



Department of Political Science

Chair of International Organizations
and Human Rights

NATO – RUSSIA RELATIONS IN THE PEACEKEEPING OPERATIONS:
THE RUSSIAN PERSPECTIVE

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Academic Year

2016/2017

*Dialogue can be difficult,
but it is also essential,
and in times of raised tensions,
such as now,
it is particularly important
to keep channels of communication open.*

*Allies and Russia may hold different views
but we are committed to
continuing our dialogue
as part of our commitment
to preserving peace and security.*

*NATO Secretary General, Jens Stoltenberg
July 13, 2017*



*We had a constructive relation
with this organization.
In Rome, we established
the NATO-Russia Council, for instance.
But it does not seem to be that now.
The lack of such instruments is bad,
because it doesn't give us
the effective instruments
to constructively cooperate. [...]*

*We need to unite our efforts in combating
main threats.
If we will work together in a constructive
way, we will definitely be cooperating.*

Vladimir Putin, June 2, 2017



ACKNOWLEDGMENTS

First and foremost, I would like to express my gratitude to my supervisor, Professor Maria Beatrice Deli, and her Teaching Assistant, Francesca Astorri, who have constantly assisted me throughout my thesis, continuously motivating me to pursue a deep and balanced knowledge of the object of this dissertation.

This thesis is the result of several experiences I had during the two years of my Master's Degree in International Relations. At the beginning of my first Academic Year, I had the opportunity to participate in a seminar at the Carabinieri School Headquarters on International Humanitarian Law and Modern Warfare. This introduced me to the subject of this thesis.

At the end of my first year, I had been given the unique opportunity to participate in a Summer School in collaboration with the Chief of Staff of the Italian Army. The Summer School introduced me to the peacekeeping operations and, more in the specific, to the NATO role in Kosovo, thanks to a Field experience with the Multinational Battle Group West Joint Enterprise Kosovo. I would like to express my gratitude to those who were involved in this project and to Captain Foglia, in particular.

After the experience in Kosovo, I moved to Moscow, to study at MGIMO University, as an Exchange Student. This experience allowed me to understand more in depth a different perspective and approach to international law and to the peacekeeping operations: the Russian one. The experience at MGIMO has also allowed me to take part in different activities that influenced my work, as the Special Lecture of Professor John Mearsheimer. I would like to express my gratitude to all of my professors who were constantly available at debating on the most controversial security issues. I would like to express again my gratitude to my supervisor, Professor Maria Beatrice Deli, who supported me in my decision on extending my stay in Moscow, allowing me to win a Scholarship for working on my thesis abroad. This gave me the opportunity to work for the PIR Center, a think tank on International Security, where I had the possibility to conduct research on my thesis. I would like to express my deep gratitude to all of my colleagues, and in particular to Dr. Vladimir Orlov, for his remarkable interview.

Last but not least, I would like to express my gratitude to my family, for the unconditional and constant support.

And finally, I would like to thank those who constantly supported me in going to, and living in, Moscow, before and after taking my decision. Without you, all of this wouldn't be a reality.

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INTRODUCTION

Every research project starts because of a question. It is the existence of a question that brings the author into expanding his knowledge in order to find the answer, thus into research.

The Crimean crisis of March 2014 froze the NATO – Russia relationship, changing the Global security equilibrium. But will the NATO – Russia relationship remain frozen?

This question was the *leitmotif* of this research project. When first approaching to the reasons of such freeze in the relations between NATO and Russia, it emerged that it was because of irreconcilable interpretations of the Crimean Crisis. This made other questions arise: why did NATO and Russia have such different interpretations? And was the Crimean Crisis different from the other Conflicts where NATO and Russia were called to take action?

These questions resulted in the decision on studying the NATO – Russia relations in the Peacekeeping Operations. Umberto Eco stated that studying means re-elaborating an experience. That's why, when studying the NATO – Russia relations in the Peacekeeping Operations, I decided to re-elaborate the experience I had during my year at MGIMO, in Moscow, where I had the opportunity to focus on understanding the Russian perspective.

In order to better grasp the NATO – Russia relations in the Peacekeeping Operations, it will be necessary to give a theoretical framework. Thus, it is preliminary to start by an analysis of the United Nations Peacekeeping Operations in order to focus, then, on the different approach of NATO and Russia to these Operations. This is the aim of the first Chapter of this thesis.

