

## **REVIEW**

**by Assoc. Prof. Gergana Kostadinova Gozanska, PhD**

**member of the scientific jury according to Order No. RD-21-670/24.03.2023 of the  
Chancellor of Plovdiv University for the appointment of a scientific jury for the public  
defense of the dissertation of**

**Desislava Nikolaeva Dukova**

**for the acquisition of the educational and scientific degree of Philosophy Doctor in  
professional field 3.6. Law, scientific specialty: International Law and International  
Relations**

**on International Legal Aspects of the Crisis in Ukraine**

### **I. Brief biographical data**

Desislava Nikolaeva Dukova was born on November 11, 1994. She completed her secondary education at "St. Kliment Ohridski" Secondary School - Plovdiv, profile in the Humanities with enhanced study of Bulgarian Language, History, English and Russian.

In 2018, she graduated as a Master of Laws at "P. Hilendarski" Plovdiv University. In March 2019, she was enrolled as a fulltime Ph.D. candidate in the doctoral program in "International Law and International Relations" at the University of Plovdiv. The annual attestations of the Ph.D. candidate student have always been entirely positive.

From 2020 until the present, D. Dukova has been working as an Investigating Police Officer" at the Regional Directorate of the Ministry of Interior - Plovdiv.

### **II. General description of the presented dissertation work**

The Ph.D. candidate has submitted a dissertation work in a volume of 258 pages, which contains a list of used abbreviations, a list of figures and tables, an introduction, three chapters, a conclusion, a bibliographic reference. The bibliographic reference includes 242 titles of scientific literature, of which 116 titles are in Bulgarian, the rest are in the Latin alphabet, 44 documents are in Cyrillic and Latin alphabets, 19 sources of case law, 42 Internet sources in Cyrillic and Latin alphabets, 511 footnotes.

The topic of the work is undoubtedly appropriate for a Ph.D. dissertation, in spite of the rich literature on the subject of the crisis in Ukraine. The dissertation is dedicated to a current issue, namely the international legal aspects of the crisis in Ukraine. The study of this aspect of the crisis undoubtedly represents in itself a contribution to the Bulgarian specialized literature on public international law.

The structure of the dissertation work is logically built from the theoretical issues relating to the concept of crisis in international law and international relations, through the genesis and evolution of the crisis in Ukraine and the international legal problems of the crisis in Ukraine.

The conclusions drawn at the end of each chapter and section make a particularly good impression.

In the very introduction (p. 9), D. Dukova has substantiated the relevance and significance of the research. The challenges facing the author have been outlined: an analysis of the current international legal framework defining the rights and obligations of the main actors in the crisis and the legal grounds of states for the actions they have undertaken. The object, the subject of research and the boundaries of the research, the purpose, the research tasks, the scientific methods used are clearly formulated.

The main research thesis is: that the crisis in Ukraine raises significant questions about the fundamental features of international law, being expressed in opposing the Ukrainian position of respecting the right to territorial integrity and non-interference in internal affairs to the Russian position, which defends its actions with the principle of self-determination and protection of human rights (p. 11).

Chapter One, entitled "The concept of crisis in international law and international relations" (in a volume of 58 pages) aims to outline the theoretical basis of the further research. Logically founded is the author's choice to begin with a clarification of the concept of "crisis", making a profound review of the existing doctrinal views in foreign and Bulgarian literature. Then she has analyzed the two approaches in defining crises – the objective and the subjective one.

The catalysts of the crisis, its characteristics (p. 20-22), the different models of its development (p. 22-25), as well as the function it performs (p. 26) are successfully systematized.

Of particular importance is the working definition of the concept of international crisis, as "a change in the type and/or increase in the intensity of destructive interactions between two or more conditions, with an increased probability of military combat operations" (p. 20), as well as the summary made that the crisis is a "turning point in the nature of the relationships between the various participants in it" (p. 26).

In Section 2, D. Dukova has made a distinction between the concepts of: crisis, conflict, aggression, war, by means of an overview of theoretical views. In addition to this, the distinction made between a crisis and a dispute is a contribution (p. 34), as the definition of a dispute by the Permanent Court of International Justice in the case *The Mavrommatis Palestine Concessions* is aptly cited, as well as the distinction between the concept of war and military conflict and relevant international instruments (p. 39).

