



## *Message from the Europe Committee*

The Europe Committee is happy to present this special edition of our Europe Committee newsletter. In this edition of our newsletter we are featuring an in-depth article written by Iryna Zaverukha: "Terra Incognita on the Map of Europe: Crimea and the Donetsk and Luhansk Regions." Iryna Zaverukha is a Professor of Law at the Ukrainian Catholic University in Lviv, Ukraine. In her article she discusses the historical background of these regions in the context of Russia's occupation of Crimea in 2014 and the legal consequences for Ukraine and for international law and the European legal order. The co-chairs would like to thank Iryna Zaverukha for her contribution to this special edition newsletter and we hope that you enjoy reading this special edition of our newsletter as much as we have.

We welcome all Europe Committee members who are interested in acting as guest editors to volunteer to organize a future editions newsletter on a hot topic important to the Europe Committee.

The ABA Annual Meeting will be in New York August 10-15 and the Section's Fall Conference will be in Miami October 24-27. We encourage all leadership members to attend one of these upcoming meetings.

The Europe Committee's Year-in-Review publication (YIR 2017 volume 51) is now available on the Sections website at:

[https://www.americanbar.org/content/dam/aba/administrative/international\\_law/\\_YIR739.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/international_law/_YIR739.authcheckdam.pdf).

This YIR edition discusses select developments in European Law during 2016. Congratulations to Tom Stanton and James Bergeron and all of the other editors for a Year-in-Review well done! Finally, don't forget to join us on our monthly calls, the times and dates of which are distributed through the committee listserv

**Nancy Matos, Mattia Colonnelli and Jörg Rehder, Europe Committee Co-Chairs**

## *A Note from the Outgoing Editor*

This hot topic issue of EUROPE UPDATE marks my final edition as the Editor in Chief and Vice Chair of Newsletter Publications. It has been an honor and a privilege to serve in the role these past 4 years. The efforts of this Committee, its leaders, and the contributors to this publication, are all evidence of the health of the profession and the ongoing dialogs within legal communities across the globe. I plan to stay on the editorial board to assist with producing further editions. Please help in welcoming the new Editor in Chief, Jacob Heyka. Thank you to all who have played a part in my tenure with this publication.

**Michael L. Balistreri** ([michael.balistreri@rhi.com](mailto:michael.balistreri@rhi.com)), **Editor in Chief**

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## *A Note from the Incoming Editor*

It is with great excitement that I step into my new role as Editor in Chief of this publication. The timing is conveniently coupled with my recent move to Europe and I hope to help push the newsletter to its next level, building on the strong foundation Michael and his predecessor have provided. Thank you to those who have supported me in this role, and thank you to Michael both for his assistance on this current issue and for his willingness to help on the upcoming issues when needed.

This hot topic issue of EUROPE UPDATE is comprised solely of an insightful article on the history and ongoing ramifications of the Russian occupation of Crimea and its implications on the laws of territorial integrity. Given the timeliness of this article, the Committee Co-Chairs requested that this be published as a standalone edition for immediate circulation.

We welcome our Europe Committee members who wish to step forward as guest editors to organize further issues such as this one and others posted on the Europe Committee website.

**Jake C. Heyka** ([jacob.heyka@stibbe.com](mailto:jacob.heyka@stibbe.com)),  
**Incoming Editor in Chief**



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## *About the Europe Committee*

The Europe Committee seeks to engage lawyers conducting practices that touch Europe, including the various European countries, the European Union, and the institutions of the Council of Europe. It nurtures a community of lawyers sophisticated in cross-border matters, comparative law, and the continuously emerging transnational law of Europe, public and private. The Europe Committee's activities include the sponsorship of programs at the Section of International Law's seasonal meetings, hot topics teleconferences and newsletter presentations by experts on emerging developments of European law, exploration of legal policy and law reform topics, contribution to the Year in Review issue of *The International Lawyer*, and co-sponsorship of Section of International Law standalone and other programming.

