their language and to subject them to forced assimilation. Moreover, Russians, just as other citizens of Ukraine are suffering from the constant political and state crisis that has been rocking the country for over 20 years.

I understand why Ukrainian people wanted change. They have had enough of the authorities in power during the years of Ukraine's independence. Presidents, prime ministers and parliamentarians changed, but their attitude to the country and its people remained the same. They milked the country, fought among themselves for power, assets and cash flows and did not care much about the ordinary people. They did not wonder why it was that millions of Ukrainian citizens saw no prospects at home and went to other countries to work as day labourers. I would like to stress this: it was not some Silicon Valley they fled to, but to become day labourers. Last year alone almost 3

million people found such jobs in Russia. According to some sources, in 2013 their earnings in Russia totalled over \$20 billion, which is about 12% of Ukraine's GDP.

I would like to reiterate that I understand those who came out on Maidan with peaceful slogans against corruption, inefficient state management and poverty. The right to peaceful protest, democratic procedures and elections exist for the sole purpose of replacing the authorities that do not satisfy the people. However, those who stood behind the latest events in Ukraine had a different agenda: they were preparing yet another government takeover; they wanted to seize power and would stop short of nothing. They resorted to terror, murder and riots. Nationalists, neo-Nazis, Russophobes and anti-Semites executed this coup. They continue to set the tone in Ukraine to this day.

The new so-called authorities began by introducing a draft law to revise the language policy, which was a direct infringement on the rights of ethnic minorities. However, they were immediately 'disciplined' by the foreign sponsors of these so-called politicians. One has to admit that the mentors of these current authorities are smart and know well what such attempts to build a purely Ukrainian state may lead to. The draft law was set aside, but clearly reserved for the future. Hardly any mention is made of this attempt now, probably on the presumption that people have a short memory. Nevertheless, we can all clearly see the intentions of these ideological heirs of Bandera, Hitler's accomplice during World War II.

It is also obvious that there is no legitimate executive authority in Ukraine now, nobody to talk to. Many government agencies have been taken over by the impostors, but they do not have any control in the country, while they themselves – and I would like to stress this – are often controlled by radicals. In some cases, you need a special permit from the militants on Maidan to meet with certain ministers of the current government. This is not a joke – this is reality.

Those who opposed the coup were immediately threatened with repression. Naturally, the first in line here was Crimea, the Russian-speaking Crimea. In view of this, the residents of Crimea and Sevastopol turned to Russia for help in defending their rights and lives, in preventing the events that were unfolding and are still underway in Kiev, Donetsk, Kharkov and other Ukrainian cities.

Naturally, we could not leave this plea unheeded; we could not abandon Crimea and its residents in distress. This would have been betrayal on our part.

First, we had to help create conditions so that the residents of Crimea for the first time in history were able to peacefully express their free will regarding their own future. However, what do we hear from our colleagues in Western Europe and North America? They say we are violating norms of international law. Firstly, it's a good thing that they at least remember that there exists such a thing as international law – better late than never.

Secondly, and most importantly – what exactly are we violating? True, the President of the Russian Federation received permission from the Upper House of Parliament to use the Armed Forces in Ukraine. However, strictly speaking, nobody has acted on this permission yet. Russia's Armed Forces never entered Crimea; they were there

already in line with an international agreement. True, we did enhance our forces there; however – this is something I would like everyone to hear and know – we did not exceed the personnel limit of our Armed Forces in Crimea, which is set at 25,000, because there was no need to do so.

Next. As it declared independence and decided to hold a referendum, the Supreme Council of Crimea referred to the United Nations Charter, which speaks of the right of nations to self-determination. Incidentally, I would like to remind you that when Ukraine seceded from the USSR it did exactly the same thing, almost word for word. Ukraine used this right, yet the residents of Crimea are denied it. Why is that?

Moreover, the Crimean authorities referred to the well-known Kosovo precedent – a precedent our western colleagues created with their own hands in a very similar situation, when they agreed that the unilateral separation of Kosovo from Serbia, exactly what Crimea is doing now, was legitimate and did not require any permission from the country's central authorities. Pursuant to Article 2, Chapter 1 of the United Nations Charter, the UN International Court agreed with this approach and made the following comment in its ruling of July 22, 2010, and I quote: “No general prohibition may be inferred from the practice of the Security Council with regard to declarations of independence,” and “General international law contains no prohibition on declarations of independence.” Crystal clear, as they say.

I do not like to resort to quotes, but in this case, I cannot help it. Here is a quote from another official document: the Written Statement of the United States America of April 17, 2009, submitted to the same UN International Court in connection with the hearings on Kosovo. Again, I quote: “Declarations of independence may, and often do, violate domestic legislation. However, this does not make them violations of international law.” End of quote. They wrote this, disseminated it all over the world, had everyone agree and now they are outraged. Over what? The actions of Crimean people completely fit in with these instructions, as it were. For some reason, things that Kosovo Albanians (and we have full respect for them) were permitted to do, Russians, Ukrainians and Crimean Tatars in Crimea are not allowed. Again, one wonders why.