Section 3, "Main types of crises and conflicts" aims to classify the main types of crises, with a view to their management and resolution. Unidimensional and multidimensional typologies are examined, along with a classification of crises according to different criteria. Attention is paid to material and epistemic crises, and their peculiarities and varieties are specified. The existing classifications of international conflicts are also reviewed in the same part. The author's conclusion on page 55 is that "crises are increasingly becoming international and intercultural events that are strongly influenced by a unique combination of environmental impact, historical background, economic and cultural factors."

In Section 4, D. Dukova has analyzed the approaches to the resolution of crises and conflicts. Theories of conflict resolution, preventive diplomacy, preventive activities of the UN, as well as the role of the UN Security Council in resolving the dispute are examined.

The second chapter is devoted to the genesis and development of the crisis in Ukraine. In Section 1, the reasons for the emergence and development of the crisis in Ukraine are indicated. The author's conclusion that the crisis in Ukraine in the period 2013-2015 "did not arise spontaneously and suddenly, but the main prerequisites and reasons for its origin and development are rooted in history, demography, economy, change in geopolitical orientation, unresolved disputed areas in the relations between Ukraine and Russia" is successful (p. 73). The reasons for the problematic relations between Russia and Ukraine are analyzed: the status of Crimea, the declaration of independence of Ukraine from the USSR. Attention is paid to

the Concept of Foreign Policy of the Russian Federation of 2008 and to the chronology of events in Ukraine. The strategic interests of Russia in relation to Ukraine are clearly formulated (pages 78-79). The events in Ukraine in 2014 that led to the complete control of Crimea by Russia have been followed in detail.

Section 2 is entitled: Legal Instruments Regulating the Relations between Russia and Ukraine. I have to agree with D. Dukova that the relations between Russia and Ukraine are not developing only on the basis of the bilateral agreements signed between them, but are also based on the norms and principles of international law (p. 88). In this regard, it is explicitly stated that relations between the two countries should be based on respect for the principles of international law, as well as be analyzed through the lens of their commitment to the UN Charter. In addition, acts governing the relations between the two countries are indicated. The analysis of the 1994 Budapest Memorandum has been praised along with the subsequent conclusion that it "recognizes the independence, sovereignty and guarantees of Ukraine, guarantees abstinence from encroachments on the latter but all of this is only on paper and promises without legal force." (p. 98).

Section 3, "Escalation of the crisis and its impact on international relations and international law" traces the events after March 1, 2014 that led to the annexation of Crimea. The dimensions of the escalation of the crisis in Ukraine 2013-2015 due to the annexation of Crimea and its impact on international law and international relations are analyzed in detail. These are: the presence of indications that the multipolar world is returning to bipolarity, the serious echo of the crisis in the post-Soviet space, the rapprochement of Russia and China, the role of the UN in resolving the crisis. The topical question has been raised: Are effective actions by the UN possible in situations where one of the participants in an international dispute is a permanent member of the Security Council, with the right to veto? The answer that has been provided is "no" and it has been provoked "in view of Russia's actions regarding Crimea" (p. 115).

Section 4 examines the restructuring of international relations as a result of the crisis in Ukraine. The position of countries that do not support or abstain from voting for sanctions against Russia, considering the crisis to be rather a regional than a global one, is indicated.

In connection with the restructuring of international relations, attention is also paid to the role of international sanctions (Section 5). The types of sanction measures that are applied in international law and international relations have been reviewed. After that, the sanction measures against Russia have been systematized in two groups - before the annexation of Crimea and after its annexation, pointing out to specific examples. It has been concluded that in connection with the crisis in Ukraine, "sanctions are not imposed for economic reasons but are primarily geopolitically motivated" (p. 130).

Chapter Three (p. 84) is devoted to the international legal problems of the crisis in Ukraine and contains six sections.

Section 1 examines the issue of Ukraine's territorial integrity and the non-interference in the internal affairs of an independent state. The principles of non-interference in the internal affairs of states and respect for state sovereignty are analyzed in detail, making a successful comparison between the practice of the International Court of Justice of the United Nations and the crisis in Ukraine, quoting the decision in the case of Nicaragua v. USA (p. 137 and p. 142). Emphasis is also placed on humanitarian intervention and the need to distinguish between legal and moral arguments when using it. On page 148, Russia's arguments in support of the legitimacy of the annexation of Crimea are also listed, and a conclusion has been drawn that in the crisis in Ukraine there is use of international law, particularly interpretation of the rules of international law in favor of legitimizing the actions of the Russian Federation (p. 150).