The Europe Committee's membership is its most important asset. We encourage all Committee members to be involved in Committee activities and to communicate freely suggestions and ideas.

## *Upcoming Events*

The following are highlights of some of the upcoming Section events:

### **Turkey— the Legal Landscape, One Year Later**

07/12/2017

*Teleconference*

This 90 minute teleconference will focus on the legal situation in Turkey one year after the coup attempt. A group of diverse expert speakers will present a variety of viewpoints on the topic. This will not only be informative but assist in developing future policy regarding Turkey.

### **Fundamentals of Today's Trade Secret Litigation: The DTSA, Section 337 at the ITC, and More**

07/18/2017

*Webinar*

Panelists will provide an in-depth overview of various forums in the U.S. (with a focus on DTSA and Section 337 at the ITC) for bringing action for the theft and misappropriation of trade secrets. The DTSA supplements existing state laws and allows trade secret owners to bring a federal action for theft and misappropriation of trade secrets. Over the last few years, the ITC has increasingly become an

important federal forum to address theft and misappropriation of trade secret.

### **2017 ABA Annual Meeting**

08/08- 08/15/2017

*New York, New York*

Registration is now open for the ABA Annual Meeting in New York. Consult the website for Section hotel assignments and more details. There will be 9 CLE Showcase programs with hot topics, expert opinions, and powerful takeaways; 100+ Entity CLE programs to stay current with your practice specialty; and unique sessions, roundtables, and lectures focused on trending topics in the legal industry.

### **2017 Section of International Law Fall Conference**

10/24- 10/27/2017

*JW Marriott Marquis*

*Miami, FL*

The ABA Section of International Law Fall Conference will feature nearly 70 break-out CLE sessions as well as daily key note luncheon addresses and nightly reception. Attendance is anticipated at over 1,000 individuals. Register before September 8th to lock in our Early Bird discounts. Hotel reservations must be made before 5:00 pm on September 29th to be eligible for the reduced block rates.

### **Committee Leadership 2016-2017**

#### **Co-Chairs**

Colonnelli de Gasperis , Mattia  
Matos, Nancy  
Rehder, Jörg

#### **Immediate Past Chair**

Bojilova, Elena

#### **Vice Chairs**

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Murthy, Jln  
Prestia, Joseph  
Stanton, Thomas

#### **Senior Advisor**

English, Pat

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## Terra Incognita on the Map of Europe: Crimea and the Donetsk and Luhansk Regions

by *Iryna Zaverukha\**

Occupation of Crimea by the Russian Federation and the Russian military intervention in the Eastern Part of Ukraine challenged international order and peace in Europe. Breach of the principle of territorial integrity, as acknowledged by the international community and international law, simultaneously challenged their efficiency and ability to respond.

Today, the territory of Ukraine, within its recognized international borders, includes the occupied Crimean peninsula, where the Russian Federation has usurped full de jure and de facto control; the self-proclaimed “Donetsk People’s Republic” and “Luhansk People’s Republic”, funded and supported by the Russian Federation; and the territory of Ukraine that is governed, both de jure and de facto, by the Ukrainian government and by Ukrainian law.

While the international community, including Ukraine, are contemplating how to present the issues and consequences of Russian aggression in international courts regarding the situation in the occupied territories, the applicable law continues to be controversial. Concomitantly, the terminology used to describe the current situation in Ukraine is uncertain, confusing, and leaves room for misinterpretation of the actual issues.