We keep hearing from the United States and Western Europe that Kosovo is some special case. What makes it so special in the eyes of our colleagues? It turns out that it is the fact that the conflict in Kosovo resulted in so many human casualties. Is this a legal argument? The ruling of the International Court says nothing about this. This is not even double standards; this is amazing, primitive, blunt cynicism. One should not try so crudely to make everything suit their interests, calling the same thing white today and black tomorrow. According to this logic, we have to make sure every conflict leads to human losses.

I will state clearly - if the Crimean local self-defence units had not taken the situation under control, there could have been casualties as well. Fortunately this did not happen. There was not a single armed confrontation in Crimea and no casualties. Why do you think this was so? The answer is simple: because it is very difficult, practically impossible to fight against the will of the people. Here I would like to thank the Ukrainian military

— and this is 22,000 fully armed servicemen. I would like to thank those Ukrainian service members who refrained from bloodshed and did not smear their uniforms in blood.

Other thoughts come to mind in this connection. They keep talking of some Russian intervention in Crimea, some sort of aggression. This is strange to hear. I cannot recall a single case in history of an intervention without a single shot being fired and with no human casualties.

Colleagues,

Like a mirror, the situation in Ukraine reflects what is going on and what has been happening in the world over the past several decades. After the dissolution of bipolarity on the planet, we no longer have stability. Key international institutions are not getting any stronger; on the contrary, in many cases, they are sadly degrading. Our western partners, led by the United States of America, prefer not to be guided by international law in their practical policies, but by the rule of the gun. They have come to believe in their exclusivity and exceptionalism, that they can decide the destinies of the world, that only they can ever be right. They act as they please: here and there, they use force against sovereign states, building coalitions based on the principle “If you are not with us, you are against us.” To make this aggression look legitimate, they force the necessary resolutions from international organisations, and if for some reason this does not work, they simply ignore the UN Security Council and the UN overall.

This happened in Yugoslavia; we remember 1999 very well. It was hard to believe, even seeing it with my own eyes, that at the end of the 20th century, one of Europe’s capitals, Belgrade, was under missile attack for several weeks, and then came the real intervention. Was there a UN Security Council resolution on this matter, allowing for these actions? Nothing of the sort. And then, they hit Afghanistan, Iraq, and frankly violated the UN Security Council resolution on Libya, when instead of imposing the so-called no-fly zone over it they started bombing it too.

There was a whole series of controlled “colour” revolutions. Clearly, the people in those nations, where these events took place, were sick of tyranny and poverty, of their lack of prospects; but these feelings were taken advantage of cynically. Standards were imposed on these nations that did not in any way correspond to their way of life, traditions, or these peoples’ cultures. As a result, instead of democracy and freedom, there was chaos, outbreaks in violence and a series of upheavals. The Arab Spring turned into the Arab Winter.

A similar situation unfolded in Ukraine. In 2004, to push the necessary candidate through at the presidential elections, they thought up some sort of third round that was not stipulated by the law. It was absurd and a mockery of the constitution. And now, they have thrown in an organised and well-equipped army of militants.

We understand what is happening; we understand that these actions were aimed against Ukraine and Russia and against Eurasian integration. And all this while Russia strived to engage in dialogue with our colleagues in the West. We are constantly proposing cooperation on all key issues; we want to strengthen our level of trust and for our relations to be equal, open and fair. But we saw no reciprocal steps.

On the contrary, they have lied to us many times, made decisions behind our backs, placed us before an accomplished fact. This happened with NATO's expansion to the East, as well as the deployment of military infrastructure at our borders. They kept telling us the same thing: "Well, this does not concern you." That's easy to say.

It happened with the deployment of a missile defence system. In spite of all our apprehensions, the project is working and moving forward. It happened with the endless foot-dragging in the talks on visa issues, promises of fair competition and free access to global markets.

Today, we are being threatened with sanctions, but we already experience many limitations, ones that are quite significant for us, our economy and our nation. For example, still during the times of the Cold War, the US and subsequently other nations restricted a large list of technologies and equipment from being sold to the USSR, creating the Coordinating Committee for Multilateral Export Controls list. Today, they have formally been eliminated, but only formally; and in reality, many limitations are still in effect.

In short, we have every reason to assume that the infamous policy of containment, led in the 18th, 19th and 20th centuries, continues today. They are constantly trying to sweep us into a corner because we have an independent position, because we maintain it and because we call things like they are and do not engage in hypocrisy. But there is a limit to everything. And with Ukraine, our western partners have crossed the line, playing the bear and acting irresponsibly and unprofessionally.

After all, they were fully aware that there are millions of Russians living in Ukraine and in Crimea. They must have really lacked political instinct and common sense not to foresee all the consequences of their actions. Russia found itself in a position it could not retreat from. If you compress the spring all the way to its limit, it will snap back hard. You must always remember this.

Today, it is imperative to end this hysteria, to refute the rhetoric of the cold war and to accept the obvious fact: Russia is an independent, active participant in international affairs; like other countries, it has its own national interests that need to be taken into account and respected.

At the same time, we are grateful to all those who understood our actions in Crimea; we are grateful to the people of China, whose leaders have always considered the situation in Ukraine and Crimea taking into account the full historical and political context, and greatly appreciate India's reserve and objectivity.