The issue of the right to self-determination and the legality of the referenda held in Crimea and other breakaway regions in Ukraine is addressed in Section 2. The author has focused on the right to self-determination and the term "people" in international law and their applicability to the crisis in Ukraine, the referendum in Crimea and the subsequent annexation. A contributing point in this section is the detailed analysis of the Constitution of Ukraine and the Constitution of the Autonomous Republic of Crimea and how and on what issues referenda are envisaged (pages 155-159). In addition to that, attention is paid to the autonomy of the Donbass and Lugansk regions, as well as to the referenda held regarding their independence. As a result, it was concluded that the similarities between the referendum in Crimea and those in Donetsk and Luhansk are expressed in the fact that they are "illegal, as Ukrainian legislation does not allow the holding of regional referenda", as well as that they are in violation of The Code of Good Practice on Referendums, adopted by the Council of Europe in 2007 (p. 167).

Section 3 examines violations of international law and bilateral agreements by Russia and Ukraine. The proceedings initiated by Ukraine against Russia before the UN International Court of Justice, the European Court of Human Rights, the International Tribunal for the Law of the Sea, as well as arbitration proceedings initiated by Ukrainian companies were reviewed.

The International Criminal Court's jurisdiction over crimes in Ukraine is analyzed in Section 4. The crimes over which the court exercises its jurisdiction and the proceedings envisaged under the Rome Statute are analyzed in detail. Ukraine's acceptance of the court's jurisdiction and the outcome of the preliminary investigation by the prosecutor of the International Criminal Court have been reviewed. The text on page 198 regarding the necessary constitutional amendment of Art. 124 of the Constitution of Ukraine in order for the country to ratify the Rome Statute is not clear. The quoted provision states that "Ukraine may recognize the jurisdiction of the International Criminal Court under the conditions specified in the Rome Statute." The author continues with the text that "despite this disturbing provision, on July 1, 2019, the amendment to the constitution of Ukraine entered into force..."

Section 5 is devoted to international attempts to find a solution to the crisis in Ukraine. In this regard, the role of the UN Security Council and General Assembly in finding a solution is indicated. Attention has also been paid to the regional organizations and European Union in the search for a way out of the crisis in Ukraine. The specific actions and measures undertaken by the Organization for Security and Cooperation in Europe, the Council of Europe as well as the European Union are listed. With regard to NATO and the Collective Security Treaty Organization, it is stated that both organizations are limited only to expressing disapproval of the crisis developing in Ukraine (p. 212).

Section 6 is devoted to with the reaction of the Bulgarian public to the crisis in Ukraine. Here the author has traced the political and diplomatic contacts between Bulgaria and Ukraine over the years. D. Dukova points out that three different attitudes can be distinguished in Bulgaria regarding the crisis in Ukraine - support for the common position of the EU, a call for the withdrawal of Russian military forces from Crimea and support for Russian actions (p. 215). It is explicitly noted that Bulgaria's position is also determined by its membership in NATO and the EU. In addition, the fact that Bulgaria has supported all the Resolutions of the UN General Assembly in connection with the crisis in Ukraine is also mentioned.

In the conclusion, the author has systematized the main conclusions of the exposition. The main conclusion is that the crisis in Ukraine brings to the focus questions related to international law regarding the use of force, the right to self-determination and the protection of territorial integrity, as well as the legal consequences of serious violations of the imperative rules of general international law.

### III. Evaluation of scientific and practical results and contributions in the dissertation

The first undoubted merit of the dissertation work is the choice of topic. The subject of research has been originally selected and has been rationally limited to the specific manifestations of the international legal aspects of the crisis in Ukraine from 2013-2015.

The dissertation is a systematic study that analyzes the Ukrainian crisis through the lens of international law.

A contribution of the dissertation work is the clarification and definition of the concept of crisis, the distinction made between the concepts of crisis, conflict, aggression and war, the distinction between crisis and dispute, as well as the distinction between war and military conflict.

The part about the formulated strategic interests of Russia in Ukraine is interesting, along with the closely followed events in Ukraine in 2014 that led to Russia's complete control of Crimea.

