



INSTITUT PRO POLITIKU
A SPOLEČNOST

Annexation of Crimea by the Russian Federation

POLICY PAPER | January 2016

Annexation of Crimea by the Russian Federation

Policy Paper – Jan Matzek, January 2016

Annexation of Crimea by the Russian Federation

2014 was a year of turmoil in Ukraine. Following Euromaidan, a massive wave of protests in Kyiv, Ukraine's capital, the government of president Yanukovich was overthrown and civil unrest spread across the country. During this period of insecurity, Russian Federation exploited Ukraine's instability by deploying its forces on Crimea and, eventually, joining it into its territory.

Main focus of this paper is to explain in what ways has international law been breached and whether the reaction of international community has been appropriate and effective. In order to approach these issues, this paper is divided into two sections.

The first section will focus on the factual background of the annexation and its historical context. The latter will deal with the events following the annexation – Crimean referendum on accession to Russian Federation and the sanctions employed against Russia.

Factual background of the Annexation

The reasons of Russian Federation's behavior are rooted deeply in the common history of Russia and Crimea.

Historical and demographic development of Crimea

The history of Crimea is long and diverse leaving the peninsula with many ethnical groups from Greeks, Jews, and Crimean Tatars, once the dominant ethnic, to Ukrainians and Russians (Bebler, 2015).

From 15th to 18th century, Crimean Khanate, a vassal state of Ottoman Empire, occupied the territory of Crimea. In 1774 it gained independence on the Ottoman Empire, only to be annexed by Russia in 1783. The same year, Potemkin¹ started the process of russification of the peninsula (Bebler: 2015). Bebler describes that the number of Crimean Tatar population has undergone notable decrease during 19th and first half of 20th century due to prosecution and emigration related to Crimean war, russification and Soviet deportation of Crimean Tatars to Central Asia during the final stages of the Second World War.

According to the data from the last Ukrainian census provided by State Statistics Committee of Ukraine (2001), the structure of Crimean population is as follows: Russians: 58.5%, Ukrainians: 24.4% and Crimean Tatars: 12.1%. At the same time, 77% inhabitants regard Russian as their native

¹ Grigory Potemkin (1739 – 1791); Russian military leader and statesman entrusted by Catherine II the Great with colonization of southern territories newly adjoined to the Russian Empire.

language, 11.4% Crimean Tatar and 10.1% Ukrainian.

Legal status of Crimea

Legal status of Crimea has undergone several changes during 20th century. In October 1921, Crimea became a member of Russian Soviet Federative Socialist Republic as a Crimean Autonomous Soviet Socialistic Republic. A year later, in 1922, Crimea was incorporated into the newly formed Union of Soviet Socialistic Republics. From 1941 to 1944, Crimea was occupied by Third Reich and administered as *Generalbezirk Krim* and *Teilbezirk Taurien*. In 1945, Crimea lost its status as an autonomous republic and became an *oblast*, ordinary administrative unit in USSR.

In February 1954, during Nikita Khrushchev's service as a general secretary of the Communist party of the Soviet Union, Crimea was transferred from the Russian Soviet Federative Republic to Ukrainian Soviet Federative Republic by unilateral decree of Presidium of the Supreme Soviet "*About the transfer of the Crimean Oblast*". However, Bebler (2015) points out that this act violated then valid constitution, specifically articles 14 and 18 requiring a formal agreement on territory transfer between the socialist republics, thus making the decree illegal. Bebler (2015) concludes that the transfer was also illegitimate since the Crimean population did not get a chance to express their opinion in a referendum.

After the dissolution of USSR in 1991, Crimea became, as a result of an all-Ukraine referendum, an autonomous republic within Ukraine. Since then have Crimean representatives, according to Bebler (2015), unsuccessfully, pursued more autonomy.

Annexation by the Russian federation in 2014

The annexation of Crimea itself was a swift action described by Bebler (2015) *hybrid warfare* – a combination of military and other

means with purpose of establishing dominance (control of media, propaganda, disinformation).