Today, I would like to address the people of the United States of America, the people who, since the foundation of their nation and adoption of the Declaration of Independence, have been proud to hold freedom above all else. Isn't the desire of Crimea's residents to freely choose their fate such a value? Please understand us.

I believe that the Europeans, first and foremost, the Germans, will also understand me. Let me remind you that in the course of political consultations on the unification of East and West Germany, at the expert, though very high level, some nations that were then and are now Germany's allies did not support the idea of unification. Our

nation, however, unequivocally supported the sincere, unstoppable desire of the Germans for national unity. I am confident that you have not forgotten this, and I expect that the citizens of Germany will also support the aspiration of the Russians, of historical Russia, to restore unity.

I also want to address the people of Ukraine. I sincerely want you to understand us: we do not want to harm you in any way, or to hurt your national feelings. We have always respected the territorial integrity of the Ukrainian state, incidentally, unlike those who sacrificed Ukraine's unity for their political ambitions. They flaunt slogans about Ukraine's greatness, but they are the ones who did everything to divide the nation. Today's civil standoff is entirely on their conscience. I want you to hear me, my dear friends. Do not believe those who want you to fear Russia, shouting that other regions will follow Crimea. We do not want to divide Ukraine; we do not need that. As for Crimea, it was and remains a Russian, Ukrainian, and Crimean-Tatar land.

I repeat, just as it has been for centuries, it will be a home to all the peoples living there. What it will never be and do is follow in Bandera's footsteps!

Crimea is our common historical legacy and a very important factor in regional stability. And this strategic territory should be part of a strong and stable sovereignty, which today can only be Russian. Otherwise, dear friends (I am addressing both Ukraine and Russia), you and we – the Russians and the Ukrainians – could lose Crimea completely, and that could happen in the near historical perspective. Please think about it.

Let me note too that we have already heard declarations from Kiev about Ukraine soon joining NATO. What would this have meant for Crimea and Sevastopol in the future? It would have meant that NATO's navy would be right there in this city of Russia's military glory, and this would create not an illusory but a perfectly real threat to the whole of southern Russia. These are things that could have become reality were it not for the choice the Crimean people made, and I want to say thank you to them for this.

But let me say too that we are not opposed to cooperation with NATO, for this is certainly not the case. For all the internal processes within the organisation, NATO remains a military alliance, and we are against having a military alliance making itself at home right in our backyard or in our historic territory. I simply cannot imagine that we would travel to Sevastopol to visit NATO sailors. Of course, most of them are wonderful guys, but it would be better to have them come and visit us, be our guests, rather than the other way round.

Let me say quite frankly that it pains our hearts to see what is happening in Ukraine at the moment, see the people's suffering and their uncertainty about how to get through today and what awaits them tomorrow. Our concerns are understandable because we are not simply close neighbours but, as I have said many times already, we are one people. Kiev is the mother of Russian cities. Ancient Rus is our common source and we cannot live without each other.

Let me say one other thing too. Millions of Russians and Russian-speaking people live in Ukraine and will continue to do so. Russia will always defend their interests using political, diplomatic and legal means. But it should be above all in Ukraine's own interest

to ensure that these people's rights and interests are fully protected. This is the guarantee of Ukraine's state stability and territorial integrity.

We want to be friends with Ukraine and we want Ukraine to be a strong, sovereign and self-sufficient country. Ukraine is one of our biggest partners after all. We have many joint projects and I believe in their success no matter what the current difficulties. Most importantly, we want peace and harmony to reign in Ukraine, and we are ready to work together with other countries to do everything possible to facilitate and support this. But as I said, only Ukraine's own people can put their own house in order.

Residents of Crimea and the city of Sevastopol, the whole of Russia admired your courage, dignity and bravery. It was you who decided Crimea's future. We were closer than ever over these days, supporting each other. These were sincere feelings of solidarity. It is at historic turning points such as these that a nation demonstrates its maturity and strength of spirit. The Russian people showed this maturity and strength through their united support for their compatriots.

Russia's foreign policy position on this matter drew its firmness from the will of millions of our people, our national unity and the support of our country's main political and public forces. I want to thank everyone for this patriotic spirit, everyone without exception. Now, we need to continue and maintain this kind of consolidation so as to resolve the tasks our country faces on its road ahead.

Obviously, we will encounter external opposition, but this is a decision that we need to make for ourselves. Are we ready to consistently defend our national interests, or will we forever give in, retreat to who knows where? Some Western politicians are already threatening us with not just sanctions but also the prospect of increasingly serious problems on the domestic front. I would like to know what it is they have in mind exactly: action by a fifth column, this disparate bunch of 'national traitors', or are they hoping to put us in a worsening social and economic situation so as to provoke public discontent? We consider such statements irresponsible and clearly aggressive in tone, and we will respond to them accordingly. At the same time, we will never seek confrontation with our partners, whether in the East or the West, but on the contrary, will do everything we can to build civilised and good-neighbourly relations as one is supposed to in the modern world.