### From “The Ukraine” to “Ukraine”

On December 1, 1991, Ukraine held its first democratic referendum and its first democratic election of the President of Ukraine. The only question the referendum asked was whether voters supported the Act of Proclamation of the Independence of Ukraine, by which Ukraine seceded from the U.S.S.R. in Aug. 24, 1991.<sup>1</sup> The turnout for the Referendum was 84.18% of the population of Ukraine. Of those who voted, 90.32% of voters favored independence. The results of the voting in regions (oblasts) varied between 83.86% in Lugansk oblast in favor up to 98.67% in Ternopil oblast; however, only 54.19% of Crimeans and 57.07% of the inhabitants of Sevastopol (a city with special status) supported independence in Ukraine.<sup>2</sup> With the adoption of the Referendum, the region of the U.S.S.R. known as “the Ukraine” became “Ukraine.”

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The Law of Ukraine On Succession of Ukraine (1991) stated that “the original State border of the Union of the Soviet Socialist Republics demarcates the territory of Ukraine and distinguishes it from the other states; and the demarcations of the borders between the Ukrainian S.S.R. and the Byelorussian S.S.R., the Russian Soviet Federal Republic, and the Republic of Moldova as of July 16, 1990, established the current state borders of Ukraine.”<sup>3</sup> The Alma-Ata Declaration, signed by eleven heads of state on Dec. 21, 1991, confirmed the dissolution of the U.S.S.R., and in its Preamble it provides that the respective states will continue “recognizing and respecting each other’s territorial integrity and the inviolability of the existing borders.”<sup>4</sup>

It is well known that Ukraine possessed the third largest nuclear weapon stockpile in the world. International pressure for Ukraine to accede to the Treaty on the Non-Proliferation of Nuclear Weapons resulted in the elimination of all nuclear weapons from the territory of Ukraine.<sup>5</sup> In exchange, the major nuclear powers, the Russian Federation, the United States of America, and the United Kingdom of Great Britain, reaffirmed their commitment to Ukraine “to respect the independence and sovereignty and the existing borders of Ukraine.” In the Memorandum on Security Assurance in Connection with Ukraine’s Accession to the Treaty on the Non-Proliferation of Nuclear Weapons (Budapest Memorandum), signatories also reaffirmed “their obligation to refrain from the threat or use of force against the territorial integrity or political independence of Ukraine, and that none of their weapons will ever be used against Ukraine.”<sup>6</sup>

The Russian Federation breached the Budapest Memorandum by annexing Crimea in March 2014. All signatories also “reaffirmed their commitment to seek immediate United Nations Security Council action to provide assistance to Ukraine . . . if Ukraine should become a victim of an act of aggression or an object of a threat of aggression in which nuclear weapons are used.” The most challenging part of this provision is its reference to the UN Security Council. The Russian Federation enjoys veto

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as condemnation of imposition of restrictive Russian legislation in Crimea, including, inter alia, mandatory Russian citizenship.

With respect to the statements of condemnation by European nations, the question remains of how to get back to the status quo ante. At this point, the European Parliament has continued to urge the end of military activities in Donbas; to maintain in force the sanctions imposed on Russia; and to call for further restrictive measures to be imposed on individuals responsible for gross human rights violations, including the freezing of their assets in EU banks.

The history of Crimea's annexation includes decisions, resolutions, and declarations on condemnation and non-recognition by the General Assembly of the United Nations, the European Council, and others; however, the solution to the current occupation has not yet been addressed on an international level. Meanwhile, all Ukrainian attempts to overcome Russian de facto and domestic de jure control over the territory of Crimea and its people have very little chance of success.

Russia refers to the annexation of Crimea euphemistically as a "reunification," and, moreover, celebrates that fact domestically and internationally.<sup>12</sup> Russia argues that it was necessary to protect Russian people and the Russian-speaking population in Crimea from the new government in Kyiv in the aftermath of Euromaidan.<sup>13</sup> Russia also denies the discrimination and grave abuses of human rights in Crimea, despite the facts and evidence.

