

# RUSSIA'S POST-CRIMEA LEGITIMIZATION DISCOURSE AND ITS CHALLENGES FOR THE EAP COUNTRIES

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**Abstract:** *After the annexation of Crimea, Russia has not acknowledged either the violation of the international law or the infringement of sovereignty of Ukraine. Instead, Moscow has (mis-)used a series of arguments meant to justify its actions in Crimea both domestically and externally and to present an illegal act of breaching the basic international principles into a necessary, legitimate measure. Within this context, the article will attempt to decode the arguments of the Kremlin's post-Crimea political discourse of legitimization, analysing their impact on Russia's relations with the Eastern Partnership countries, and drawing attention to the theoretical problem regarding the legitimacy in international relations. The paper will use the qualitative content analysis as research method. We will examine mainly the content of speeches, statements, governmental documents and other relevant studies as primary and secondary data, and will focus on the main topics of Russia's international legitimisation discourse after the annexation of Crimea.*

**Keywords:** *legitimacy; annexation of Crimea; Russia's foreign policy; EaP countries*

## Introduction

2014 was the most tragic year in the history of post-Soviet Ukraine. In February around 100 people were killed during the protests in the Maidan Nezalezhnosti in the centre of Kiev; one month later, Ukraine lost the Crimea peninsula; and at the beginning of April the Donbas was engulfed in a war that has made so far over 10.000 victims. As the empirical data show, both in the events in Crimea and in the war in Donbas Russian factor has played a decisive role. However, while in the latter case Moscow resorted to a strategy very much tested in the 1990s, that of covered involvement in creating frozen conflicts, in Crimea the Kremlin went further – annexing officially the Ukrainian peninsula. It was for the first time since the WWII when the European borders were changed by

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unilateral military intervention. Furthermore, the main actor was a member of the UN Security Council, G8, OSCE and the Council of Europe.

By annexing Crimean peninsula, Moscow violated a number of international treaties, starting with the Helsinki Final Act, the 1994 Budapest Memorandum, the terms of its membership of the Organization for Security and Cooperation in Europe (OSCE), and the agreements with Ukraine on the lease of Russian navy base in Sevastopol, which very clearly established that Russia could not increase its military personnel in Crimea, deploy its troops outside the base without Ukraine's consent, or intervene in Ukraine's domestic politics. And yet, while the international community reacted with harsh declarations and political and economic sanctions towards Russia, Moscow has denied any infringement in international law and came with a series of arguments meant to justify the annexation of Crimea. The legitimizing discourse was aimed both for Russian citizens and for the international community. It was meant to gain public support domestically for the Kremlin's actions in the 'near abroad' and to get acceptance from the other states for its actions.

## 1. Methodological approach

The article aims to identify the main patterns of Russia's Crimea legitimisation discourse targeting foreign audiences and to analyse whether those arguments have any impact on Moscow's relations with the Eastern Partnership (EaP) countries. In order to achieve our research goals, we have relied on qualitative content analysis method. We have analysed and interpreted the content of speeches and declarations of the main Russian foreign policymakers – the President, the Prime-Minister, and the Minister of Foreign Affairs; and Russian official documents referring to the annexation of Crimea. The data collected covers the period March 2014 - April 2016. The processes of data collection and initial data analysis have been done simultaneously. In this first stage of our research we have identified the main patterns of Russia's Crimea annexation legitimisation discourse. Then, we have conducted an "intensive analysis" (Meriam, 1989, p. 126) – the phase when we have looked at the way the arguments have been developed after March 2014, the way they have been prioritised and the impact these argumentative elements of Russia's legitimisation discourse have had on Moscow's relations with the EaP countries.

We have been aware that the qualitative content analysis method is subjected to a particular margin of subjectivity as the "the importance of the content is determined by the researcher's judgment. The researcher decides on the intrinsic value, interest and originality of the material [...] It relies heavily on the judgment and expertise of the researcher" (Burnham *et al.*, 2008, p. 259). Within this context we find it important to mention that the author speaks Russian fluently, which allowed him to analyse most documents, discourses, speeches in their original language. Moreover, we have tried to reduce the margin of subjectivity in the



process of collecting and analysing data by studying all Russian official documents and presidential speeches and discourses posted on the official websites of Russian presidency and Ministry of Foreign Affairs that contain references to the annexation of Crimea.

The paper is divided into three parts. It starts with a theoretical scrutiny of the concepts of legality and legitimacy in international relations, meant to offer a better understanding of Russia's endeavours to justify its actions in Ukraine; and then contextualize Russia's post-Crimea annexation discourse. In the second part we identify and analyse Moscow's legitimisation arguments and the way they have been developed and prioritised in Russia's public discourse after March 2014. And finally, the article examines the implications of Russia's legitimisation arguments on its relations with the EaP countries.