The first Chapter defines the Peacekeeping Operations as a United Nations instrument that *“helps countries torn by conflict create conditions for lasting peace”*.¹ Being peacekeeping an instrument of the United Nations, the Chapter proceeds by analyzing the United Nations powers and functions on the maintenance of international peace and security. This implies an explanation of powers and functions of the Security Council

¹ The United Nations, “What is peacekeeping?”, United Nations Website, <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>

under Chapters VI, VII and VIII of the United Nations Charter. The analysis of Chapter VIII results in the analysis of the Regional Arrangements and of their relations with the maintenance of international Peace and Security. This brings to the analysis of NATO and its engagement in, and interpretation of, Peacekeeping. In order to do so, the chosen approach is the study of the official documents of the North Atlantic Treaty Organization. Once understood NATO approach to peacekeeping, it will be possible to compare it to the Russian interpretation of it. Thus, the Russian perspective will be analyzed. The National Military and Security Doctrine and Strategies will be taken as references, as well as the Russian Perspectives on Humanitarian Intervention.

The first Chapter of this dissertation, thus, enhances how Russia and NATO have different approaches to the concept of Peacekeeping.

In order to better realize the existence of different interpretations of the issue, the dissertation moves to a case-to-case approach. The three case studies, in chronological order, follow also an escalating logic, in terms of decreasing cooperation between the two sides, and increasing perception of differences. Each case will be structured in a three-levels analysis: Historical and political background; Legal framework (with the analysis of relevant Resolutions); Relations between NATO and Russia.

The first case study is the 1992 War in Bosnia and Herzegovina. The reason behind the analysis of the Bosnian conflict is the existence of mechanisms of cooperation in the peacekeeping mission to Bosnia and Herzegovina, despite the different understanding of the notion of peacekeeping. The second chapter, thus, proves how, despite differences in notions and despite mistrust, the two actors have been able to cooperate.

The ability to cooperate despite the differences, as appeared with the study of the cooperation between NATO and Russia in the Peacekeeping Mission in Bosnia, makes a new question arise: if NATO and Russia have unbridgeable differences, what makes them cooperate? And was cooperation in Bosnia and Herzegovina an exception? The Bosnian example gives a first answer to this question, enhancing how NATO and Russia were cooperating because both had their own interests in doing so. However, in order to understand whether it was an exception or not, and in order to test the answer the second chapter gave to the research, an analysis of other case studies is necessary.

The Crisis in Kosovo is presented as second Case study, being considered the reason why cooperation started deteriorating. On Kosovo, NATO and Russia had different interpretations of the situation in the Serbian region. This was to be added to the fundamental irreconcilabilities, as emerged with the previous chapters. Russia, additionally, perceived NATO Bombardments to Belgrade to be a serious violation of International Law. This furtherly deteriorated the relations between the two.

Chapter three, thus, aims at answering to an additional question: if NATO and Russia have different perceptions of a crisis, and on the desirable outcome, and if relations between the two are not positive, can they cooperate? The analysis of Russia's decision on cooperating with NATO in finding a solution to the Kosovo Conflict gives a positive answer to this question. However, it should be underlined that Russia decided to cooperate with NATO because it was facing economic and political weakness, thus Russia decided to act as a mediator in the Kosovo Crisis, because it was an effortless demonstration of Russia's influence and importance in Europe.

However, if this confirms the theory for which, despite the presence of irreconcilabilities, NATO and Russia can cooperate because of a mutual interest, this makes a further question arise: and what if Russia had a stronger bargaining power?

The analysis of the Crisis in Georgia, in the regions of Abkhazia and South Ossetia, represents the ideal scenario to give an answer to this question. A change in the Russian leadership and an increased strength of the Russian Federation, in political, military and economic terms, made Russia purposely detach from NATO and intervene in Georgia. Russia's intervention in Georgia was perceived by NATO Countries as a violation of the Territorial Integrity of a Sovereign State. As a result, NATO and Russia suspended their joint activities and froze the existing mechanisms of cooperation, referring to both the NATO-Russia Council, the Political cooperation institution founded in 2002, and to the Partnership for Peace, the Military to Military cooperation mechanism. This froze the NATO-Russia relationship. But was cooperation unachievable anymore? Chapter four gives a negative answer to this question, anticipating that, despite not having solved their misunderstandings, NATO and Russia managed to cooperate in an area where they had a mutual interest: Afghanistan. Chapter Four, thus, demonstrates that NATO and Russia did not cooperate in Georgia because they had no mutual interest that would have required

the solution of the Georgian Crisis. The theory for which NATO and Russia can cooperate if done in order to respond to a mutual threat, or interest, is still valid.