### Donbas: Three Years of War and Terror<sup>14</sup>

The lack of an appropriate and timely response to the annexation of Crimea and the city of Sebastopol on one hand, and a carefully planned Russian scenario of aggression on the other, led to simultaneous and similar unrest in big cities in Southern and Eastern parts of Ukraine in March and April 2014. Fear and anxiety among local populations related to the flight of former President Yanukovich to Russia, and to a pro-European policy of the newly established Ukrainian government, resulted in pro-Russian rallies, seizure of government buildings and police stations, and, finally, in April 2014, to the self-proclamation of two new entities: "Luhansk People's Republic" (LNR)

power as one of the five permanent members of this body. Even though the United Nations General Assembly adopted a Resolution calling upon states not to recognize changes in the status of the Crimea Region (Resolution on Territorial Integrity of Ukraine),<sup>7</sup> it didn't stop Russia from its intervention in Eastern Ukraine.

**"These eighteen days in March 2014 changed the life of millions of people and started the era of war and terror in Ukraine."**

### Crimea – Three Years After Annexation

Three years ago, in March 2014, Ukraine lost de facto control over part of its territory, viz., the Crimean peninsula and the city of Sebastopol. On the night of February 26, 2014 the building of the legislature and Cabinet of ministers was seized by Russian insignia armed forces.<sup>8</sup> On March 1, 2014, President Putin requested the authorization of the Duma (Russian legislature) to use military force. The new Crimean government, led by extremists and advised by the Russian political establishment, issued a Resolution on March 6, 2014. The Resolution defined questions for a referendum and addressed to the President and Federal Council of the State Duma of the Russian Federation the request to initiate the procedure of accession of Crimea to the Russian Federation.<sup>9</sup> This illegitimate referendum on the region's annexation by the Russian Federation was carried out in an expedited manner on March 16; and on March 18, the Russian President signed an annexation treaty. These eighteen days in March 2014 changed the life of millions of people and started the era of war and terror in Ukraine. They also highlighted the weaknesses of international law and the limited role of international organizations.

The third anniversary of the illegal annexation of Crimea marked the day of action of the European Parliament. In its Resolution on the Ukrainian Prisoners in Russia and the Situation in Crimea,<sup>10</sup> the EU legislators covered a lot: breach of international law and European agreements by Russia; discrimination against Crimea's ethnic Tatar minority, and Ukrainians; illegal and arbitrary detentions of Ukrainian citizens, both in Russia and in the temporarily occupied territories of Ukraine; concern over many credible reports of cases of disappearances, torture, and systematic intimidation of local citizens opposed to annexation; as well



and “Donetsk People’s Republic” (DNR). Russian military servicemen and Russian citizens took an active part in these disturbing events. Russia fueled social unrest through a massive disinformation campaign in the media and coordinated and funded local militia and separatist groups. Provocations, acts of terrorism, seizures of public buildings and other violent acts led the Ukrainian government to commence its so-called “Anti-Terror Operation” (ATO).<sup>15</sup>

The Russian military invasion (what Russia called an “insurgency”) became implausibly deniable when the world witnessed the movement of Russian tank columns across the Ukrainian border. The global community also mourned for the 283 passengers and 15 crewmembers on board Malaysia Airline Flight 17 (Amsterdam – Kuala Lumpur).<sup>16</sup> The flight was shot down with a Russian missile from the territory controlled by pro-Russian “separatists.” From August 2014 until February 2017, Russia sent 60 so-called “humanitarian convoys” to the Donetsk and Luhansk “republics.” Most of them crossed the border without appropriate checks by those with international expertise.<sup>17</sup>

All attempts toward a peaceful solution of the conflict and peace agreements have failed. The situation substantially deteriorated in 2017.<sup>18</sup>

According to estimate data of the Office of the UN High Commissioner for Human Rights (OHCHR), from mid-April to February 15, 2017, 9,900 people were killed, and 23,246 were injured.<sup>19</sup> Annexation of Crimea and the war in Eastern Ukraine has thus far caused the displacement of about 1.7 million people.