Colleagues,

I understand the people of Crimea, who put the question in the clearest possible terms in the referendum: should Crimea be with Ukraine or with Russia? We can be sure in saying that the authorities in Crimea and Sevastopol, the legislative authorities, when they formulated the question, set aside group and political interests and made the people's fundamental interests alone the cornerstone of their work. The particular historic, population, political and economic circumstances of Crimea would have made any other proposed option - however tempting it could be at the first glance - only temporary and fragile and would have inevitably led to further worsening of the situation there, which would have had disastrous effects on people's lives. The people of Crimea thus decided to put the question in firm and uncompromising form, with no grey areas.

The referendum was fair and transparent, and the people of Crimea clearly and convincingly expressed their will and stated that they want to be with Russia.

Russia will also have to make a difficult decision now, taking into account the various domestic and external considerations. What do people here in Russia think? Here, like in any democratic country, people have different points of view, but I want to make the point that the absolute majority of our people clearly do support what is happening.

The most recent public opinion surveys conducted here in Russia show that 95 percent of people think that Russia should protect the interests of Russians and members of other ethnic groups living in Crimea – 95 percent of our citizens. More than 83 percent think that Russia should do this even if it will complicate our relations with some other countries. A total of 86 percent of our people see Crimea as still being Russian territory and part of our country's lands. And one particularly important figure, which corresponds exactly with the result in Crimea's referendum: almost 92 percent of our people support Crimea's reunification with Russia.

Thus we see that the overwhelming majority of people in Crimea and the absolute majority of the Russian Federation's people support the reunification of the Republic of Crimea and the city of Sevastopol with Russia.

Now this is a matter for Russia's own political decision, and any decision here can be based only on the people's will, because the people is the ultimate source of all authority.

Members of the Federation Council, deputies of the State Duma, citizens of Russia, residents of Crimea and Sevastopol, today, in accordance with the people's will, I submit to the Federal Assembly a request to consider a Constitutional Law on the creation of two new constituent entities within the Russian Federation: the Republic of Crimea and the city of Sevastopol, and to ratify the treaty on admitting to the Russian Federation Crimea and Sevastopol, which is already ready for signing. I stand assured of your support.

Russian Security Council Meeting – Address by President Vladimir Putin¹

VLADIMIR PUTIN

Good afternoon, colleagues.

Today we will consider the fundamental issues of maintaining the sovereignty and territorial integrity of this country. We all understand how many political, ethnic, legal, social, economic and other aspects this topic encompasses.

Sovereignty and territorial integrity are fundamental values, as I have already said. We are referring to the maintenance of the independence and unity of our state, to the reliable protection of our territory, our constitutional system and to the timely neutralisation of internal and external threats, of which there are quite a few in the world today. I should make it clear from the start that, obviously, there is no direct military threat to the sovereignty and territorial integrity of this country. Primarily, the strategic balance of forces in the world guarantees this.

We, on our part, strictly comply with the norms of international law and with our commitments to our partners, and we expect other countries, unions of states and military-political alliances to do the same, while Russia is fortunately not a member of any alliance. This is also a guarantee of our sovereignty.

Any nation that is part of an alliance gives up part of its sovereignty. This does not always meet the national interests of a given country, but this is their sovereign decision. We expect our national legal interests to be respected, while any controversies that always exist, to be resolved only through diplomatic efforts, by means of negotiations. Nobody should interfere in our internal affairs.

However, ever more frequently today we hear of ultimatums and sanctions. The very notion of state sovereignty is being washed out. Undesirable regimes, countries that conduct an independent policy or that simply stand in the way of somebody's interests get destabilised. Tools used for this purpose are the so-called colour revolutions, or, in simple terms – takeovers instigated and financed from the outside.

The focus is of course on internal problems. Any country always has plenty of problems, especially the more unstable states, or states with a complicated regime. Problems do exist, still it is not clear why they should be used to destabilise and break down a country – something we see rather frequently in various parts of the world.

¹ President of Russia. Accessed July 25, 2014, from <http://eng.kremlin.ru/transcripts/22714>.

Frequently the forces used here are radical, nationalist, often even neo-fascist, fundamental forces, as was the case, unfortunately, in many post-Soviet states, and as is the case with Ukraine now. What we see is practically the same thing.

People came to power through the use of armed force and by unconstitutional means. True, they held elections after the takeover, however, for some strange reason, power ended up again in the hands of those who either funded or carried out this takeover. Meanwhile, without any attempt at negotiations, they are trying to suppress by force that part of the population that does not agree with such a turn of events.

At the same time, they present Russia with an ultimatum: either you let us destroy the part of the population that is ethnically, culturally and historically close to Russia, or we introduce sanctions against you. This is a strange logic, and absolutely unacceptable, of course.

As for the terrible tragedy that occurred in the sky above Donetsk – we would like once again to express our condolences to the families of the victims; it is a terrible tragedy. Russia will do everything within its power to ensure a proper comprehensive and transparent investigation. We are asked to influence the militia in the southeast. As I have said, we will do everything in our power, but this is absolutely insufficient.

Yesterday when the militia forces were handing over the so-called black boxes, the armed forces of Ukraine launched a tank attack at the city of Donetsk. The tanks battled through to the railway station and opened fire at it. International experts who came to investigate the disaster site could not stick their heads out. It was clearly not the militia forces shooting at themselves.