## **2. Legality and legitimacy in international relations**

Legality of actions in international relations implies their conformation to a series of rules regulating behaviour of states to recognized values and standards by the international society (Shaw, 2014, p. 1). In international society there are no written constitutional laws and not a single overarching authority (Klabbers, 2013, p. 8), the international law is primarily formulated by international agreements that create binding and customary rules upon the signatories, laying down patterns of conduct that have to be complied with. While in domestic systems individuals do not create the law and only have the choice to obey the law or not, the international law is created by the states themselves, which obey or disobey it (Shaw, 2014, p. 5).

In general states observe international law, violations being comparatively rare. There are several aspects that determine the actors of international society to respect the international law. The considerations of reciprocity play an important role in this regard. States often do not act in a particular way that would bring them short-term gains because those actions could affect the reciprocal tolerance and might bring long-term disadvantages (Shaw, 2014, p. 6). The costs to be a pariah can be also a strong argument for states to observe the international law. Besides economic and political sanctions or collective security actions there are also social sanctions – no one wants to do business with a state that routinely violates its commitments, which stimulates law-abiding behaviour of states (Klabbers, 2013, p. 11). Other factors that determine a legal behaviour of states on the international arena are the advantages of 'rewards' (e.g. siding with one country involving in a conflict rather than its opponent), the formulation of international business in characteristically legal terms (e.g. disputes are framed legally with references to the precedent, international agreements or opinions of juristic authors) (Shaw, 2014, p. 6).

A more recent explanation for the law-abiding behaviour of states is based on the role of legitimacy in international relations. This principle is linked to the idea of order and the rituals establishing this order, rituals with a symbolic force and normative protection ensured by the rules that make possible and maintain the



order. Legitimacy has also the meaning of justification of an action (political, juridical) acceptable (socially), perceived as such by the society in the context of its morality (Goudenhoft, 2014, pp. 15-16). Legitimacy can, thus, refer to rules and institutions, but also to behaviour more generally. Legitimacy constitutes a standard for the testing in the wider political environment of the relevance and acceptability of legal norms and practices. If a rule is seen as legitimate it will benefit from a strong approval from the actors of international community, while a rule, institution or action perceived as illegitimate will be disapproved. It is suggested that a rule or entity which is legal but not legitimate will not be able to sustain its position over the long term, while a practice seen illegal but legitimate is likely to form the nucleus of a new rule (Shaw, 2014, pp. 44-45).

The legitimacy is a social concept. It inextricably depends on the social perception and recognition. The actions are legitimate only if they are approved, socially recognized, and the actor has the established right, socially accepted, to make them. One cannot act legitimately without social consecration, without its action to be recognized as legitimate, entitled by others (Goudenhoft, 2014, pp. 19-20, 84). An international legitimacy crisis appears when the level of social support of an actor, institution or policy decreases to the level when its power can be supported only by recalibration of its legitimacy (through communicative reconciliation of identities, interests and practices with normative expectations) or through compensatory use of incentives. The practice of international legitimacy means negotiation and compromise: a peace treaty, for instance is nothing but a compromise, which could have not been achieved through inflexible, rigorous and strict application of principles of justice (Goudenhoft, 2014, pp. 121-122).

Sometimes, between legitimacy and legality there can appear large cleavages, as well as between legitimacy and some moral principles. NATO intervention in Kosovo (1998-1999) was described as technically illegal, because it did not have the authorization of the Security Council, but it was accepted by Western community as politically legitimate and moral because it acted to fulfil the resolutions of the Security Council and to stop some crimes against humanity. On the other side, the absence of reactions to the Ukraine crisis and the issue of Crimea was legal (one could not have invoked NATO's art. 5), but immoral, because it created the impression of fear associated with impotence in the face of an act at least debatable from the point of view of borders stability (Goudenhoft, 2014, p. 127).

Legitimacy is sought to strengthen rules or institutions, to make them acceptable or accepted or to justify certain actions. Sometimes this can take unexpected forms, like the circumstance that Russian troops, while active in Moldova in the early 1990s, were prone to wear blue helmets for raising the impression that they were associated with UN peacekeeping (Klabbers *et al.*, 2009, p. 41) or during the events on 2014 in Crimea, Russian soldiers – the infamous little green men, were not wearing insignia and were portrayed by Russian politicians and media as “polite men” coming to the Ukrainian peninsula to help elder people and to protect the lives of local inhabitants.