As I have already pointed out, the detailed analysis of the Budapest Memorandum of 1994 and the conclusions drawn from it in Section 2 of Chapter Two of the dissertation (page 94-98) are contributions.

Research courage has been shown in analyzing the dimensions of the crisis following the annexation of Crimea and its impact on international law and international relations.

The challenges faced by the UN when one of the parties to the dispute is a permanent member of the Security Council and whether effective action by the organization is possible are of particular interest.

A contributing point is the detailed analysis of the Constitution of Ukraine and the Constitution of the Republic of Crimea and how and on what issues conducting of referenda is planned.

Among the contributions of a scientific and applied nature, I would like to include the following:

Of particular practical importance is the systematization of the catalysts of the crisis, its characteristics, the different models of its development, as well as the function it performs.

The exposition on the classification of the main types of crises and conflicts, with a view to their management and resolution, is a contributing point of the dissertation work.

Another merit of the dissertation work is the systematization of proceedings instituted by Ukraine against Russia before international judicial bodies.

The role of regional international organizations as well as the European Union in the search for a way out of the crisis in Ukraine and the specific measures undertaken by them is particularly interesting from a practical point of view.

The good impression of the dissertation work is complemented by the fact that the Ph.D. candidate has 5 publications on the topic of the dissertation.

### IV. Critical notes and recommendations

My main criticism relates to the structure of the individual chapters. Although built in a logical sequence, the uneven exposition in the individual chapters makes an impression. This is especially true for Chapter Three, which is in a volume of 84 pages, in comparison to Chapter One, which is 58 p., and Chapter Two 65 p. In addition, some of the sections are in a volume of 19-21 p., (Section 4, Section 5, Chapter 3) and others are in a volume of 3 p. (Section 4, Chapter 2).

Long sentences are used in many places in the dissertation (p. 57-58, 63, 70, 74-75, 78, 89, 142, 153, 154-155, 160, 181, 200) and numerous repetitions (p. 14-19 repetition of 'crisis', p. 69 repetition of "peace"), which creates difficulties in clarifying the meaning of the text.

I have some other comments. On pp. 67-68 it is stated that two types of missions can be distinguished in peacekeeping operations, and three are listed, including assistance during the transition period. On page 141, humanitarian intervention and the distinction between **legal** and moral arguments are analyzed, and the author has subsequently stated that "whether **political** or moral arguments are chosen, it is necessary to define the criteria for humanitarian intervention..." On page 151, it is stated, that "The right to self-determination has been declared a basic principle of international law, legally enshrined in Art. 1 of the Charter of the United Nations..." For the sake of precision, regardless of the fact that the right to self-determination is usually written as a principle referred to in Art. 1 of the Statute, this article states the goals of the UN, not the principles, which are listed in Art. 2. An error was made on page 178, stating that Russia has objections "to the jurisdiction of the International Arbitration on the Law of the Sea..." The dissertation lacks clarity regarding Ukraine's proceedings against Russia before the International Tribunal for the Law of the Sea and the Permanent Court of Arbitration. The writing of "International Arbitration on the Law of the Sea" /I hope it is a technical error/ does not correspond to the information in the footnote (note 439), which refers to proceedings before the Permanent Court of Arbitration. I do not share what was written on page 180 that "the decisions of international courts and tribunals should be analyzed from the point of view of the so-called soft law", in the context of the following sentence, which states that these decisions are binding. Acts of the soft law category are advisory in nature, and the footnote refers to the use of these acts in rendering judgments by the Inter-American Court of Human Rights.

#### V. Conclusion:

What can be summarized from the presented dissertation work of Desislava Nikolaeva Dukova is the ability to choose a topical problem with deep theoretical dimensions, which has not been fully developed in Bulgaria.

The author has shown skills to systematize and apply the classic methods of legal knowledge, as well as formulate problems and analyze new challenges to international law.

The dissertation meets the requirements of the Law on the Development of the Academic Staff in the Republic of Bulgaria, the Regulations for its implementation, as well as the Regulations of the Plovdiv University, which is why I would like to give **a POSITIVE ASSESSMENT and I suggest that the Scientific Jury award Desislava Nikolaeva Dukova the educational and scientific degree "Philosophy Doctor" in scientific field 3.6. Law, scientific specialty: International law and international relations.**

May 12, 2023

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