

PhD. Candidate: SARA MAHILAJ

(The title, the internal analysis and the most important points are yet to be analyzed. A general focus of where I will focus and what I will address is presented, but it is not final as research.)

Research proposal focus: International Security; European Studies; Human Rights and International Relations.

International organizations in times of crisis.

Russia and Ukraine Case study.

ABSTRACT

The international conflict between Russia and Ukraine will be the subject of this research. A conflict which has affected every sphere of life and clearly necessitates constant analysis, both for the current situation and the preparation for any analogous case that may bring the future. The uncertainty that the present brings to the issue is an important indicator of how unprepared we are in the event of an international conflict. An examination of the reactions of international organizations in times of crisis will be conducted to learn more about where the first mistakes were made. As the author of the European Convention on Human Rights, the Council of Europe is an organization whose goal is state unity and whose focus is on the protection of human rights.

We can see how organizations are reacting today after the attack in Ukraine, but how did they react in Russia's first suspicious illegal moments? Let us recall that when Russia annexed Crimea in 2014, the organizations were in a very different position than they are now. Could the future have been predicted? If that were the case, and if steps were taken, would we still be living in the current Russia-Ukraine situation? All of this requires further research in the course of this scientific study.

Organizations that will be in focus: The Council of Europe, European Union, Organization for Security and Cooperation in Europe, The United Nations,

Keywords: Russia, Ukraine, international organization, Council of Europe.

(To better understand the nature of my research, only the case of the Council of Europe will be analyzed as a presentation.)

INTRODUCTION

This paper analyzes the mission of the Council of Europe and its role in the international arena. This mission, which has been in the interest of many scholars over the years, and as a result of the topicality of its conflict with Russia and as a new issue, still remains not much studied. The relationship between the Russian Federation and the Council of Europe remains unclear, as only in 2019 Russia returned to the Council after a 4-year departure from the organization and for the importance that such a conflict enjoys for European countries (and not only), the study of such a topic remains the focus of interest.

The Council of Europe's stance on Russian reactions raises the question of whether it really is a credible organization in the international arena. The biggest dilemma remains that of interpreting the facts. Due to the interest that this organization has for the European society of the future, a more special focus should be paid to this very topic. Russia's membership in the Council of Europe is viewed with suspicion because of the situation Russia was in at the time of accession. It had different principles from the Council of Europe, where of course that was the main reason why it had to become part of it. To thus become a democratic state and the rule of law, where fundamental human rights and freedoms are exercised and guaranteed, and thus enjoy access to the principles and values affirmed by the CoE. However, despite this indisputable progress, serious questions remain regarding the democratic development of the Russian Federation and the very principle of democratization, as the gap between European standards and the reality of Russia.¹ As these as seen encounters difficulties in reality.

For its entirety according to the data summary, I decided to analyze this topic through an inductive research work. Where the main problem of inductive logic is to determine the truth or falsity of a fact by following the probability of conclusions.²

Research Methods to be used:

Qualitative research; Deductive method with Longitudinal study because of the Russia case; Primary and secondary data; descriptive data;

Background significance- Russia: A case study as part of Council of Europe

Cooperation between Russia and the Council of Europe dates back a long time ago, but due to the study of this scientific paper, the focus will remain on Russia's membership in the Council. Russia's decision to join the Council of Europe had a positive impact on Russia and its citizens, as it was a post-communist country. Its membership coincided with the reform of national

¹ Jean-Pierre Massias, "Russia and the Council of Europe: Ten Years Wasted", Russia/NIS Research Program, France, January 2007, p. 12.

² Stock, SG "Deductive Logic". London (2009): Kessinger Publishing, LLC.

legislation. The Council of Europe Statute does not stipulate what the conditions are for membership, but Article 3 provides:

“Every member of the Council of Europe must accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realization of the aim of the Council as specified in Chapter I.”

In view of this statute which expresses the principles and objectives of the CoE, we conclude that the implementation of fundamental human rights and freedoms are key to membership. Every country that becomes a member of the Council of Europe agrees to be monitored for compliance with human rights and democratic practices in all areas where the law is enforced. To meet the main criteria for accession to the Council of Europe, candidate countries must ratify the Convention on Human Rights, Protocol no. 6 on the abolition of the death penalty, and Protocol no. 13 which removes all circumstances for the death penalty. If these conditions are not met, then no country can claim to be part of the Council of Europe. In this way the situation of the Russian Federation had to be analyzed in order to be in line with the requirements of the CoE.