On systemic level where no written constitutional law exists, the issue of legitimacy of one actor's actions represents an object of political struggles (Shinoda, 2000, p. 516). If the actions of one state are perceived by the other states as illegitimate, they can affect the credibility of the first and can consequently bring important long-term costs: loss of allies, exposure to pressure of domestic and foreign public opinion, exposure to various forms of protest and contestation (e.g. international sanctions, military retaliation, etc.). Hence, by neglecting the legitimacy factor of its actions, the state exposes itself to a consistent decrease in the level of national security, and diminishes its capacity of power projection (Stanescu, 2010, pp. 136, 145).

The international law is often ignored when vital or strategic interests are involved, and is invoked argumentatively or exculpatory *post factum* (Goudenhoft, 2014, p. 129). When one state acts in an illegitimate way, its political discourse made after that efforts is meant to legitimate its deeds or to create appearances of legitimacy through rhetorical manipulation: "if power cannot be backed up by legality, it needs to be propped up by something else" (Klabbers *et al.*, 2009, p. 37). As Russia's actions in Crimea are questioned exactly from the point of view of legality, we should analyse what are the arguments Moscow's legitimate discourse is based on.

### 3. A short review of 2014 events in Crimea

Before analysing Russia's Crimea legitimisation discourse, one should first scrutinize the sequences of the events produced in February-March 2014 in the Ukrainian peninsula. Thus, after the fled of Viktor Yanukovich to Russia, in February 2014, the pro-Russian parties started organizing anti-Maidan rallies in Crimea peninsula. On 23 February the biggest rally gathered in Sevastopol an estimated 50,000 protesters. During the protest the local businessman and Russian citizen Alexey Chaliy was elected as "mayor" and forced the governor of Sevastopol appointed by Kiev to leave (Shapovalova, 2004, p. 254). On 26 February, 2014 pro-Russian forces, military men without insignia, the so-called "self-defence force," started taking control of the peninsula. The next day they sized the Crimean parliament and the Council of Ministers buildings in Simferopol, raising the Russian flags. The occupation of the buildings did not meet resistance from the local police and the security guards. In the building occupied by the armed men, the local parliament held an emergency session during which it voted the dissolution of the government and the replacement of Crimean prime-minister Anatolii Mohyliov with Sergey Aksyonov, a member of Russian Unity Party that had won only 4% of the vote at the 2010 parliamentary elections. A referendum on the status of Crimea was scheduled for 25 May. During this session neither Mohyliov nor journalists were granted access into the parliament building, the local MPs had their phones confiscated and there was no possibility to verify whether the quorum was reached (Reuters, 2014).



After the taking control of the local administration, the pro-Russian forces seized the Simferopol airport, the TV stations, other governmental buildings, established checkpoints on the border between the peninsula and the mainland Ukraine and isolated the local Ukrainian military bases from their headquarters. It has to be mentioned that the military men without insignia, the “little green men,” seized the whole peninsula without firing a single shot, Ukrainian forces receiving orders not to open fire. Russia denied any involvement in the events in Crimea, suggesting that the Black Sea Fleet was neutral and its soldiers deployed at the military base were protecting the Fleet’s possessions. Moscow implied that the “little green men” were local “self-defence” forces over whom Russia had no authority. However, in that period around 5,500-6,000 Russian soldiers together with their weapons had been transferred to Crimea from the Russian Federation and the evidence showed that the units of the Russian army and the Crimean Self-Defence occupied the strategic infrastructure on the peninsula (Wilk, 2014).

On 1 March, the new Crimean “prime-minister,” Sergey Aksyonov called Russian President Putin to “to provide assistance in securing peace on the territory of the Autonomous Republic of Crimea” (BBC, 2014). The Kremlin did not answer to this request, however, on the same day, Russian parliament’s Upper House voted for the use of the armed forces of the Russian Federation on the territory of Ukraine. Three days later, on 3 March, asked by Russian journalists whether Moscow was considering the accession of Crimea to Russia, Vladimir Putin rejected this option (Interfax, 2014).

On 6 March 2014, Crimean parliament voted to join the Russian Federation and added an explicit question about this on the voting form for referendum, rescheduled for 16 March. The next week Crimean deputies went further and adopted a declaration of independence.

On 16 March, Crimean population was asked within the referendum whether they wanted to reunite with Russia as a subject of the Federation and whether they wanted the restoration of the Crimean Constitution of 1992 and the preservation of the Crimea as part of Ukraine. According to Crimean and Russian official data 96.77% of the 83.1% of population that took part were in favour of joining Russia (RT, 2014). However, according to the Mejlis of the Crimean Tatar People, that boycotted the referendum, the percentage of those who voted on 16 March was between 30 and 40 (Ukrinform.ua, 2014), which correlated with the official results would mean that only 29% - 38.7% of the Crimean population voted in favour of joining Russia.