Chapter Fives gives an application to this theory. The Analysis of the Aftermath of the Georgian Crisis, with the analysis of the cooperation in Afghanistan, proves that NATO and Russia can create mechanisms of sectoral cooperation, cooperating in the selected areas of mutual interest.

Cooperation in Afghanistan, however, came to an end because of the Crimean Crisis of March 2014.

The Crimean Crisis brings us back to the first question, the question for which this research was conducted. Will the NATO – Russia relationship remain frozen?

CHAPTER ONE

PEACEKEEPING OPERATIONS: OVERVIEW AND PERSPECTIVES

Introduction

This chapter is focused on the analysis of the United Nations Peacekeeping Operations and on the different approach of NATO and Russia to these Operations.

Peacekeeping, as defined by the United Nations, “*helps countries torn by conflict create conditions for lasting peace*”². Thus, peacekeeping is one of the main instruments the United Nations adopts in order to maintain international peace and security. According to Article 2 of the Charter of the United Nations, the first purpose of the United Nations is the maintenance of international peace and security, the primary responsibility of which is given to the Security Council. Thus, the Security Council establishes principles and guidelines a Peacekeeping Operation has to respect before being authorized. In order to be authorized, a peacekeeping operation has to meet three fundamental criteria. At first, there is the need to have the consent of the parties. Then, impartiality has to be ensured and, finally, there is the need to respect the prohibition on the use of force, if not for self-defense. The three principles will be later analyzed more in detail. Moreover, in order to better grasp the tasks a peacekeeping operation has to accomplish, there is the need to refer to the mandate, that is the basis for any peacekeeping operation. Mandates have to be clear and achievable and, being directed to a specific mission in specific circumstances, they highly depend on the context. This means they differ from one another.

Mandates constitute, together with Chapters VI “Pacific Settlement of Disputes”, VII “Action with respect to threats to the peace, breaches of the peace and Acts of Aggression” and VIII “Regional Arrangements”, of the Charter of the United Nations, the legal basis of Peacekeeping Operations. Thus, it will be necessary to include the analysis of the above mentioned Chapters of the Charter of the United Nations in this first section of the thesis. The above mentioned Chapters define the Security Council role on the maintenance of the international peace and security.

² The United Nations, “What is peacekeeping?”, United Nations Website, <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>

Chapter VI, named as “*Pacific Settlement of Disputes*”, entitles the Security Council to facilitate the parties in reaching a peaceful settlement of a dispute or situation the continuance of which may pose a danger to the stability of the peace. This peaceful settlement function is finalized at the production of resolutions, in the form of recommendations, to the States that are part of the dispute, or situation, inviting them to reach an agreement, indicating the methods by which an agreement can be reached. Methods are the ones of «negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice».³ If no Agreement seems to be reachable, the Security Council may also indicate the terms of settlement.

If measures under Chapter VI prove to be inadequate, the Security Council can decide to adopt measures under Chapter VII, named “*Action with respect to threats to the peace, breaches of the peace and Acts of Aggression*”. These measures include provisional measures, under Article 40; measures not involving the use of force, under Article 41; and measures involving the use of force, under Article 42. Article 43, then, mentions the duty to submit as soon as possible agreements on the availability of troops to the Security Council, but it has never been applied. Thus, in order to maintain the possibility to intervene, the Security Council has started deploying United Nations forces, sometimes combined with, or replaced by, National or Regional Arrangements.

Regional Arrangements find their legal basis in Chapter VIII of the Charter of the United Nations. This Chapter gives Regional Arrangements competences on maintenance of international peace and security related issues, not only when directed to States that are members of the Regional Arrangements, but also when used by the Security Council for its purposes. Criteria and functions will be analyzed later in this chapter more in detail.

Having the status of Regional Arrangement, consequently, the North Atlantic Treaty Organization has progressively developed its own approach to Peacekeeping Operations. NATO’s engagement in Peacekeeping Operations, accordingly, has been the result of a dynamic and gradual process. At the very early stage it was only devoted to the safeguard of the Euro-Atlantic Area. However, during the years, the North Atlantic Treaty Organization evolved its mission from a system of regional collective defense, to a Regional Organization committed to the maintenance of international peace and

³ United Nations, “*Charter of the United Nations*”, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed June 03, 2017] Article 33, par. 1

security. The analysis of the Strategic Concepts by which this was made possible will be given. This will bring us to the analysis of NATO's opening to Russia, in the form of gradually increasing cooperation, until the 2014 suspension of cooperation, resulting from the perception of Russia's challenge to the peaceful Europe after the, in NATO's view, 2014 *illegal military intervention*⁴ in Ukraine.