### The Law and the Language of the Russo-Ukrainian War

While Russia castigates the West for its support of Ukraine, Ukrainians, somewhat ironically, feel abandoned by the West in their fight against the well-planned Russian military intervention and annexation of Crimea.<sup>20</sup> Voices on the law of territorial integrity remain silent, and international

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organizations are not efficient in their role of preserving peace and security. Although the language used to describe the conflict is somewhat ambiguous, the role of international courts is, nevertheless, essential. There are currently three inter-state applications lodged by Ukraine against Russia pending before the European Court of Human Rights;<sup>21</sup> there is also an ongoing preliminary examination of the Ukrainian case by the Office of the Prosecutor of the International Court;<sup>22</sup> and in March 2017, the International Court of Justice (ICJ) began its deliberations after public hearings on the request for the indication of provisional measures submitted by Ukraine.<sup>23</sup> There is also a huge body of individual claims against Russia in international courts. The issue of the occupation of Crimea does not have any apparent solution within the jurisdiction of these fora. However, legal evaluation of the

situation within the global community is uniformly that the occupation in Crimea is illegal, contrasted with its view of the war in Donbas.

**“There are currently three inter-state applications lodged by Ukraine against Russia pending before the European Court of Human Rights...an ongoing preliminary examination by the Office of the Prosecutor of the International Court...International Court of Justice deliberations... [and] a huge body of individual claims against Russia.”**

The core issues for Ukraine in international fora are the annexation of Crimea and the unlawful use of force by Russia; conducting the proxy war in Eastern Ukraine by Russia; returning to the status quo ante, including responses to the human rights violations, adjudication of international crimes, and repatriation. The lack of jurisdiction to adjudicate these issues has directly impacted the Ukrainian judicial strategy. For example, Russia does not recognize the compulsory jurisdiction of the ICJ. However, both states, Ukraine and Russia, ratified the International Convention on the Elimination of All Forms of Racial Discrimination (CERD) and the International Convention for the Suppression of the Financing of Terrorism, which allow Ukraine to seek a judicial remedy in the ICJ. Defining the nature of the conflict, the International Criminal Court stated; “the situation within the territory of Crimea and Sevastopol amounts to an international armed conflict between Ukraine and the Russian Federation.” In relation to the situation in Donbas, the Office of the Prosecutor “points to direct military engagement between Russian armed forces and Ukrainian government forces that would suggest the existence of an international armed conflict in the



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context of armed hostilities in eastern Ukraine from 14 July 2014 at the latest, in parallel to the non-international armed conflict.”<sup>24</sup>

One of the biggest challenges for Ukraine is to define the status of DNR and LNR. The commonly used term, “Anti-Terror Operation,” is absolutely archaic and does not reflect the reality. Ukraine possesses neither domestic *de jure* nor *de facto* control over these territories, while these self-proclaimed “republics” possess effective control over both the territories and the people who reside there. For example, they issued passports of DNR and LNR for Ukrainian citizens, which are recognized by only one country – Russia; the currency there is the Russian Ruble; there is no Ukrainian judiciary or any other governmental institution. Recently the “republics” nationalized Ukraine-administered enterprises, responding to a transportation blockade of the Donbas by Ukrainian activists. Donbas, as the main industrial region in Ukraine, is now going to reorient its business toward Russia (steel, chemicals, pharmaceuticals, coal, etc.). Currently there is a debate in the Verkhovna Rada (the Ukrainian legislature) on a bill regarding the Temporarily Occupied Territory of Ukraine that would recognize some parts of the Donetsk and Luhansk regions as occupied territories.