We should finally call on the Kiev authorities to comply with elementary norms of human decency and introduce a cease-fire for at least some short period of time to make the investigation possible. We will of course do everything in our power to make sure the investigation is thorough.

This is exactly why Russia supported the [UN] Security Council Resolution proposed by Australia. We will continue working together with all our partners to ensure a complete and comprehensive investigation. However, if we get back to such scenarios in general, as I have said, they are absolutely unacceptable and counterproductive. They destabilize the existing world order.

Undoubtedly, such methods will not work with Russia. The recipes used regarding weaker states fraught with internal conflict will not work with us. Our people, the citizens of Russia will not let this happen and will never accept this.

However, attempts are clearly being made to destabilize the social and economic situation, to weaken Russia in one way or another or to strike at our weaker spots, and they will continue primarily to make us more agreeable in resolving international issues.

So-called international competition mechanisms are being used as well (this applies to both politics and the economy); for this purpose the special services' capabilities are used, along with modern information and communication technologies and dependent, puppet non-governmental organizations – so-called soft force mechanisms. This, obviously, is how some countries understand democracy.

We have to give an adequate response to such challenges, and, most importantly, to continue working in a systematic way to resolve the issues that carry a potential risk for the unity of our country and our society.

In the past few years, we have strengthened our state and public institutions, the basics of Russian federalism, and we have made progress in regional development, in resolving economic and social tasks. Our law enforcement agencies and special services have become more efficient in combatting terrorism and extremism; we are forming a modern basis of our ethnic policy, adjusting approaches to education; we are constantly combatting corruption – all this guarantees our security and sovereignty.

At the same time, we should keep these issues in mind. If necessary, we have to quickly develop and implement additional measures. We need to have a long-term plan of action in these areas, strategic documents and resolutions.

In this regard, I would like to draw attention to several priority challenges.

The first is working consistently to strengthen interethnic harmony, ensure a competent migration policy, and react rigidly to inactions by officials and crimes that may be triggered by interethnic conflicts.

These are challenges for all levels of government, from the federal to the municipal. And, of course, it is extremely important for our civil society to take an active position and react to infringements on human rights and freedoms, helping to prevent radicalism and extremism.

We are particularly relying on civil society for effective help in improving the system of state governance with regard to ethnic policy and educating young people about the spirit of patriotism and responsibility for the fate of their Fatherland, which is particularly important. We discussed this in great detail recently at a meeting of the Council for Interethnic Relations.

By the way, I want to clearly state that - with the help of the civil society – we will never entertain the thought of improving our work in these areas solely by cracking down, so to speak. We will not do that under any circumstances; we will rely on civil society, first and foremost.

Our second important challenge is protecting constitutional order. Constitutional supremacy and economic and legal unity must be ensured throughout all of Russia. Federal standards as defined by the Constitution are inviolable and nobody has the right to break the law and infringe on citizens' rights.

It is important for all Russians, regardless of where they live, to have equal rights and equal opportunities. This is the foundation for a democratic system. We must rigorously observe these Constitutional principles, and to do this, we must build a clear system of state authority, striving to ensure that all its components function as a united whole, precisely and systemically; this should include increasing local authorities' role as part of Russia's overall government mechanism. And naturally, reinforcing the efficacy of the work of the judicial system, the prosecutors, and the regulatory and supervisory authorities should strengthen Russia's statehood.

The third key challenge is sustainable and balanced economic and social development. At the same time, it is fundamentally important to take into account territorial and regional factors. I mean that we must ensure priority development for strategically important regions, including in the Far East and other areas; we must simultaneously reduce drastic gaps between regions in terms of the economic situation and people's living standards. All this needs to be taken into account when developing federal and sectorial programmes, improving inter-budgetary relations and building plans to develop infrastructure, selecting locations for new plants and creating modern jobs.

I also feel that we must think about additional steps to decrease the dependence of the national economy and financial system on negative external factors. I am not just referring to instability in global markets, but possible political risks as well.

Fourth, our Armed Forces remain the most important guarantor of our sovereignty and Russia's territorial integrity. We will react appropriately and proportionately to the approach of NATO's military infrastructure toward our borders, and we will not fail to notice the expansion of global missile defence systems and increases in the reserves of strategic non-nuclear precision weaponry.

We are often told that the ABM system is a defence system. But that's not the case. This is an offensive system; it is part of the offensive defence system of the United States on the periphery. Regardless of what our foreign colleagues say, we can clearly see what is actually happening: groups of NATO troops are clearly being reinforced in Eastern European states, including in the Black and Baltic seas. And the scale and intensity of operational and combat training is growing. In this regard, it is imperative to implement all planned measures to strength our nation's defence capacity fully and on schedule, including, of course, in Crimea and Sevastopol, where essentially we need to fully recreate the military infrastructure.

Statement by President of Russia Vladimir Putin¹

VLADIMIR PUTIN: In response to the terrible tragedy that took place over Donetsk, I want to reiterate Russia's position with regard to the current situation in Ukraine.