However, in order to better grasp the relationship between NATO and Russia, also the Russian understanding of peacekeeping will be analyzed, being the one of a more proactive approach, a more physical approach, to peacekeeping.

1.1. Peacekeeping operations: Overview

1.1.1. What is Peacekeeping?

*«We the peoples of the United Nations, determined to save succeeding generations from the scourge of war, which twice in our lifetime has brought untold sorrow to mankind, [... in order] to unite our strength to maintain international peace and security [...] have resolved to combine our efforts to accomplish these aims».*⁵ With these words, back in 1945, at the San Francisco Conference, the Preamble of the Charter of the United Nations, signed by 46 States, officially gave to the newborn United Nations its main function and aim: the maintenance of international peace and security.

Right after the end of the Second World War, the World Order was shaken and in ruins. The global powers knew they had to put all the efforts together, in order to prevent any other war to destroy the peace they had just reached.

As stated in the very first Article of the Charter of the United Nations, accordingly, the first purpose of the United Nations is *«to maintain international peace and security»*.⁶ The instruments for the maintenance of international peace and security find their legal basis in Chapters VI *“Pacific Settlement of Disputes”*, VII *“Action with respect to threats to the peace, breaches of the peace and Acts of Aggression”* and VIII *“Regional*

⁴ North Atlantic Treaty Organization, Statement by NATO Foreign Ministers, 01 April 2014, Par. 1, available at http://www.nato.int/cps/en/natolive/news_108501.htm

⁵ United Nations, Charter of the United Nations, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 3 June 2017], Prologue

⁶ United Nations, Charter of the United Nations, Article 1, par. 1, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 3 June 2017]

Arrangements” of the Charter of the United Nations. These chapters will be later analyzed in detail.

We can start by defining Peacekeeping as “*a technique designed to preserve the peace, however fragile, where fighting has been halted, and to assist in implementing agreements achieved by the peacemakers.*”⁷

Even if not expressly mentioned in the Charter of the United Nations, Peacekeeping operations have become one of the most important, and one of the most utilized, instruments for the maintenance of peace and security.

The practice of peacekeeping operations, accordingly, began in 1948, when the United Nations decided to deploy some observers in the Middle East, trying to obtain stability in the area, monitoring ceasefires and the compliance with the reached agreements. As a result, the United Nations Truce Supervision Organization (UNTSO) became the first peacekeeping operation of the United Nations. Since that year, the Security Council has authorized 71 operations⁸, 15 of which are currently in action⁹.

1.1.2. Peacekeeping: Principles and legal basis

In order to deploy a peacekeeping operation, there is the need to respect three fundamental principles. At first, there is the need to have the consent of the parties. By consent it is meant that the parties express their commitment to a peace-oriented process, confirming their will to accept international personnel on their soil. The consent, however, can be withdrawn. For this reason, it has to be constantly shown and kept active.

Additionally, a United Nations Peacekeeping Operation has to constantly show its impartiality. This means the actions cannot favor any of the parties, nor have to show any prejudice. The evidence of impartiality also needs to be constantly proven. If impartiality fails to constantly be shown, there might be the withdrawal of the above mentioned consent of the parties.

Finally, a United Nations Peacekeeping Operation has to respect the principle of the prohibition on the use of force, with the only exception of self-defense – meaning

⁷ The United Nations, Department of Peacekeeping Operations, United Nations Peacekeeping Operations: Principles and Guidelines, 2008, page 18

⁸ The United Nations, Department of Peacekeeping Operations, Peacekeeping Brochure, available here: http://www.un.org/en/peacekeeping/documents/UN_peacekeeping_brochure.pdf

⁹ The United Nations, “What is peacekeeping?”, United Nations Website, <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>

personal defense, defense of the mission and defense of the civilians -. It is necessary to underline that force is to be seen as a measure of last resort. Accordingly, United Nations forces are not heavily equipped when it comes to peacekeeping operations.

