

WAR AND PEACE IN EUROPE:
LEGAL AND ECONOMIC ISSUES
OF RUSSIA'S AGGRESSION AGAINST UKRAINE
AND THE IMPACTS OF THE WAR

INTRODUCTORY REMARKS

IN the 21st century, up to 2014, Europe and the war tragedy has seemed to be incompatible ever and again. The idea of the united Europe, advocated and expressed by Sir Winston Churchill just after the World War II in 1946¹, gave rise to shaping “the honourable destiny of man”, “enlarged patriotism and common citizenship”. Peoples of Europe united through the Council of Europe, NATO, OECD, European Union, OSCE, and CEI, etc. have been providing their spirit and efforts to “dwell in peace, safety and freedom”. The European family has grown in the number of States, involving the post-socialist and post-Soviet ones, and for decades is being led by the “universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law”². It aims “to achieve a greater unity between its members for the purpose of safeguarding and realising the ideals and principles which are their common heritage and facilitating their economic and social progress”³, to foster prosperity, equality, opportunity and well-being for all, to better prepare the world of tomorrow⁴.

¹ Address given by Winston Churchill (Zurich, 19 September 1946). URL: https://www.cvce.eu/en/obj/address_given_by_winston_churchill_zurich_19_september_1946-en-7dc5a4cc-4453-4c2a-b130-b534b7d76ebd.html

² Consolidated version of the Treaty on European Union, PREAMBLE. Document 12016M000. URL: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016M000>

³ Statute of the Council of Europe, London, 5.V.1949. URL: <https://rm.coe.int/1680306052>

⁴ OECD 60th Anniversary. URL: <https://www.oecd.org/60-years/>

However, the unprovoked military invasion of Ukraine's territories by the Russian Federation of 2014, in fact, has caused an unprecedented political and economic crisis in the new era of the world and European history. The invasion has broken the international peace doctrine and the relevant multilateral and bilateral agreements. It trampled the so-called Budapest Memorandum of 5 December 1994⁵, under which the Russian Federation, Great Britain and the United States of America provided our country with their guarantees to "respect the independence, sovereignty and existing borders of Ukraine" as well as to refrain "from any manifestations of aggression towards Ukraine, including economic pressure" in turn of Ukraine's voluntarily renunciation of its world's third most powerful military nuclear potential. In 2014 the Autonomous Republic of Crimea belonging to the territory of Ukraine has been unlawfully annexed; parts of the Donetsk and Luhansk oblasts of Ukraine have been occupied by the Russian military troops and controlled by its henchmen; considerable part of Ukraine's industrial and cultural potential has been taken away and ruined. Lots of Ukrainians were killed and undergone unhuman sufferings, many lost their homes, property and businesses, became internally displaced persons or migrants. Ukraine has defended its independence in military operations, lived through the humanitarian and economic crisis, while the Russian Federation has been left non-convicted in those crimes on the international arena. A game of caution played with an uncontrolled monster has led to the greater harm, to catastrophe.

The further full-scale military aggression of Russia against Ukraine of 24 February 2022, in the words of Sir Winston Churchill, "wreck[ed] the peace and mar[ed] the prospects of all mankind"⁶. It

⁵ Memorandum on security guarantees in connection with the accession of Ukraine to the Treaty on the Non-Proliferation of Nuclear Weapons, signed in Budapest on 05.12.1994, entered into force on 05.12.1994. URL: https://zakon.rada.gov.ua/laws/show/998_158#Text

⁶ Address given by Winston Churchill (Zurich, 19 September 1946). URL: https://www.cvce.eu/en/obj/address_given_by_winston_churchill_zurich_19_september_1946-en-7dc5a4cc-4453-4c2a-b130-b534b7d76ebd.html

became another shameful act of the current leadership of the Russian Federation in the course of the 20th-21st centuries. For the world community it has become obvious that these actions of the Russian leadership manifest its absolute disregard for the principles of humanism, peaceful coexistence of peoples and states, territorial integrity, respect for human rights, life and dignity and its extremely cynic choice to brutally violate the basics of the international world and legal order aimed at democratic peacebuilding and progressive sustainable development all over the planet. At the same time it plunges its huge country with the naturally given great potential into the abyss of international alienation, spiritual, cultural and economic crisis.

For Ukraine it is more than clear that one of the main reasons for Russia to start this war is the civilizational choice of the peace-minded and freedom-loving Ukrainian people anchored to its European and Euro-Atlantic integration. This choice could not be different – Ukraine is in the centre of Europe geographically; historically, spiritually and mentally it is a European country. This unbeatable choice has won the fight against the decades-lasting tenacious Russia's attempts to draw Ukraine into the "Customs Union", the "Union State" like that of the Russian Federation and the Republic of Belarus now and into the "Collective Security Treaty Organization" (CSTO).