We have called repeatedly on all parties to the conflict to stop the bloodshed immediately and begin negotiations. I believe that if military operations had not resumed in eastern Ukraine on June 28, this tragedy probably could have been avoided.

At the same time, no one should and no one has the right to use this tragedy to pursue their own political goals. Rather than dividing us, tragedies of this sort should bring people together. All those who are responsible for the situation in the region must take greater responsibility before their own peoples and before the peoples of the countries whose citizens were killed in this disaster.

Everything possible must be done to ensure that international experts can work in safety at the crash site. Representatives from the Donbass region, Donetsk, Ukraine's Emergency Situations Ministry, and Malaysian experts are already working at the site, but this is not enough.

It is essential that a full-fledged group of experts under ICAO aegis, an appropriate international commission set up for the task, be able to work at the crash site. We must do everything possible to ensure their complete and guaranteed safety and provide them with the humanitarian corridors they need for their work.

For its part, Russia will do everything within its power to move the conflict in eastern Ukraine from the military phase we see today to the negotiating phase, with the parties using peaceful and diplomatic means alone.

¹ President of Russia. Accessed 25, July, 2014, from <http://eng.kremlin.ru/news/22701>.

Indian Diplomacy at work - UN Security Council Reform¹

Our View

India believes that the United Nations (UN), especially the UN Security Council (UNSC), must reflect contemporary global realities. For this purpose the reform of the UN including the expansion of the UNSC in both permanent and non-permanent categories is essential. To this end, the Government of India has been actively working along with other like-minded countries for building support among the UN membership for a meaningful restructuring and expansion of the UNSC.

Why UNSC reform is necessary

- UNSC still reflects the geopolitical architecture of the Second World War.
- Expanded only once in 1963 to add 4 non permanent members.
- Since then the membership of the United Nations has increased from 113 to 193 without any change in the composition of the UNSC.
- No permanent member from Africa, despite 75% of work of the UNSC focused on Africa.
- Unable to respond effectively to situations of international conflict. India's credentials The Government of India has strongly put across to the international community India's case for permanent membership of the Security Council which is based on India's extensive contribution to the activities of the UN particularly the maintenance of international peace and security. By any objective criteria such as population, territorial size, GDP, economic potential, civilizational legacy, cultural diversity, political system and past and on-going contributions to the activities of the UN – especially to UN peacekeeping operations – India is eminently suited for permanent membership of an expanded UNSC. India's performance as a non-permanent member of the Security Council during 2011–2012 has also significantly strengthened India's claim to permanent membership.

India and the UNSC: India has served as a non-permanent member of the UNSC for 7 terms, viz. in 1950 – 1951, 1967 – 1968, 1972 – 1973, 1977 – 1978, 1984 – 1985, 1991 – 1992, and 2011 – 2012. India has again put forth its candidature for the 2021-22 term.

¹ Source: Embassy of India in Belgrade, <http://eoibelgrade.gov.in/>

Efforts by India

India along with Brazil, Japan and Germany (together known as the G-4) has proposed expansion of the membership of the UNSC in both the permanent and non-permanent categories. Separately, India is spearheading a group of around 42 developing countries from Asia, Africa and Latin America – called the L.69 Group – which has demanded urgent action on the UNSC reform front. With a view to harness the support of the 54-member strong African Group, the L.69 has engaged in discussions with the Committee of C-10 of the African Union to evolve a joint position on UNSC reform.

India is also pursuing the matter through bilateral channels with our interlocutors. A large number of countries have supported India's initiatives for reform of the UNSC as well as endorsed its candidature for permanent membership.

Year 2015

There is also broad support for the idea that there should be a concrete outcome on the issue of UNSC reform in 2015, which will mark the 70th anniversary of the UN and the 10th anniversary of the 2005 World Summit which had called for 'early' reform of the UNSC.

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Indian Diplomacy at work - Climate Change

Earth's climate determines, to a very large extent, the sustainability of human habitat. While the climate experiences dramatic swings over long periods of time due to natural reasons, a new element of anthropogenic (human induced) global warming of atmosphere has been introduced after the industrial era began, adding an unprecedented and urgent dimension to climate change. The consequences of global warming are believed to result in increasing frequency of floods, droughts, extreme weather events, melting of ice caps and glaciers, impact on ocean currents and ocean-atmosphere cycles, ocean acidification, rising sea levels/coastal flooding threatening small islands and deltas, shrinking forests, impacting food security, fresh water availability and loss of biodiversity. As the understanding of the global impact of human induced climate change grew, countries of the world came together to negotiate agreements to collectively address this increasing problem.

The GHG (greenhouse gas) emissions primarily result from burning of fossil fuels (oil, gas, coal) in industrial production, road/rail/aviation/ maritime transportation, power generation, buildings, agriculture etc. All these are important sectors for economic development. Therefore, any international commitments or voluntary pledges that may be undertaken as a result of negotiations on ways to address climate change impact on options for economic/ development pathways; technology and energy sources that countries can pursue, making this an international economic competitiveness issue. This makes the negotiations especially contentious. While the developed countries have prospered following fossil fuel based industrialization and very high per capita energy consumption, the developing countries still have very low per capita energy consumption and face massive challenges of development and can scarcely afford reducing their energy consumption.