A peacekeeping operation is authorized by the United Nations Security Council. The Security Council issues a mandate that is the basis for any peacekeeping operation. The mandate has to be clear and achievable and it must be specific to that single mission. This means mandates are different from one another. This respects the Security Council adoption of a case-by-case approach.

The mandate contains the tasks a peacekeeping operation has to accomplish. The tasks United Nations Peacekeeping Operations are demanded to accomplish have changed during the years, especially after the end of the Cold War. For this reason, we can now define contemporary Peacekeeping Operations as multidimensional ones.

Prior to the end of the Cold War, Peacekeeping Operations were deployed to support the implementation of measures, e.g. a ceasefire, or agreements. In order to do so, Peacekeepers were demanded to monitor and observe the compliance with the above mentioned measures, as well as to patrol and supervise the territory.

However, after the end of the Cold War, the United Nations Peacekeeping Operations have evolved both in terms of number, both in terms of tasks they are demanded to accomplish. This is the reason why we can now think of Peacekeeping Operations as multidimensional operations, meaning operations aimed at protecting the lives of civilians, facilitating the political progress, restoring the rule of law and promoting the respect of human rights.

All of this is intended to create a stable and secure environment in an area where fighting has been a reality, trying to promote an effective governance.

However, in order to better grasp the functions the Security Council can give to a Peacekeeping Operation, there is the need to distinguish Peacekeeping operations from Peacebuilding operations and Peace-enforcement operations, being all instruments for the maintenance of peace and security.

1.1.3. Peacekeeping, Peacebuilding and Peace Enforcement Operations: a comparison

As already emerged, Peacekeeping Operations are devoted to the protection of human rights and civilians. They are deployed in a context in which there is hostility and, for this reason, they are equipped, even if not heavily equipped, with weapons in order to ensure the protection of the lives of the civilians, and the distribution of humanitarian aids.

Peacebuilding Operations, contrarily, are aimed at creating the conditions for an independent and stable institutional and societal framework for the administration of a country that can autonomously be led in a renewed peace environment. For this reason, they usually involve confidence-building measures. Peacebuilding Operations usually do not involve the use of force. Contrarily, they may involve, for instance, the assistance in the training of police forces, or assistance with the electoral processes. Peacebuilding Operations can also require the creation of special Tribunals for the punishment of international crimes in order to re-establish confidence in the institutional structure.

A Peace-enforcement Operation, inversely, refers to the use of force in order to establish and create peace and security. Thus, it refers to heavily equipped missions devoted to reaching the end of a conflict. If a Peace Enforcement Operation is deployed, troops are committed to using force to establish peace, this meaning a Peace-enforcement operation differs from a peacekeeping operation in terms of equipment and in terms of force related measures they are demanded to put in action.

1.1.4. The Security Council's primary responsibility for the use of force

It should be remarked at this point that the United Nations is not in possession of an army of its own. Troops are given to the Security Council by means of Stand-by Arrangements with the Member States. In compliance with the Stand-by Arrangements, Member States shall ensure that their contingents are ready and well trained for peacekeeping operations, so that the Security Council could use those contingents, after signing an agreement with the providing State. However, as already stated, troops in Peacekeeping are not heavily equipped, since they are entitled to the use of force only in

the case of self-defense – also in the meaning of defense of the mission and defense of the civilians -.

As it might have emerged, Peacekeeping Operations are forces under the responsibility of the Security Council. The Security Council, then, delegates some functions to the United Nations Secretary General. The Secretary General, accordingly, conducts the operations maintaining the control, in terms of provision and command of the forces, of the Field Operations in compliance with Article 98¹⁰. Moreover, the Secretary General has to nominate a Special Representative with the consensus of the Security Council.

In sum, the responsibility on Peacekeeping Operations always remains in the hands of the Security Council.

The stress put on the maintenance of international peace and security required, in fact, a fully dedicated body in the United Nations Institution, to be empowered with exclusive and preliminary authority, so that there could have been the certainty that constant and prompt actions of the United Nations could have been ensured with no obstacles. Consequently, the United Nations Security Council was founded, and given, by Article 24, *«primary responsibility for the maintenance of international peace and security»*.¹¹

The Charter of the United Nations defines more in detail the framework in which the Security Council carries out its functions in Chapters VI, VII and VIII.

¹⁰ United Nations, Charter of the United Nations, Article 98, par. 1, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: «The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, **and shall perform such other functions as are entrusted to him by these organs**. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.».

¹¹ United Nations, Charter of the United Nations, Article 24, par. 1, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 3 June 2017]: «In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf».