Upon joining the Council of Europe, Russia imposed a moratorium on the death penalty, as one of the absolute requirements of the Council of Europe for all its members is that the death penalty should not be carried out for any criminal offense.³ Thus, although the death penalty was abolished de facto, it still remains part of the Russian Penal Code and it has not yet been ratified to this day. Therefore, any case that could lead to conflicting consequences between the Council of Europe and the Russian Federation, makes you think about the risk of a return to the death penalty.

According to statistics published by the European Court of Human Rights, the Russian Federation is the country with the highest number of cases sent for violation of articles of the European Convention on Human Rights to this court (among 47 states that are members of the Council of Europe). Over the years, 2,884 cases have been reviewed, which places Russia as the second country with the most cases tried for violation of ECHR articles.

The cases lost by Russia in the Strasbourg Court speak of a necessity that citizens have and a need for "protection" when they cannot find justice in their courts. The opportunity to appeal to the Court of human rights (by ECHR) following the use of national judicial forms is a right already enjoyed by every Russian citizen since the accession of the Russian Federation to the Council of Europe. Of course, this should not be lost despite the conflicts that occur between Russia and the Council of Europe. Russian citizens have overloaded the system with petitions, and the ECHR has often criticized the Russian state for failing to address issues and resolve them

³ Parliamentary Assembly of CoE, Doc. 10911, Rapporteur: Mrs. Renate Wohlwend, Liechtenstein, Group of the European People's Party "Position of the Parliamentary Assembly as regards the Council of Europe member and observer states which have not abolished the death penalty" 21 April 2006.

in accordance with the European Convention on Human Rights. While Russia has been accepted into the CoE with the optimistic idea that "integration is better than isolation; cooperation is better than confrontation", it generally has a good record of paying fines, although it has not been responsible in addressing the request of the European Court of Human Rights to reform the fundamental shortcomings within its legal system.⁴

What puts all of the above even more at risk is the annexation of Crimea by Russia. Ukraine and many other countries did not recognize and condemned the annexation carried out by Russia, considering it a violation of international law and the agreements signed by the latter, which preserve the territorial integrity of Ukraine. The fact that Russia and Ukraine are members of the CoE forms the basis of conflict and contradiction of the CoE actions. The Council of Europe has given its full support to the territorial integrity and national unity of Ukraine and strongly condemns the violation by the Russian Federation of the sovereignty and territorial integrity of the country.⁵

Given the opportunity for dialogue, the CoE Assembly in this way did not cancel the credentials of the Russian Federation but made a temporary suspension of them until the end of the 2014 session, the voting rights of the Russian delegation, as well as its right to be represented in the Bureau, the Presidential Committee and the Standing Committee of the Council Assembly, including his right to take part in election observation missions.⁶ It should be noted that the Parliamentary Assembly of the Council of Europe clearly stated through a resolution that if the Russian Federation did not escalate the situation and stopped the annexation of Crimea it could cancel its credentials. The Parliamentary Assembly stated that: *"threats against Crimea, is beyond any doubt, a serious violation of international law."*⁷

What is understood from this situation is that the Parliamentary Assembly has maintained the right stance as by violating the sovereignty and territorial integrity of Ukraine, the Russian Federation has thus created a threat to stability and peace in Europe. In case of non-response of organizations or states to the issue of Crimea and the conflict with the CoE and Russia, they would bring big steps towards an existential international danger. To protest the decision taken by the Assembly, the delegates left the assembly hall, leaving before the vote on the resolution.⁸ What further escalated the conflict situation between Russia and the CoE was the fact that in 2017 Russia suspended its payment to the Council of Europe (a payment which is mandatory for every member state of the Council of Europe for the progress of the organization).

⁴ Pomeranz, William E. "Uneasy Partners: Russia and the European Court of Human Rights." Human Rights Brief 19, no. 3 (2012): 17-21

⁵ Parliamentary Assembly, "PACE strongly supports Ukraine's territorial integrity and national sovereignty", 03/07/2014.

⁶ Press Release - Parliamentary Assembly, "Citing Crimea, PACE suspends voting rights of Russian delegation and excludes it from leading bodies", April-2014.

⁷ Ibid.