Russia took step towards acquiring control over Crimea in reaction on then recent wave of anti-governmental protests known as Euromaidan – Bebler (2015) points out that there have long been voices in Ukraine suggesting that Russia might attempt to destabilize Ukraine, but adds that this tension decreased after Victor Yanukovich had been elected president in 2010. When Yanukovich fled Ukraine on 22nd February 2014, the country remained in a power vacuum (Bebler: 2015). On 26th February, pro-Russian protests occurred in Simferopol, Crimean capital. On 27th February, armed masked individuals seized government buildings in Crimea and appointed Sergey Aksyonov, a member of parliament and leader of Russian Unity party², prime minister. On 28th February, unmarked military forces, later admitted to be Russian (although presence of Russian troops was denied by Putin on several occasions (Bebler, 2015)), seized strategically important targets on the peninsula (i.e. military facilities, airports and media) and blocked the traffic connecting Crimea with Ukraine.

Aftermath

Shortly after the annexation, a referendum on secession of Crimea and Sevastopol was held and Crimea formally joined the Russian Federation. These acts have stirred reaction of the international community and caused several sanctions to be applied against Russia.

Referendum on Secession

The referendum on secession was called 27th February 2014 and was held on 16th March 2014. Voters were presented with two statements and could give one positive response to one of them. Voters were presented with these options: "1. Do you support Crimea rejoining Russia as a subject of the Russian Federation?" (Bebler, 2015:10) and "2. Do you support restoration of the 1992

² Russian Unity - Ukrainian political party dissolved in 2014 promoting language rights and relations with Russia.

Constitution of the Republic of Crimea and Crimea's status as part of Ukraine?" (Bebler, 2015:10). The referendum itself violates Article 73 of the Constitution of Ukraine, which states: "Issues of altering the territory of Ukraine are resolved exclusively by an All-Ukrainian referendum" (Ukraine, 1996), on account of which Ukrainian government did not recognize its legal authority.

Bebler (2015) points out that the referendum suffered several shortcomings. Firstly, it failed to include the possibility of Crimea remaining a part of Ukraine within the current structure. Secondly, no impartial institutional observers were present during the referendum (OSCE chairman Didier Burkhalter refused the invitation for two reasons – the unconstitutionality of the referendum and the fact that Crimea is not a subject participating in OSCE (Bebler, 2015)) Lastly, since all the media in Crimea were under Russian control since 28th February 2014, it is more than probable that the information presented by the media was biased.

The turnout was 81.36% with 96.77% voters voting for the secession. Bebler (2015) suggests these figures might have been elevated in order to increase legitimacy of the referendum. Nevertheless, Crimea declared independence on 17th March 2014 and was incorporated into Russia the day after, 18th March 2014.

Legality of the Annexation

The annexation of Crimea has, of course, raised a debate among the scholars regarding its legality. Issaeva (2015) states that most experts agree on illegality of Russian actions, although there are scholars claiming that Russia acted lawfully. However, several treaties and agreements exist that reinforce Ukraine's territorial integrity. Among these are multilateral agreements such as UN Charter (1945), Final Act of the CSCE (1973), the 1991 protocol to the Commonwealth Pact, the Memorandum on Security Assurances (Budapest memorandum; 2014) and bilateral treaties between Russia and Ukraine, such as Treaty on Friendship, Cooperation and

Partnership (1997) or Partition Treaty on the Status and Conditions of the Black Sea Fleet.

There have been voices suggesting that Russia had right to deploy its troops on Ukrainian territory, according to Partition Treaty on the Status and Conditions of the Black Sea Fleet (1997). These claims are, however, contradictory with article 6(1) of the same treaty stating that "Military units operate in places of deployment in accordance with the legislation of the Russian Federation, respect the sovereignty of Ukraine, observe its legislation and do not allow interference in the internal affairs Ukraine."