The following day after the referendum, the Crimean parliament officially declared the independence of the Ukrainian peninsula, asked Moscow to admit it as a new subject of the Russian Federation with the status of a republic, made Russian ruble as the Crimea’s official currency and announced that on 30 March the peninsula will switch to Moscow’s time. On 18 March the Russian President Putin and the Crimean leaders signed the “Agreement on the incorporation of the Republic of Crimea into the Russian Federation” (Kremlin.ru, 2014a), that



provided the establishment of two new federal subjects, the Republic of Crimea and Sevastopol as a city of federal importance. On 20 and 21 March the agreement was ratified by the State Duma and the Federation Council. On 21 March it was signed by president Putin, who formalized, thus the annexation of Crimea.

#### 4. In search of legitimacy

The international community has denounced Russia's annexation of Crimea. A series of economic and political sanctions were directed towards the Russian Federation. Only few nations – Afghanistan, Cuba, Nicaragua, North Korea, Syria and Venezuela – have publicly expressed their support for Russian annexation of Ukrainian peninsula. Under foreign pressure and contestation and in front of the option of becoming a pariah status on international arena, Moscow has tried *post factum* to legitimate its actions by re-interpreting the international law, questioning history and manipulating the facts. In the 18 March 2014 address in the Kremlin in front of State Duma deputies, Federation Council members, heads of Russian regions and civil society representatives, President Putin already structured Russia's legitimization discourse. The arguments invoked then will further be developed and only their prioritization will change during Moscow's subsequent efforts to legitimize its actions in Crimea. Thus, according to president Putin (2014a): the events in Crimea were *legal*, in accordance with the international law – the referendum held in Crimea on 16 March was in full compliance with the democratic procedures and international norms. It was fair and transparent, and the people of Crimea, with overwhelming majority, “clearly and convincingly expressed their will and stated that they want to be with Russia”. V. Putin quoted from comments of the UN International Court on declarations of independence and insisted on the right of nations to self-determination. He reminded that Ukraine had seceded from the Soviet Union in a similar way. In reference to the presence of Russian military forces – the “little green men”, Russian president asserted that “Russia's Armed Forces never entered Crimea; they were there already in line with an international agreement” and they only helped create conditions so that the residents of Crimea were able to “peacefully express their free will regarding their own future”. In this regard he highlighted that not a single shot was fired and there were no human casualties. In support of the argument of legality, President Putin highlighted also that there are *international precedents* – Kosovo being invoked in this regard, as a case “created” by “our western colleagues” in a “very similar situation”. As Kosovo Albanians were allowed to unilaterally separate from Serbia, so should be permitted to Russians, Ukrainians and Crimean Tatars in Crimea.

President Putin did not ignore the humanitarian emergencies that had a determinant role in the independence of Kosovo, however, he dismantled this argument on the ground of “blunt cynicism”: “one should not have make sure every conflict leads to human losses”. At the same time, however, V. Putin draw attention



that “if the Crimean local self-defence units had not taken the situation under control, there could have been casualties as well” (Putin 2014a). Thus, even if there were no human losses in Crimea, President Putin insisted that the *lives of ethnic Russians were in danger*: after the coup of Nationalists, neo-Nazis, Russophobes and anti-Semites in Kiev, there was no legitimate executive authority in Ukraine. Those who opposed the coup, “the first in line” being the Russian-speaking Crimea, “were immediately threatened with repression”. Within this context, the residents of Crimea and Sevastopol would have turned to Russia for “help in defending their rights and lives”. And Russia “could not abandon Crimea and its residents in distress” (Putin 2014a). Thus, in the absence of facts the Kremlin has constructed the argument of humanitarian factor on assumptions. This legitimisation argument has been maintained and insisted on every time Russian political leaders had to justify Moscow’s actions in Crimea.

In the support of the humanitarian argument, Vladimir Putin reminded also that Russians have been subjected to *forced assimilation* since 1991, when the residents of Crimea felt as they were “handed over [to Ukraine] like a sack of potatoes,” that there were attempts to deprive Russians in Crimea of their historical memory, even of their language; and that after the “coup” the “new so-called authorities” introduced already a draft law to revise the language policy, “which was a direct infringement on the rights of ethnic minorities.” What ‘had forgotten’ Russian president was the fact that in Crimea there have been only few Ukrainian schools, the education being conducted there extensively in Russian even after the independence of the former Soviet republic, and that the law on language policy has not been cancelled eventually.