The irreversibility of the European and Euro-Atlantic course of our country's development is enshrined in the Constitution of Ukraine⁷. The brief retrospective glance at Ukraine's pro-European movement proves its vitality. The OECD and Ukraine have been cooperating insistently since 1991 to build better policies for better lives, improving public administration, economic and cultural development. In 2014, the OECD-Ukraine Memorandum of Under-

⁷ See the Preamble of the Constitution of Ukraine, adopted at the 5th Session of the *Verkhovna Rada of Ukraine* on 28.06.1996. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

standing on enhanced cooperation⁸ was signed. Relations between Ukraine and the NATO started in 1992 with signing the Partnership for Peace Framework Document⁹. Ukraine was the first post-Soviet state to join NATO's "Partnership for Peace" Program on February 8, 1994. Since 1995 Ukraine is a member State to the Council of Europe¹⁰ and is a Party to its 184 conventions¹¹. On 1 March 1998 the Partnership and Co-operation Agreement (PCA) between the EU and Ukraine¹² entered into force. The PCA set the first framework for a political and economic cooperation and aimed at consolidating democratic institutions in Ukraine and fostering its participation in the world economy. Since 2014 the ambitious EU-Ukraine Association Agreement¹³ is being implemented. Ukraine and five other post-Soviet states are involved in the realisation of the EU Eastern Partnership initiative being a specific dimension of the Euro-

⁸ Memorandum of Understanding between the Government of Ukraine and the Organization for Economic Cooperation and Development on the deepening of cooperation, signed and entered into force for Ukraine on 07.10.2014. URL: https://zakon.rada.gov.ua/laws/show/966_003#Text, <https://www.oecd.org/eurasia/countries/ukraine/oecd-ukrainememorandumofunderstanding.htm>

⁹ North Atlantic Treaty Organization. Signatures of Partnership for Peace Framework Document. URL: https://www.nato.int/cps/en/natolive/topics_82584.htm

¹⁰ Council of Europe Parliamentary Assembly Opinion (190)1995 "Application by Ukraine for membership of the Council of Europe". URL: <https://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=13929&lang=en>

¹¹ Council of Europe Treaty list for a specific State: Ukraine. Status as of 21.12.2022. URL: <https://www.coe.int/en/web/conventions/by-member-states-of-the-council-of-europe?module=treaties-full-list-signature&CodePays=U&CodeSignatureEnum=&DateStatus=12-21-2022&CodeMatiere=>

¹² PCA with Ukraine enters into force, the European Commission Press release of 27 February 1998. URL: https://ec.europa.eu/commission/presscorner/detail/en/IP_98_198

¹³ EU-Ukraine Association Agreement, ratified by the Law of Ukraine of 19.09.2014 No. 1678-VII. URL: https://trade.ec.europa.eu/doclib/docs/2016/november/tradoc_155103.pdf; https://zakon.rada.gov.ua/laws/show/984_011#Text

pean Neighbourhood Policy. Thus, for decades Ukraine has been a participant of the pan-European and global political, legal, economic, cultural relations on the international, multilateral and bilateral inter-state, inter-regional, people-to-people scales.

For this reason, in 2022 Ukraine has not been abandoned nor left alone by its European and the North-Atlantic partners, or the progressive international community led by UN in its resolute fight against Russia's aggressive war, tyranny and dictatorship. Their mobilised solidarity, humanitarian support to Ukraine and constantly applied instruments of political, military and economic influence are weakening the position of the aggressor and, on the opposite, strengthening Ukraine's efforts to defend its land, protect population, establish justice, and get victory for its peaceful recovery and all-European sustainable development.

The nine packages of unexampled heavy economic sanctions introduced by the EU and other countries of the civilized world towards Russia and Belarus - for the complicity with it, persons and entities, contributing to the biggest war in Europe since the World War II, have been playing havoc with the destructive plans of the aggressor and its supporters and creating truly tangible problems to them.

But, there are cases when the sanctions' implementation is opposed or delayed. There occur the ways to "circumvent" them and further finance the Russian military potential. The decisions of the most influential international institutions like the UN and EU are ignored, including through the use of the right of veto by some of their member States. The environmental danger of military origin, including caused by Russia's purposeful injuring of Ukraine's nuclear energy stations, is growing in Ukraine. It negatively impacts the European neighbourhood and even wider area, aggravates the climate change; these impacts are not predictable and cannot be prevented. The problems of residents of Ukraine, staying on its territory, are complex and become even more complicated under the constant threats of the Russian military attacks on land and air. The temporary migrants from Ukraine, urged to move abroad for security reasons, require prolonged and sufficient support from the host states to meet their needs. Moreover, as the OECD notes, the war

also imperils the world's economic recovery from the COVID-19 pandemic: inflation, food security, energy security and further supply-chain pressures are among the many challenges policy makers worldwide must tackle¹⁴.