The concerns, positions and expectations of countries towards the climate change negotiations are defined, to a large extent, by their energy profile; their historical experience and development stage; and their specific perceived vulnerabilities to impacts of climate change or dependence on fossil fuels besides other international dynamics and concerns including those relating to economic competitiveness.

International negotiations on Climate Change are being conducted under the UNFCCC (UN Framework Convention on Climate Change) aimed at finalizing arrangements specifying the efforts to be undertaken by various countries to combat

¹ Source: Embassy of India in Belgrade, <http://eoibelgrade.gov.in/>

human induced global warming. The UNFCCC was finalized in 1992 and ratified in 1994. The arrangements agreed under the UNFCCC so far cover the period upto 2020. The legally binding agreements valid so far (Kyoto Protocol of 1997, which entered into force in 2005) have prescribed ‘absolute’ greenhouse gases (GHG) emission reduction targets applicable to a group of industrialised countries (Annex-I Parties), as part of their ‘historic responsibility’ for having caused global warming through their industries and other uses of fossil fuels since the industrial revolution. The Annex-I countries are also required to provide financial assistance and technological know-how to the developing countries to enable them to shift to more environmentally sensitive economic pathways.

The first Principle of the Convention states that ‘The Parties should protect the climate system for the benefit of present and future generations of humankind, on the basis of equity and in accordance with their common but differentiated responsibilities and respective capabilities. Accordingly, the developed country Parties should take the lead in combating climate change and the adverse effects thereof’. Parties agreed to record their GHG emissions and publish yearly summaries. The preamble noted that ‘the largest share of historical and current global emissions of greenhouse gases has originated in developed countries, that per capita emissions in developing countries are still relatively low and that the share of global emissions originating in developing countries will grow to meet their social and development needs’. Article 4.7 states that the extent of the effective implementation of commitments by developing countries under the Convention will depend on financial resources and technology provided by developed countries and will take fully into account that economic and social development and poverty eradication are the first and overriding priorities of developing country parties.

The developing countries have been exempt from making any legally binding emission cuts so far, although many (including China and India) have made voluntary pledges in 2009 mostly to reduce the energy intensity of their economies (not absolute emission cuts) as part of their responsible behaviour and in their own interest. Developed countries are pushing for large developing countries to also undertake further binding commitments.

While the 1992 UNFCCC agreement and the subsequent Kyoto Protocol clearly defined the different sets of commitments for developing and developed countries (on the basis of principles of historical responsibility, CBDR, respective capabilities and equity which flow from the 1987 Montreal Protocol on controlling the Ozone depleting substances and the 1992 Rio Declaration on sustainable development), the non-ratification of the Kyoto Protocol by the US (the largest emitter at the time and the largest historical emitter) led to a situation where many other developed countries also said that they would opt out unless the US undertook similar legally binding commitments. The US made any participation in this process conditional to large developing countries also taking on emission cuts. Several developed countries continue to stay outside the Kyoto Protocol (which will be valid until 2020).

Negotiations are now underway to finalize by December 2015 a single agreement applicable to all parties to cover the post 2020 period. All countries are required to convey their ‘intended nationally determined contributions’ before the 2015 agreement.

The developed country parties under the two Annexes have not shown much enthusiasm to fulfill their commitments on emission cuts or to provide finance and technology to developing countries.

The developed countries (Annex I parties) have clearly failed to honour their commitments made under the UNFCCC and the Kyoto Protocol – both relating to emission reduction and provision of finance and technology to developing countries. Despite the vast disparity between the living standards of people in developing and developed countries and in their per capita consumption of energy, the developed countries are pushing the developing countries, especially those with growing economies, to accept various constraints without honouring their own commitments. At the same time, various studies have shown that the developing countries on their own voluntarily have been doing more in recent years to tackle the climate change challenges within their countries in reducing the emission intensity of their GDP growth through opting for greener technologies, renewable energy, improving energy efficiency etc.

INDIA

The Indian civilization has long believed in the virtues of living in harmony with nature. Rivers, forests, trees, mountains, flora and fauna have been held sacred by these ancient traditions, which revered earth as mother. The need for preservation of environment and ecology and the duty of rulers in this regard find extensive references in ancient Indian texts.

At the 1972 UN Conference on Man and Environment in Stockholm, India’s Prime Minister Indira Gandhi highlighted the link between development and environment and stated that poverty was the greatest polluter.

Today, India, with 17% of the world’s population, accounts for around 4% of current annual global CO₂ emissions. However, in terms of per capita, India’s CO₂ emissions are a very small fraction as compared to the big emitters.

In recent years, India has achieved significant success in lifting large sections of its population out of poverty through inclusive economic growth. However, the scale of challenge remains vast. Despite being a growing economy, India has a long way to go to provide a decent standard of living to all of its people. This would require continuing increase in energy use and other resources, including financial resources. Given the nature of India’s energy sources, its energy mix, likely several developed and developing countries, is likely to continue to be dependent mainly on fossil fuels (oil, gas, coal) over the medium term. In view of the massive scale of India’s development needs and priorities of poverty alleviation, to bring access to energy and other resources to its people, continued economic growth is essential.