⁸ The Guardian, Hardin L. "Russia delegation suspended from Council of Europe over Crimea" 04/10/2014

"Since we are not allowed to take part in decision-making, we think it is our right not to pay," commented Vyacheslav Volodin Speaker of the State Duma.⁹ This situation was understandably difficult for the Council of Europe as Russia is one of the main donors to the organization's budget. According to her, the resumption of payment would take place only if the Council of Europe agreed to completely abolish the mechanism of imposing sanctions on the delegations of member states. All this was totally contrary to Article 3 of the Statute of the Council of Europe, for the spirit of cooperation that should exist between the member states and the Council itself. Such claims, with a boldness of demands, do not jeopardize Russia's credibility if it really wants to be part of the Council of Europe or wants to downplay and underestimate the CoE role in the international arena. This is considering that the opposite should happen, as Russia as a member of the Council of Europe should strengthen its support for the Council's policies and not fight them.

As a result of all the situation we just mentioned, we can conclude that the Committee of Ministers could request the removal of the Russian Federation from the organization, as long as it for years refused to contribute to its obligations as well as implement the resolutions and the Statute of Council of Europe. These obligations follow every member state with their membership in the Council of Europe. But is this the right choice for the situation?

We have two sides to the coin. The first which demonstrates to us that the Council of Europe should have acted against the Russian Federation and that non-reaction leads us to assess the veracity and credibility of the organization. But on the other hand, if he had acted and removed the Russian Federation from the Council, he would have openly admitted that he could not cooperate with a member state. And so, it would equally damage its reputation as an organization and its strength in the international arena was called into question. Although the organization is not responsible for the reactions of member states, it remains responsible for the way it will react when faced with such a conflict situation.

Consequences of the Russia-Council of Europe conflict

The Council of Europe was hit by a budget crisis and was forced to freeze some of its projects as well as change some procedural rules.¹⁰ What strikes me from this analysis is the fact that the Council of Europe is financially fragile and at any moment it can cease to exist if the states which have the largest contribution to the budget withdraw. This situation clearly shows the need for the Council of Europe to cooperate with its member states or not, for the continuity of the organization and the mission of its creation. Moreover, the damage caused due to non-payment of obligations by Russia goes further than it seems. This is due to the fact that the already limited budget and in crisis makes no progress. The budget is thus used only for existing projects and

⁹ The Federal Assembly of the Russian Federation, "Chairman of the State Duma spoke about the need to return money paid to PACE by Russia", 02/01/2019.

¹⁰ Parliamentary Assembly of CoE, "Modification of the Assembly's Rules of Procedure: the impact of the budgetary crisis on the list of working languages of the Assembly" 03/16/2018

work, to monitor and report on what has already been achieved by the Council of Europe and its continuation, and nothing new and evolving for further progress.

As it is known, Russia returned again after a vote in the Assembly.¹¹ The Parliamentary Assembly of the Council of Europe decided in June 2019 through a resolution that: “the rights of CoE members to vote, to speak and to be represented in the Assembly and its bodies will not be suspended or withdrawn in the context of a challenge (threat) or review of credentials.¹² From this we conclude that the Resolution was drafted in a way that did not specifically mention Russia, as it emphasizes the rights of members to vote and speak, and not to suspend their membership, but that directly affects Russia in this moment of conflict between them; which is undoubtedly in its full interest. Which makes you reason that it was run as a decision for Russia. The Council of Europe, if it is to maintain its credibility, cannot allow a country to violate the rules laid down by it through the Parliamentary Assembly, to threaten, and then to return without explaining any reason that led to the conflict. However, on the other hand it is likely that financial concerns motivated the decision to allow Russia to return. So, apparently a strategy to make Russia part of it again (staying at peace with it), but also setting a precedent which is quite dangerous for the Council of Europe.

This is because other countries with financial power for the Council of Europe can threaten to leave the organization to meet some possible requirements or conditions that they want to meet. Certainly, in this way the organization jeopardizes the purpose of its creation and loses credibility in the millions of people who need its existence and functioning. The suspension or expulsion of a CoE member state from the organization is a very serious measure and hits the sanctioned state hard, which can lead to serious international debates as the goal of the organization is international peace and security of states. But, on the other hand, the non-reaction of the Committee indicates its inactivity and the result goes directly into question on the credibility and authenticity of the Council of Europe. The transparency required in this case for this non-reaction has never been done by the Committee of Ministers and this may raise doubts. However, the challenges of the future are directly related to Russia’s conflict with Ukraine and the issue of Crimea, making coexistence in this organization difficult. Questions are raised about the continuation of the Russian Federation's membership in the Council of Europe. Following the recent events of 2022, the situation of the Russia-Ukraine conflict goes beyond the importance of membership in the Council of Europe and a diplomatic solution is still possible.