This bulk of specific phenomena and extreme realities as well as Ukraine's status of the EU candidate-country granted on 23 June 2022 following the European Council's decision¹⁵, and OECD's acceptance of Ukraine's application for membership passed on 5 July 2022¹⁶, call for multifaceted studies and development of new scientific and practical approaches to solving of the political, legal, economic, environmental and humanitarian problems caused by the current war in Europe.

Notwithstanding the circumstances, Ukraine would never stop its movement in line with Europe. Most recently, on 13 December 2022, the *Verkhovna Rada of Ukraine* (Parliament) adopted a number of laws to meet seven recommendations provided by the European Commission with regard to the start of the accession negotiations. They include the law on improving the procedure for selecting candidates for the position of judge of the Constitutional Court of Ukraine, three anti-money laundering laws (including the Law

¹⁴ OECD. War in Ukraine: Tackling the policy challenges. URL: <https://www.oecd.org/ukraine-hub/en/>

¹⁵ European Council conclusions on Ukraine, the membership applications of Ukraine, the Republic of Moldova and Georgia, Western Balkans and external relations, 23 June 2022.

URL: <https://www.consilium.europa.eu/en/press/press-releases/2022/06/23/european-council-conclusions-on-ukraine-the-membership-applications-of-ukraine-the-republic-of-moldova-and-georgia-western-balkans-and-external-relations-23-june-2022/>

¹⁶ Statement by the Secretary-General: OECD to engage in initial accession dialogue with Ukraine. URL: <https://www.oecd.org/newsroom/statement-by-the-secretary-general-oecd-to-engage-in-initial-accession-dialogue-with-ukraine.htm>; The OECD recognizes Ukraine as a prospective Member of the Organization, says Denys Shmyhal. Communications Department of the Secretariat of the Cabinet of Ministers of Ukraine, posted 05 October 2022. URL: <https://www.kmu.gov.ua/en/news/oesr-vyznala-ukrainu-potentsiynm-chlenom-orhanizatsii-denys-shmyhal>

“On Ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism”), the laws on media and on national minorities. To continue the judicial reform, the Parliament elected members of the Supreme Council of Justice according to its quota¹⁷.

These steps are inspired also by the recently gained Ukraine’s membership in the European Public Law Organization - it joined the Agreement on the Foundation and the Statute of the European Public Law Organization on 06.10.2022¹⁸. It is significant that in the times of war Ukraine has officially joined the EPLO concerted efforts to promote European universal values through public law and governance in a dialogue of civilizations. Undoubtedly, this will give a powerful impetus to further meaningful achievements in the cooperation and application in Ukraine of the high-level expertise of the EPLO members for the sake of its early and long-term post-war recovery and development.

The special issue of the EPLO journal “*Central and Eastern European Law Studies*” on war and peace in Europe provides for the start of scientific discussion and elaboration of promising ideas on setting the problems of survival and development of Ukraine with the help of and together with European countries within the broad reform agenda, and on preventing a recurrence of any war in future.

The EPLO is wise to lead such urgent and difficult discussions, for the topic of Russia’s war against Ukraine will not disappear without a trace just after its end. The President of the European Commission Ms Ursula von der Leyen in the 2022 “State of the Union” Address to the European Parliament of 14 September 2022 has clearly stated: “This is not only a war unleashed by Russia against Ukraine. This is a war on our energy, a war on our econo-

¹⁷ Ukraine has adopted all the necessary laws to meet recommendations for accession to the EU. LIGA ZAKON Business. 14 December 2022. URL: https://biz.ligazakon.net/news/216055_ukrana-priynyala-us-neobkhdn-zakonoproekti-dlya-vikonannya-rekomendatsy-dlya-vstupu-do-s

¹⁸ Law of Ukraine “On joining the Agreement on the Foundation and the Statute of the European Public Law Organization” of 06.10.2022 No. 2634-IX. URL: <https://zakon.rada.gov.ua/laws/show/2634-20#n2>

my, a war on our values and a war on our future. This is about autocracy against democracy”¹⁹.

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We thank the Ukrainian authors contributing to this issue and hope that the wider EPLO academic community would join to enrich the research of the numerous challenges caused by the war in Europe to defend the European values and strengthen the dialogue for the matter of rule of law and peacebuilding.

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¹⁹ 2022 “State of the Union” Address by President von der Leyen. Speech, 14 September 2022, Strasbourg. URL: https://ec.europa.eu/commission/presscorner/detail/ov/speech_22_5493