In order to exculpate Moscow’s deeds in Crimea in 2014, President Putin contested even the Soviet history. From his perspective, the “re-joining” of Crimea was a reparation of a *historic illegality* because the 1954 decision of transferring Crimea to the Soviet Ukraine was made “in clear violation of the constitutional norms that were in place even then,” that no one was preoccupied about the legal aspects about this transfer that time because no one imagined that Ukraine and Russia may split up and become separate states. However, after the fall of the Soviet Union, Russia realized that “it was not simply robbed, it was plundered.”

President Putin put also the sovereignty of Kiev in a new light. He insisted that Russia and Ukraine were not simply close neighbours, that the two nations “are one people”, that “Kiev is the mother of Russian cities [and] ancient Rus is our common source and we cannot live without each other.” This perspective can have great implications on the interpretation of the concept of sovereignty as it is understood on the international arena.

Crimea was also referred to as special case, both from the perspective of a particular importance for Russian civilization: “everything in Crimea speaks of our shared history and pride,” it was in Crimea where prince Vladimir was baptized, the Orthodoxy, adopted there, predetermining the “overall basis of the culture, civilisation and human values that unite the peoples of Russia, Ukraine and



Belarus;” and from the perspective of Russia’s strategic interests – after the declarations “heard in Kiev” that Ukraine would soon join NATO, this would have meant that “NATO’s navy would be right there in this city of Russia’s military glory” creating “a perfectly real threat to the whole of southern Russia.” NATO is a military alliance, and “we are against having a military alliance making itself at home right in our backyard or in our historic territory” (Putin 2014a).

The 18 March 2014 Putin’s speech set the tone of Russia’s legitimization discourse concerning the events in Crimea. The arguments of legality and Kosovo precedent; the humanitarian factor; the exceptionality of Crimea situation and the special sovereign rights of Ukraine in relation with Russia; Moscow’s strategic interests; and finally the contestation of historic events have been used since by Moscow to counter the accusations of violation of international law and international agreements, the infringement in sovereignty and territorial integrity of the neighbouring country. Yet, not all the above elements of the legitimization discourse have enjoyed the same attention from the Russian political leaders.

For instance, the contestation of the historical events of 1954 have been mentioned only couple of times after the 18 March 2014 speech. The speaker of the Federation Council, Valentina Matvienko, drew attention during the ceremony of the signing the laws on admitting Crimea and Sevastopol to the Russian Federation that “Crimea’s tragic history” began with “Khrushchev’s arbitrary decision, taken in violation of the Soviet Union’s constitution” (Kremlin.ru, 2014b). This topic was resumed half a year later by President Putin during the meeting of the Valdai International Discussion Club, when he explained that as only the Presidiums of the Russian and Ukrainian Supreme Soviets approved the transfer of Crimea peninsula to Ukraine without the approval of the Supreme Soviets themselves as the Soviet law required that time, this was a flagrant illegality (Putin, 2014b). This argument has not been insisted on after 2014, though.

After the 18 March 2014 speech, the Kremlin has not insisted publicly too much on the arguments of security concerns and strategic interests neither. President Putin highlighted that Moscow was worried about Ukraine’s rapprochement with military blocks because if Kiev joined NATO, the infrastructure of the North Atlantic Alliance would have moved directly towards Russia’s border, “which cannot leave us indifferent” (Putin, 2014c). Moscow “could not allow [its] access to the Black Sea to be significantly limited”, to have NATO forces coming on the land of Russian military glory (Crimea and Sevastopol) and “cardinally change the balance of forces in the Black Sea area.” That would have meant also “giving up practically everything that Russia had fought for since the times of Peter the Great, or maybe even earlier” (Putin, 2014d). During the 2015 annual conference, President Putin acknowledged that only from the naval point of view, Russia’s military base in Sevastopol is more important than the bases in Vladivostok or Kamchatka peninsula, which hosts Russian second largest submarine nuclear fleet (Putin, 2015a).

The issue of Crimea has also been presented as an “absolutely special case” – a Russian land, “where a lot of Russian blood was split” (Lavrov, 2014a), where



the issues at stake were “the sources of [Russia’s] history, [Russia’s] spirituality and [Russia’s] statehood” (Putin, 2015b). “Crimea has been associated in the consciousness of Russian people with heroic pages of our history,” while Sevastopol has always been “Russia’s marine glorious city” (Putin, 2015c). Within this context, Russia has “implemented a historical mission and responded to the request of the overwhelming majority of Crimeans” (Lavrov, 2014b). President Putin went even further by implying a divine justice: “Napoleon once said that justice is the embodiment of God on earth. In this sense, the reunification of Crimea with Russia was a just decision” (Putin, 2016).