Western Sanctions against Russia

Several western countries have employed sanctions against Russia as a response to its breach of Ukraine's territorial integrity. From March 2014, 6 rounds of sanctions were implemented against Russia by USA, EU, Australia, New Zealand, Canada and Japan. The initial three rounds of sanctions consisted, according to Wang (2015), mostly of individually targeted sanctions – a list of Russian politicians and businessmen whose assets were to be frozen and whom access into the countries implementing the sanctions should be denied was created. However, this approach proved to have no substantial effect, according to Wang (2015). On July 31st and September 5th, another two rounds of sanctions have been executed – these consisted of measures restricting Russian defense, energy and finance sector by, how Wang (2015) describes, preventing western companies from cooperating with Russian counterparts in these sectors and by limiting financing from the west achieved by not allowing Russian state-owned companies and banks to issue financial instruments with terms longer than 30 days and shortening the deadlines of existing bonds and obligations to 30 days. In retaliation, Russia raised the price of natural gas on Ukraine and reduced the supply in Poland, Slovenia and Romania. Since August, Wang (2015) points out, Russia also boycotts (bans import of) agricultural products from countries that have participated on sanctions.

Although the sanctions as whole had great limping impact on Russian economy, as evidenced by USD/Ruble exchange rate dropping by 50% and very slow GDP growth (ranging according to various sources from 0 to 0.5%) and losses calculated by Russian economists reaching 4-5 billion USD per year (Wang, 2015), very little effect can be observed regarding Russia's position on Ukraine and Crimea. Moreover, Wang (2015) points out that Putin's popularity and voters' support reaches its all-time maximum. On the other hand, Wang (2015) notes a certain shift in Russia's diplomatic relations – in order to counter the consequences of the sanctions and to avoid international isolation, Russia seeks to establish and deepen relations with Asian countries such as China, India, Vietnam and even North Korea.

Summary and Conclusion

In the February and March of 2014, Russia used unjustified forcible and non-forcible measures to breach the territorial integrity of Ukraine, a sovereign state whose legal status and borders had been recognized by Russia on several occasions. Russia has violated numerous obligations set upon it by multilateral agreements and bilateral treaties with Ukraine. Despite the effort of Western states to make Russia comply with international norms and abandon its unlawful behavior through employing sanctions, Crimea to this day remains part of Russian federation and Russian policy regarding this matter remains unchanged.

References

Bebler, A. 2015, "The Russian-Ukrainian Conflict over Crimea ", *Teorija in Praksa*, vol. 52, no. 1, pp. 196-219,307.

Issaeva, M., 2015. *The Case of Crimea in the Light of IL: Its Nature and Implications*, [pdf] Available at: <<http://www.russianlawjournal.org/index.php/jour/article/view/100>> [Accessed 14 October 2015]

Partition Treaty on the Status and Conditions of the Black Sea Fleet. Kyiv, 28 May 1997. Available at: <https://en.wikisource.org/wiki/Partition_Treaty_on_the_Status_and_Conditions_of_the_Black_Sea_Fleet> [Accessed 12 November 2015]

State Statistics Committee of Ukraine. 2001. "Всеукраїнський перепис населення 2001 | English Version | Regions of Ukraine | Autonomous Republic of Crimea" Available at: <http://2001.ukrcensus.gov.ua/eng/regions/reg_crym/> [accessed 18 November 2015]

United Nations, Vienna Convention on the Law of Treaties, 23 May 1969, United Nations, Treaty Series, vol. 1155, p. 331, available at: <http://www.refworld.org/docid/3ae6b3a10.html> [accessed 10 November 2015]

United Nations, *Charter of the United Nations*, San Francisco, June 26, 1945 [pdf] Available at <<https://treaties.un.org/doc/Publication/CTC/uncharter.pdf>> [Accessed 18 October 2015]

Ukraine. *Constitution of Ukraine*. 1996, available at: <<http://www.refworld.org/docid/44a280124.html>> [accessed 29 November 2015]

Wang, W. 2015, "Impact of Western Sanctions on Russia in the Ukraine Crisis", *Journal of Politics and Law*, vol. 8, no. 2, pp. 1-6.