1.2. The United Nations Security Council Functions on the Maintenance of International Peace and Security

1.2.1. The Security Council functions under Chapter VI of the Charter

Under Chapter VI of the Charter of the United Nations, named as “*Pacific Settlement of Disputes*”, the Security Council is entitled to facilitate the parties in reaching a peaceful settlement of a dispute or situation the continuation of which could only potentially endanger the stability of peace. This peaceful settlement function is directed at the production of resolutions, in the form of recommendations, to the States that are part of the dispute, or situation, inviting them to reach an agreement, also indicating the methods by which an agreement can be reached.

Consequently, under Chapter VI of the Charter of the United Nations, the Security Council, in making an invitation to the States, has no binding authority, given the legal nature of the recommendations. Not being binding, in fact, it is inconceivable the possibility for the United Nations Security Council to impose any sanction, nor authorize the use of force, under Chapter VI.

Article 33 of the Charter of the United Nations opens Chapter VI. This Chapter contains all the provisions according to which the Security Council may make recommendations in order to facilitate the parties to reach a pacific settlement of the dispute.

Prior to make any recommendation, the Security Council has to evaluate the disputes or situations in terms of gravity, referring to both their nature and to the means by which one of the sides is endangering peace. This gives the Security Council a fundamental discretionary power, as clearly stated in Art. 33 of the Charter.¹²

Article 33 also invites the parties to reach a peaceful settlement to that specific dispute, expressly indicating all the methods by which a peaceful settlement can be reached. More in details, Article 33 refers to «negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice».¹³

¹² United Nations, Charter of the United Nations, Article 33, par. 2, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 3 June 2017]: «The Security Council shall, **when it deems necessary**, call upon the parties to settle their dispute by such means».

¹³ Ibid, par. 1

However, it should be underlined that Article 33 only provides a general framework. Under Article 33, accordingly, the Security Council is not entitled to make any recommendation on what specific method the parties should adopt. This function is given to the Security Council by Article 36. Article 36, additionally, gives the Security Council, at any stage of a dispute, the power of making recommendations, also taking into account any procedure already adopted, or at least taken into consideration by the parties to the dispute.¹⁴ Under Article 36, moreover, the Security Council may decide to create subsidiary bodies, as Conciliatory Commissions for instance, in order to facilitate the parties to the dispute or situation in reaching an agreement. This, however, does not give the Security Council the power to enter into the merits of the dispute or situation, this meaning it cannot indicate the terms of settlement.

However, in the case in which no Agreement seems to be reachable between the parties, under Article 37 paragraph 2¹⁵, the Security Council might also indicate the terms of settlement. Article 37, additionally, transforms the possibility of referring a dispute or situation to the United Nations Security Council into a mandatory duty, being for them impossible to reach an agreement using the procedures indicated by the previously mentioned Article 33. It should be noticed that, when recalling Article 33, in order to make the Security Council recommend the terms of settlement, the parties don't have to demonstrate they have tried all the provisions indicated in Article 33. The parties, in fact, should only prove the concrete impossibility of reaching an agreement.

However, recalling that the Security Council is not entitled to issue binding resolutions under Chapter VI, it all depends on the will of the parties to the dispute. The action of the Security Council, accordingly, is, under Chapter VI of the Charter, interpreted as an invitation to the States to make them peacefully settle a dispute, so that the indicated procedures cannot be considered as an obligation to fulfil.

¹⁴ United Nations, Charter of the United Nations, Article 36, par. 1 and 2, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: « (1) The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment. (2) The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties».

¹⁵ United Nations, Charter of the United Nations, Article 37, par. 2, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: « (2) If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate».

1.2.2. The Security Council Actions with Respect to Threats to the Peace, Breaches of the peace and Acts of Aggression, under Chapter VII of the Charter of the United Nations.

A stronger action of the Security Council is considered to be the one carried out under Chapter VII of the Charter of the United Nations. If measures under Chapter VI proved to be inadequate, the Security Council can decide to adopt measures under Chapter VII. Before going into details, some basic differences have to be underlined.

If Chapter VI of the Charter of the United Nations referred to disputes or situations the continuance of which could potentially pose a danger to international peace and security, Chapter VII refers to actions directed at maintaining the peace after the confirmation of the existence of a threat to the peace, breach of the peace or Act of Aggression. In sum, Chapter VII gives the power to the Security Council to adopt measures to restore the peace, after a threat to the peace, breaches to it, or after an act of Aggression has been conducted.