The relationship between Russia and Ukraine has been portrayed also as being a special one, the two countries being for centuries linked by history, economy, geography, culture, civilizational values and, after all, “by bonds of family and kinship” (Lavrov, 2014c). It is “essentially a single nation in many ways” (Putin, 2014e), “I see no difference between Ukrainians and Russians, I believe we are one people” (Putin, 2015d). Ukraine is a “brotherly country” and “I don’t make any distinction between Russians and Ukrainians” (Putin, 2015e). These arguments suggest in fact that Russia and Ukraine are not quite separate countries, but have been intertwined for centuries (Lo, 2015, pp. 96, 107), which has great implications for the reinterpretation of the rules of sovereignty. Since it implies that Ukraine is not a “real” country, on the one side Russia’s meddling in the affairs of Kiev is not portrayed as external interference but fraternal support and on the other side, Russia operates on the premise that international law applies only to properly independent entities, or Ukraine is an “ahistorical” creation, like other former Soviet republics, and thus, they should have a different treatment (Lo, 2015, p. 96).

The most present and most developed arguments of Russia’s legitimization discourse have been by far those of the legality of actions in Crimea and the humanitarian factor.

Moscow’s main elements of “legal” character of the annexation of Crimea are the referendum of 16 March 2014, the right of nations to self-determination and the precedent of Kosovo. According to Russia’s President, it was the Parliament of Crimea, a legitimate body of authority, that declared a referendum, and on the basis of its results, the parliamentarians adopted a declaration of independence and turned to the Russian Federation with a request to be accepted into the Russian state. The right of nations to self-determination is written in the United Nation’s Charter not simply as a right but “as the goal of the united nations.” Vladimir Putin insisted that the international relations “must be based on international law,” which should be based on “moral principles such as justice, equality and truth” without double standards (Putin, 2014b). “It’s a delusion that Russian troops annexed Crimea.” They only “helped Crimeans hold a referendum” (Putin, 2014f). “It is absolutely obvious that this historical event fully meets the will of the Crimean residents,” the proclamation of independence and the entry of Crimea into the Russian Federation being “legal forms of implementing the right of the people of Crimea to self-determination in a situation where a coup d’etat involving the use of force took place



in Ukraine with outside support” (Lukashevich, 2016). President Putin has insisted also that he added the concluding line of his 18 March 2014 speech about the annexation of Crimea in the last moment because he “was waiting for the referendum results.” “It was the people themselves who made this decision. Russia answered their call and welcomed the decision of Crimea and Sevastopol” (Putin, 2014e). Furthermore, Moscow has insisted on the precedent of Kosovo – “if the Kosovans in Kosovo have the right to self-determination, why don’t the Crimeans have the same right?” (Putin, 2016), highlighting that in fact the events in Crimea were more in line with the international law than those in Kosovo: while Pristina declared its independence by parliamentary decision alone, in Crimea, people held a referendum and “its results were simply stunning” (Putin, 2014g). Foreign minister Lavrov reminded even that there was no referendum organized for Germany’s reunification either (Lavrov, 2015a). Moscow has also called the reference of many experts to the humanitarian crisis in Kosovo as a great difference to the independence process in Crimea as “an anti-humanitarian statement of the problem,” asking cynically whether it was “really necessary that a lot of blood [was] split in Crimea in order to obtain the consent of the Crimean people to have the right to self-defence” (Lavrov, 2014d).

In its efforts to “legalize” the annexation of Crimea, Russia has tried to manipulate even the content of international treaties. Foreign minister Lavrov, who at the moment of concluding the Budapest Memorandum was the permanent representative of Russia to the United Nations, and thus in charge with the registering of the treaty with the Secretariat of the UN, declared that Moscow has not violated this agreement because “it contains only one obligation – not to use nuclear weapons against Ukraine” (Lavrov, 2015b; Lavrov, 2016). What has, however, minister Lavrov omitted is that the first two articles of Budapest Memorandum state that the signatories “reaffirm their commitment to Ukraine [...] to respect the independence and sovereignty and the existing borders of Ukraine [...]; reaffirm their obligation to refrain from the threat or use of force against the territorial integrity or political independence of Ukraine” (Budapest Memorandums, 1994).