Meanwhile, Russia has continued its military, governmental, and financial support of illegitimate administrations in the Donetsk and Luhansk regions, as well as its policy of disinformation and propaganda. For example, Russia describes the war in Donbas as a “civil war” in Ukraine. In this way, Russia denies its military presence and policy of aggression. Ultimately, Russia’s convenient ascription, “rebels,” is how it describes what are actually Russian military, servicemen, and mercenaries (so-called “volunteers”) from Russia whose mission is to seize power and to fight the Ukrainian army. Russia also denies that the term “annexation” is properly used to describe its occupation of Crimea. Instead, the Russian government calls it an act of “reunification,” thereby spinning it as a political and historical “fact” among Russians. In their references to the Southern and Eastern regions of Ukraine, President Putin and other high level officials in Russia call this part of Ukraine “Novorossia,” as it was denominated

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under the czars during the Russian empire after annexation in the 18th century of Zaporizska Sich, the Crimean Khanate, and the Ottoman Empire. “Reunification” within the concept of “*Russkiy mir*” (“The Russian World”) is extremely popular among Russian politicians and the general populace. The false idea of humanitarian protection of the Russian-speaking population in Ukraine, Georgia, Moldova, and their reunion with Russia, justifies Russian military interference in the eyes of Russians. This idea also helps them to tolerate the economic sanctions imposed by the European Union and the United States.

### Epilogue

The beginning of the 21st century challenges every nation to consider how well they have learned the lessons of the past. Europe, torn by two tyrannical regimes, Soviets and Nazis, found its way to peace, reconciliation, economic growth, and political development. Today, the unity of European nations in a state of peace is more important than ever. Radical rhetoric from the right is a test that each nation must address with dignity, and with a vision for peaceful coexistence in the future.

**“the situation within the territory of Crimea and Sevastopol amounts to an international armed conflict between Ukraine and the Russian Federation.”**

Unrecognized by many related to the issue of Russian aggression is the fact that Russia is continuing its persistent imperialistic history. Russia successfully masked its policies under different titles, slogans, laws, and constitutions since the end of World War I and especially

after the Soviet Revolution. Its policy of governance today, however, is consistent with a Russian imperialistic tradition, which, for centuries now, has been based on the same principles of authoritarianism, territorial expansion, terror, oppression, discrimination, corruption, and disinformation.

Russia has not changed its approach to governance. It is, indeed, ironic that it is a member of the Security Council, which is supposed to be the last resort for preserving, promoting, and protecting peace around the globe. Should we, therefore, be surprised that Russia continues to try to renew its imperialist status quo with neighboring countries and in the world? How far will Russia go to reassert its superiority? How many more international borders in Eastern Europe is Russia willing to disregard after Moldova, Georgia, and Ukraine? What is the role of



millions of Russian people who live outside of Russia? But the most important question is, what are the remedies that the international community, with the European Union playing the leading role, can invoke to resist this Russian outrage? ■

- END NOTES -

<sup>1</sup> Resolution of the Verkhovna Rada of Ukraine On the Holding of Ukrainian Referendum On the Question of Proclamation of the Independence of Ukraine (Oct. 11, 1991), <http://zakon3.rada.gov.ua/laws/show/1660-12>.

<sup>2</sup> Information on Ukrainian Referendum, December 1, 1991, [http://www.archives.gov.ua/Sections/15r-V\\_Ref/index.php?11](http://www.archives.gov.ua/Sections/15r-V_Ref/index.php?11).

<sup>3</sup> Law of Ukraine On Succession of Ukraine (Sept. 12, 1991), <http://zakon2.rada.gov.ua/laws/show/1543-12>.

<sup>4</sup> Alma-Ata Declaration (Dec. 21, 1991), [http://zakon3.rada.gov.ua/laws/show/en/997\\_189](http://zakon3.rada.gov.ua/laws/show/en/997_189).

<sup>5</sup> Two other republics also possessed nuclear weapons inherited from the USSR: Belarus, and Kazakhstan.

<sup>6</sup> Memorandum on Security Assurance in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, UN Document A/49/765, (Dec. 5, 1994), [http://www.un.org/en/ga/search/view\\_doc.asp?symbol=A/49/765](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/49/765).