The most serious dilemma confronting the Council of Europe is directly related to its conflict with Russia. The Council of Europe was forced to choose between two dangerous and unfavorable options. The first option and risk are associated with Russia's decision to accept its

¹¹ The Council of Europe's Parliamentary Assembly voted 118 in favor and 62 against restoring Russia's voting privileges, which had been banned since 2014. Regardless of the majority, it is clear that a big number of countries were opposed to Russia's conduct, regardless of their policy or relation with Russia.

¹² PACE, “Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting”, Resolution 2287 (2019)

terms of readmission, thereby "betraying" its principles and values. The second option and risk is related to the choice of Russia to leave the organization permanently due to the violations committed and threats against it, which puts in total danger the existence of the organization due to the importance of the financial contribution of the Russian Federation to the Council. Placing a balance between these two dilemmas is extremely difficult to find a solution to, but can be jeopardized for the common good. For that, Russia must be a part of it. If Russia leaves the Council of Europe, it will remove a tool for millions of its citizens to protect their rights and freedoms and reduce attention to violations that may occur within the country. The Council of Europe, always intervening to avoid and prevent violations by Russia, is carrying out its mission, but does this not call into question the will of the Russian Federation?

The solution to any problem that has arisen is and should be open dialogue between states and the reaction of international organizations. What should have been done is as follows:

- Tougher sanctions against Russia and intolerance of revolts within the Assembly without a sanction. The organization must follow the rules outlined in its own statute.
- Readmission to the CoE of Russia to ensure the protection of its citizens, but accompanied by a warning about the risk of membership in case of recurrence of conflicts of this nature.
- Perhaps, what is needed for the CoE is to strengthen its procedural policies of membership and expulsion from the organization. In order for any state that joins or aspires to leave it, to think much better about the consequences that will accompany it.

Conflict situations, various dilemmas and assumptions about possible solutions lead to the conclusion that the truthfulness, credibility, effectiveness of the Council of Europe will always be a question mark, as long as its focus and importance is high.

The role of the Council of Europe is much debated after the conflict with Russia, so to overcome the current crisis in relations between Russia and the CoE one had to think beyond what was already known. The future must be about restoring CoE authority. Restoring and increasing its impact. Increasing the role in discussing and solving all the priority problems that concern all countries of the continent. It must fight for the credibility of the millions of people in need of it and its aid routes, to become more resilient and powerful in the face of possible new crises. To focus together with its member states on the common good "the well-being of the citizens of these states and the protection of their rights", in order to expect a secure and better future for future generations.

References

Colegrove, K. "The United States of Europe" By Edouard Herriot. Translated by Reginald J. Dingle. New York: The Viking Press, 1930. pp. vi, 330. American Journal of International Law, 25(1), (1931) 178-179.

European Youth Center Budapest (EYCB) – Council of Europe collaboration, “Building Peace in Europe” January 2017.

Jean-Pierre Massias, “Russia and the Council of Europe: Ten Years Wasted”, Russia/NIS Research Program, France, January 2007, p. 12.

PACE,” Strengthening the decision-making process of the Parliamentary Assembly concerning credentials and voting”, Resolution 2287 (2019)

Parliamentary Assembly of CoE, “Modification of the Assembly’s Rules of Procedure: the impact of the budgetary crisis on the list of working languages of the Assembly” 03/16/2018.

Parliamentary Assembly of CoE, Doc. 10911, Rapporteur: Mrs Renate Wohlwend, Liechtenstein, Group of the European People’s Party “Position of the Parliamentary Assembly as regards the Council of Europe member and observer states which have not abolished the death penalty” 21 April 2006.

Parliamentary Assembly, “PACE strongly supports Ukraine’s territorial integrity and national sovereignty”, 03/07/2014.

Pomeranz, William E. "Uneasy Partners: Russia and the European Court of Human Rights." Human Rights Brief 19, no. 3 (2012): 17-21.

Press Release - Parliamentary Assembly, “Citing Crimea, PACE suspends voting rights of Russian delegation and excludes it from leading bodies”, April 2014.

Stock, SG “Deductive Logic”. London (2009): Kessinger Publishing, LLC.

The Federal Assembly of the Russian Federation, “Chairman of the State Duma spoke about the need to return money paid to PACE by Russia”, 02/01/2019.

The Guardian, Hardin L. “Russia delegation suspended from Council of Europe over Crimea” 04/10/2014