The second most developed and most used argument in Russia’s post-Crimea legitimization discourse is the *humanitarian factor*. In this case, however, the rationale is constructed around the assumptions rather than facts. Moscow has insisted that after the “anti-constitutional coup in Kiev” Crimean population was in danger because the people there did not support the “illegal takeover of power” by the “nationalist and fascist” forces. In fact, “Russian speaking population was threatened and these threats were absolutely specific and tangible” (Putin, 2014e) in Crimea in particular, because it was more densely populated by Russians and Russian-speaking than other parts of Ukraine (Putin, 2016). “We were very concerned about any possible ethnic cleansing” (Putin, 2014g) and “we had no right to abandon the residents of Crimea and Sevastopol to the mercy of nationalist and radical militants” (Putin, 2014h) given that Crimean residents, “[thinking] about their future [asked] Russia for help” (Putin, 2014e). In an interview in



January 2016, President Putin emphasized that “it is not the territory and borders that I [was] concerned about but the fates of people” (Putin, 2016).

Starting from the February 2014 decision of the Ukrainian parliament to abolish the 2012 law “On State Language Policy” that gave Russian and other minority languages the status of “regional language,” and which was not cancelled eventually, Moscow has built an entire argument about the discrimination of Russians leaving in Ukraine: “the first thing the new authorities tried to do was deprive the ethnic minorities of the right to use their native language” (Putin, 2014c), “mass violation of human rights in Ukraine, including discrimination and persecution due to nationality, language and political convictions – [making] the existence of the Republic of Crimea within the Ukrainian state impossible” (Lavrov, 2014e). Furthermore, President Putin has been “convinced” that if Russia would have “abandoned” the residents of Crimea under “nationalists boot”, the situation would have been there much worse than in Donbas (Putin, 2015c). Due to Russia’s support, however, “there was no shooting, no one got killed during the events in Crimea” the Armed Forces only stopped the Ukrainian service members stationed there “from interfering with the free expression of will by the residents of Crimea” (Putin, 2016).

## 5. The impact on the Eastern Partnership countries

Russia’s efforts to legitimize its deeds in Crimea in 2014 have broader impact than on its own credibility on international arena. In addition to the *post factum* exculpatory aims, Moscow’s legitimization arguments have caused anxiety in the former Soviet space, in particular in the EaP countries. Sharing many similarities with Ukraine when it comes to foreign policy orientations, the presence of Russian minorities or “special” relations with Moscow, these countries have followed with particular concern both the Kremlin’s actions in Crimea and its discourse of legitimization, being aware of the ease with which the same arguments could be used by Moscow for justification of similar acts of violation of their own sovereignty or territorial integrity. In fact, Budapest Memorandums were not concerning only Ukraine but gave national security assurances to Belarus and Kazakhstan as well.

The reinterpretation of the international law or the discretionary approach towards the content of the international agreements represents a challenge not only for the former Soviet space but for the international system on the whole. As a member of the UN Security Council, OSCE and the Council of Europe, Russia’s approach towards the rules of the international community is followed with special interest by other international actors. In another train of thoughts, as long as Russia disregarded or has interpreted by omission an international agreement which was signed also by the United States and the United Kingdom (Budapest Memorandum), how much confidence can the former Soviet republics have in the CIS Charter that states that all its members are sovereign and independent nations; or in the Tashkent



Treaty of the Collective Security Treaty Organization that established as key objectives the provisions of national and collective security; giving that these documents are signed only by Moscow and the former Soviet republics.

In addition, Russia can invoke a special relationship with any of the EaP countries not only with Ukraine, and thus, implying a restricted degree of sovereignty for these states. The entire former space shares a common history, particular cultural linkages or business relations with Russia. Belarus is seen as part of the core of the Russian World along with Russia and Ukraine. Both Belarus and Moldova belong spiritually to the same Russian Orthodox Church and as Russian Patriarch argues the heart of the Russian World is Russian Orthodox faith” and that “spiritually we [Russia, Belarus, Ukraine and Moldova] remain one nation” (patriarchia.ru, 2009), Moldova enters, thus, the same category of “special” status. The three Caucasus republics belong also to the community of countries with special relations with Russia. They share a long history of “brotherhood” with Moscow – all of them have been both part of the Russian Empire and of the Soviet Union.

Moscow can rely also on the humanitarian argument in every EaP country. All of them have consistent Russian minorities, many of those ethnics having Russian citizenship as well. In fact, the Kremlin invoked the responsibility to protect of its citizens several years before the events in Crimea. During the war in Georgia in August 2008 Russia claimed that had intervened in order to protect the lives of its citizens and peacekeepers and accused Georgia of genocide against the population of South Ossetia (Medvedev, 2008). The humanitarian factor was invoked later in Crimea and no one can exclude that the same argument will be used again by Russia in any other former Soviet republic. In fact, Russia can easily abuse of the ‘privilege’ of responsibility to protect in any protracted conflicts it has contributed to create in the former Soviet space. And among the EaP countries only Belarus does not have such a territorial conflict yet.