<sup>7</sup> Territorial Integrity of Ukraine, GA, Res. A/RES/68/262, UN GAOR, 68th Sess., 80th mtg., Supp. No 49, UN Doc. A/68/L.39 (2014) (available at <http://www.un.org/press/en/2014/ga11493.doc.htm>). The outcome of the voting was 100 states in favor, 11 against, and there were 58 abstentions.

<sup>8</sup> Simon Shuster, Putin's Man in Crime Is Ukraine's Worst Nightmare, (Mar. 10, 2014), <http://time.com/19097/putin-crimea-russia-ukraine-aksonov>; Marie-Louise Gumuchian, Laura Smith-Spark, Ingrid Formanek, *Gunsman seize government buildings in Ukraine's Crimea, raise Russian flag*, CNN (Feb. 27, 2014), <http://edition.cnn.com/2014/02/27/world/Europe/Ukraine-politics>.

<sup>9</sup> See, <http://www.rada.crimea.ua/act/11689>. According to the Resolution, the bulletin for the "referendum" stated two questions: First, "Are you in favor of the reunification of Crimea with Russia as a subject of the Russian Federation," and "Are you for the restoration of the 1992 Crimean constitution of the Crimean Republic and the status of Crimea as a part of Ukraine?" See also Lea Brilmayer, Why the Crimean Referendum is illegal, (Mar. 14, 2014) <https://www.theguardian.com/commentisfree/2014/mar/14/crimean-referendum-illegal-international-law>; Iryna Zaverukha, *The Trajectory of Crimean Flight 2014: Falling Through the Cracks Between the Rock of "Refugee" and the Hard Place of "Internally Displaced Person,"* 49 *The Int'l Lawyer* 373, 384-86 (2016).

<sup>10</sup> European Parliament Resolution on the Ukrainian Prisoners in Russia and the Situation in Crimea (March 16, 2017), <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2017-0087&language=EN&ring=P8-RC-2017-0190>.

<sup>11</sup> General Assembly Resolution 217 A (III) A/C.3/71/L.26 Situation of Human rights in the Autonomous Republic of Crimea and the city of Sevastopol (Ukraine), <http://www.humanrightsvoices.org/assets/attachments/documents/L.26.pdf>.

<sup>12</sup> Vladimir Putin, Speech, *To the deputies of the State Duma, members of the Council of the Federation, Leaders Of the Regions Of the Country, and Representatives Of the Civil Society Related to the Address of the Republic of Crimea and Sevastopol on Annexation to the Russian Federation* (Kremlin, Moscow, Mar. 18, 2014), <http://www.kremlin.ru/events/president/news/20603/videos> (Russ.) Full text of Putin's speech on Crimea, March 18, 2014, (Eng. available at <http://praguepost.com/eu-news/37854-full-text-of-putin-s-speech-on-crimea>).

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<sup>13</sup> Euromaidan is an amalgam of two words: "Euro" which refers to Europe and reflects the desire of closer integration with the European Union; and "Maidan" – which means the square, or the place where people get together to make collective decisions on the most important subjects. The main square in the city of Kyiv is "Maidan Nezaleznosti" (Independence Square). Euromaidan started with students rallies to encourage the government of Ukraine to collaborate with European Union, as previously established external policy. Instead former President of Ukraine V. Yanukovich made a deal with Russia. After abusive cast out of students from "Maidan Nezaleznosti" millions of people took part in protests in Kyiv and all over Ukraine.

<sup>14</sup> Donbas is an historical name for the Donetsk and Luhansk regions in Eastern Ukraine.

<sup>15</sup> Executive Order of the President of Ukraine on the Decision of the National Security and Defense Council of Ukraine, adopted on Apr. 13, 2014 "On Urgent Measures to Combat Terrorist Threat and Territorial Integrity of Ukraine" (Apr. 14, 2014), <http://zakon2.rada.gov.ua/laws/show/405/2014>; Law Of Ukraine On Temporary Measures for the Anti-terrorist Operation Period (Sept. 2, 2014), <http://zakon2.rada.gov.ua/laws/show/1669-18>.