In his address at the 2007 G 8 plus 5 meeting at Heiligendamm, Germany India’s Prime Minister Dr. Manmohan Singh stated India’s determination that ‘India’s per-

capita GHG emissions are not going to exceed those of developed countries even while pursuing policies of development and economic growth’.

In 2009 just before the Copenhagen COP meeting, India also made a voluntary pledge on emission intensity reduction (20-25% by 2020 over 2005 levels). In 2010 this pledge was inscribed into the UNFCCC (alongwith those by several other developing countries).

The Government of India recognizes the importance and scale of the problems associated with global warming and the adverse impacts of climate change especially on sectors such as agriculture, forestry and water. The Government has pursued an ambitious National Action Plan on Climate Change (NAPCC) comprising eight national Missions (including ones on solar energy and on energy efficiency) to turn its growth and development pathways to a more sustainable trajectory. Most of the States have also drawn up their action plans on climate change.

Some of the ongoing climate change adaptation programmes in India include : crop improvement research, drought proofing (reducing impacts on crops and livestock, productivity of land, water and human resources), afforestation, conservation/recharge of ground water, rain water harvesting, protection of sensitive coastal ecosystems, surveillance and control of vector borne diseases, capacity building for emergency medical relief, risk financing through crop insurance schemes and credit support mechanisms, disaster risk reduction and management measures.

Some of the ongoing GHG mitigation programmes besides the National Missions include promotion of energy efficiency and renewable energy including biofuels, accelerated development of nuclear and hydro power, R&D on clean energy technologies, energy labeling for appliances, Energy Conservation Building Code, energy audit of large industrial consumers, promotion of mass transport, clean air initiatives and the promotion of energy saving devices (fluorescent lamps, solar water heater).

The National Solar Mission aims to promote solar thermal power generation, solar photovoltaic generation, R&D collaboration, technology transfer and capacity building. The national Mission on Enhanced Energy Efficiency in Industry focuses on the development of sector specific and cross cutting GHG mitigation technology options, fuel switch, potential for emission reduction, co-benefits in terms of reduced fuel and material use leading to reduced emissions and improvement in quality of products, technology transfer, financing, capacity building, policy and regulatory options, delivery options (retrofits by institutional finance, SME cluster development and the promotion of ESCOs Energy Service Companies and Energy Efficiency Financing platforms alongwith the Bureau of Energy Efficiency.

In May 2014 the Ministry of Environment and Forests has been renamed as the Ministry of Environment, Forests and Climate Change reflecting the importance attached by the Government to meeting the challenge of climate change. In his 2014 Independence Day speech, Prime Minister of India Narendra Modi called for manufacturing sector to try and make products which have ‘zero effect’ or no adverse impact on the environment. The Government is also laying high priority to cleaning of rivers.

In the most recent Union Budget (2014-2015) India has doubled the Clean Energy cess on coal, peat and lignite (to Rs. 100 per tonne) to augment the funds to address climate change. A National Adaptation Fund for Climate Change is being set up with a funding of around US\$ 18 million. A National Institute on Climate Change is also being set up. A sum of around US\$ 90 million has been allocated for setting up of Ultra Mega Solar projects in five states. A sum of around US\$ 18 million has been allocated for Ultra Modern Super Critical Coal based Thermal Power Technology. A sum of around US\$ 72 million has been allocated for a new scheme aimed at solar power driven agricultural pump sets and water pumping stations. A sum of around US\$ 18 million has been allocated to develop 1 MW Solar Parks on the banks of canals.

At the UNFCCC negotiating process India has been an active negotiator. India has continued to highlight the need to consider development imperatives of developing countries. India is a strong proponent of the CBDR and equity principles. India stresses that the developed countries have to fulfill their commitments under the Convention regarding their emissions cuts, assistance to developing countries in terms of financial assistance and transfer of technology.

India aligns itself closely with the G-77 (since the start of negotiations), the BASIC group (since 2009 Copenhagen meeting) and the LMDC (since 2011 Durban meeting). The BASIC group comprises Brazil, South Africa, India and China. LMDC (Like Minded Developing Countries) is a group of around 25-30 countries.

All countries are now required to submit their 'intended nationally determined contributions' (INDCs) in the lead up to the UNFCCC Conference of Parties (COP) to be held in Paris in December 2015. While the developed countries are primarily interested in eliciting mitigation pledges from the developing countries, the developing countries insist that INDCs should also include adaptation and means of implementation.

India looks forward to actively engage in the UNFCCC process to develop a comprehensive, balanced and equitable post 2020 agreement that takes into account the development needs of developing countries and addresses the climate change issues adequately through mitigation, adaptation and facilitation of financing, technology and capacity building for developing countries in a genuinely collaborative global effort.

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Institutions as authors and legal documents:

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Zakon o spoljnim poslovima, *Službeni glasnik RS. Br. 116* (2007).

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REVIEW of International Affairs /
editor-in-chief Marko Nikolić. - Vol. 1,
no. 1 (1950)- . - Beograd (Makedonska 25)
: Institute of International Politics and
Economics, 1950- - 24 cm

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ISSN 0486-6096 = Review of International
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