The argument of legality of transferring territories during the Soviet times can also be used in the EaP countries. Belarus could be a privileged target in this regard. Within the context of expansionist fervour some Russian commentators have already suggested that once the Crimea “came back,” Russia should re-examine the legality of “ceding of Western provinces of RSFSR to Belarus” (Averyano-Minskii, 2015). In a similar logic, Moscow could claim that Transnistria was ceded to Moldovan SSR as this region did not join the Great Romania after the fall of the Russian Empire, but was transformed into an autonomous republic within the Soviet Union.

Russia can also invoke the need for protecting its strategic or vital interests in any of the EaP countries. After the collapse of the Soviet Union Moscow sought to keep the former Soviet republics closely linked in order to maintain protection of its own territory. Despite the geopolitical changes that occurred after the end of the Cold War, the security stereotypes seem to be still present in Moscow’s foreign policy (Rotaru, 2014, p. 142). The Kremlin appears to be still obsessed by the fear of being encircled by enemies and sees the former Soviet republics as paramount



for the protection of its own borders. As historically, Belarus proved to be the land through which the Western invaders made their way towards central Russia and Moscow, the Kremlin tries to keep this country as close as possible as a precaution. Ukraine is seen as the south-western anchor, Moldova – as a necessary land for protecting Ukraine and implicitly, Russia (Friedman, 2010), while the South Caucasian republics are a buffer zone and an area of rivalry between Russia, Turkey, Iran and the USA (Rotaru, 2014, p. 97). In addition, both in Armenia and Belarus, Russia has military facilities. Armenia hosts a base in Gyumri and a small air base in Yerevan, while Belarus – a base in Vileyka (Minsk region) that ensures the communications of the Navy's main headquarters with Russia's strategic nuclear submarines in Atlantic, Indian and partly Pacific Oceans; and a military base near Baranavichy (Brest region) – a missile attack warning system which follows also the movements of NATO submarines in North Atlantic.

### **Conclusions**

Russia has constructed its Crimea legitimisation discourse on a series of arguments of international law reinterpreting them and mimicking the West's rhetoric. The legality of the process of independence of the Ukrainian peninsula, the right to self-determination of the local population and the humanitarian factor based on the potential threat to the lives of Crimea's inhabitants have been the central justification patterns of the Kremlin's rhetoric targeted at foreign audiences. These discursive elements have been modelled on Western political elites' arguments used especially in the cases of humanitarian intervention and then recognition of independence of Kosovo (right to self-determination and the humanitarian factor). However, Moscow has reminded also the cases of reunification of Germany (invoking the right to self-determination), the dissolution of the Soviet Union (the legal process of independence of the former Soviet republics), and even the independence of the United States of America, whose people "have been proud to hold freedom above all else," a desire the Crimea's residents have, "to freely choose their fate" (see Putin, 2014a).

Russia has insisted on the values of rule of law, right to self-determination and on the humanitarian factor both because Western societies have showed appreciation for these principles and because of their margin of blur and contestation. In addition, these arguments can be folded on emotions distracting attention from evidence or allowing a certain degree of interpretation of facts. Vladimir Putin's assessment as 'blunt cynicism' of Kosovo's humanitarian emergencies and insistence on the presumption that if not Russian intervention, in Crimea there would have been human casualties; or the accusation of the Western politicians of double standards by comparing 'unrecognised' Crimea's right to self-determination with the precedent of Kosovo's recognised use of the same right; being illustrative in this respect. How effective is a such strategy, time will show;



what is obvious now is that Russia's Crimea legitimisation discourse has the potential to create a dangerous precedent for the international affairs.

While challenging the international legal order Moscow's Crimea legitimisation endeavours have a more concrete and profound impact on the former Soviet republics, in particular on the EaP countries. The five co-partners (Belarus, Moldova, Georgia, Armenia and Azerbaijan) share many similarities with Ukraine in terms of 'special relationship' with Russia, presence of compatriots, existent/potential secessionist movements, or foreign policy orientations. In addition, the fact that most of the arguments of Russia's Crimea legitimisation discourse were used in the case of the 2008 war in Georgia and the subsequent recognition of independence of Abkhazia and South Ossetia as well (the humanitarian argument, the right to self-determination, the Kosovo precedent) show a continuity in Moscow's strategy in the 'near abroad' and raise even more awareness among the EaP countries about the potential recurrence of Crimea-like scenario on their own territory. In fact, the developments in Ukraine that reached a peak with the annexation of Crimea and the war in Donbas, started with an EaP summit and the prospects of signing by Kiev of the Association Agreement with the EU, a treaty all of them striving for.

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