<sup>16</sup> MH17 Ukraine Plane Crash: What we know, BBC News (Sept. 28, 2016), <http://www.bbc.com/news/world-europe-28357880>; Somini Sengupta and Andrew E. Kramer, *Dutch Inquiry Links Russia to 298 Death in Explosion of Jetliner Over Ukraine*, *The NY Times* (Sept. 28, 2016), [https://www.nytimes.com/2016/09/29/world/asia/malaysia-air-flight-mh17-russia-ukraine-missile.html?\\_r=0](https://www.nytimes.com/2016/09/29/world/asia/malaysia-air-flight-mh17-russia-ukraine-missile.html?_r=0).

<sup>17</sup> State Border Guard Service of Ukraine, *On Sixtieth, so-called "Humanitarian convoy" from the Russian Federation* (Feb. 21, 2017), <http://dpsu.gov.ua/ua/news/SHCHodo-sliduvannya-shistdesyatogo-tak-zvanogo-gumkonvoyu-z-RF/>; The 49th, so-called Russian Humanitarian Convoy, Feb. 18, 2016, <http://dpsu.gov.ua/en/news/the-49th-so-called-russian-humanitarian-convoy-transported-expired-canned-foodstuff-and-books-to-the-territory-controlled-by-militants/>.

<sup>18</sup> Tom Burridge, *Eastern Ukraine Conflict: A New, Bloody Chapter*, BBC News, Ukraine, Feb. 2, 2017, <http://www.bbc.com/news/world-europe-38837730>.

<sup>19</sup> Office of the UN High Commissioner for Human Rights, Report on the Human Rights Situation in Ukraine 16 November 2016 to 15 February 2017, [http://www.ohchr.org/Documents/Countries/UA/UAReport17th\\_EN.pdf](http://www.ohchr.org/Documents/Countries/UA/UAReport17th_EN.pdf).

<sup>20</sup> See, Oksana Syroyid, *The Apple of Temptation*, *The Ukrainian Week*, Jan. 26, 2017, <http://ukrainianweek.com/World/184022>.

<sup>21</sup> *Ukraine v. Russia*, 20958/14: The case includes all the complaints related to the events up to Sept. 2014 in Crimea; *Ukraine v. Russia* (V), 8019/16: The case includes all the complaints concerning the events in Eastern Ukraine up to Sept. 2014; *Ukraine v. Russia* (IV), 42410/15: The case includes all the complaints related to the events from Sept. 2014 onwards related to Crimea; *Ukraine v. Russia* (VI) 70856/16: The case includes all the complaints related to Eastern Ukraine from Sept. 2014 onwards. (available at [http://www.echr.coe.int/Documents/CP\\_Russia\\_ENG.pdf](http://www.echr.coe.int/Documents/CP_Russia_ENG.pdf)).

<sup>22</sup> The Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities 2016, p. 33-42, [https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe\\_eng.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe_eng.pdf). See, Iryna Marchuk, *Ukraine and the International Criminal Court: Implications of the Ad Hoc Jurisdiction Acceptance and Beyond*, 49 *VAND. J. TRANSNAT'L L.* 323 (2016).

<sup>23</sup> The ICJ began its deliberation in the case of *Ukraine v. Russian Federation*, concerning Application of the International Convention for the Suppression of the Financing of Terrorism, related to the war in Eastern Ukraine; and concerning the International Convention on the Elimination of All Forms of Racial Discrimination, related to the situation in Crimea.

<sup>24</sup> The Office of the Prosecutor, International Criminal Court, Report on Preliminary Examination Activities 2016, p. 33-42, [https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe\\_eng.pdf](https://www.icc-cpi.int/iccdocs/otp/161114-otp-rep-pe_eng.pdf).



# EUROPE UPDATE

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