Measures include provisional measures, under Article 40; measures not involving the use of force, under Article 41; and measures involving the use of force, under Article 42. The three will be later analyzed more in details. It is necessary at this point to underline that the Security Council, referring to measures under Article 42, retains exclusive authority on the use of force, referring to both actions against a State, and within domestic affairs as well, in the case of civil war, for instance. Moreover, the exclusive authority is also to be understood both in the sense of the power to decide to intervene, as well as in the sense of the responsibility on the missions.

Before going into details, being the above mentioned measures directed against threats to the peace, breaches of the peace and Acts of Aggression, it is now necessary to provide an understanding of the three circumstances.

1.2.2.1. *How to define Acts of Aggression, Breaches of the Peace and Threats to the Peace?*

A definition of Aggression is not expressly given in the Charter of the United Nations. However, in order to avoid misinterpretations or misunderstanding, the General

Assembly adopted, in December 1974, the Resolution n. 3314 (XXIX), defining what it is meant by Aggression. Article 1 of the Resolution defines Aggression as

«the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this Definition».¹⁶

Though, it should be anticipated that this definition does not limit, nor compel the functions of the Security Council.

Additionally, Article 3 of the Resolution n. 3314 (XXIX) gives a list of acts that can be considered as Aggression¹⁷, such as a bombardment or a blockade, but Article 4 eliminates major constraints to the decisions of the Security Council, by stating that even if an act is not indicated as act of Aggression in the list provided by Article 3, the Security Council may determine that it constitutes an illicit intervention, and consequently an act of Aggression.¹⁸

However, this is not to indicate that the Security Council has no limits in determining whether it is called to take action against a threat to the peace, a breach of the peace or an Act of Aggression. If it is true that the Charter does not give an explicit definition of what it is meant by threat to the peace, breaches of the peace, or Act of Aggression, and if it is also true that States have not adopted a Resolution similar to the 3314 (XXIX) that can give a definition of the other two circumstances, the tenets of the international law affirmed it is possible to understand their meaning by interpretation.¹⁹

¹⁶ United Nations General Assembly, A/RES/29/3314, “*Definition of Aggression*”, 14 December 1974. available at: <http://www.un-documents.net/a29r3314.htm> [last accessed June 03, 2017], Article 1

¹⁷ *Ibid.*, Article 3 «Any of the following acts, regardless of a declaration of war, shall, subject to and in accordance with the provisions of article 2, qualify as an act of aggression: (a) The invasion or attack by the armed forces of a State of the territory of another State, or any military occupation, however temporary, resulting from such invasion or attack, or any annexation by the use of force of the territory of another State or part thereof; (b) Bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State; (c) The blockade of the ports or coasts of a State by the armed forces of another State; (d) An attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of another State; (e) The use of armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the agreement or any extension of their presence in such territory beyond the termination of the agreement; (f) The action of a State in allowing its territory, which it has placed at the disposal of another State, to be used by that other State for perpetrating an act of aggression against a third State; (g) The sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein».

¹⁸ *Ibid.*, Article 4 «The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter».

¹⁹ Conforti, Benedetto: “*Le Nazioni Unite*”, CEDAM, 2010

By interpretation, according to Conforti, a breach of the peace can occur if there is a dangerous situation that can be considered as a conflict, since peace has been violated, but is not comparable to the ones that are included in the above mentioned list of Acts of Aggression.²⁰

Different is the definition of a threat to the peace. Being a threat, it is not easy to enumerate all the different scenarios in which peace could be threatened. Accordingly, the tenets underline that peace could be threatened by such a large amount of actions, so that the possibilities are uncountable²¹. Thus, the Security Council has more discretion on deciding whether a dispute is a threat to the peace or not. It is not a case that, as pointed out by Conforti²², when adopting resolutions under Chapter VII, the Security Council, in the premises of the resolution, has more often referred to a threat to the peace, rather than to the other circumstances. An example of threat to the peace can be a gross violation of Human Rights.

If the nature of these definitions gives the Security Council the opportunity to adopt a case-by-case approach, this does not mean, though, it has no limits. In adopting a case-by-case approach, accordingly, the Security Council gives the States the possibility to challenge the nature the Security Council attributes to every single case.

Once determined the nature of the act, and once understood the definitions, it is now necessary to analyze the measures by which the Security Council can carry out its functions.

1.2.2.2. The United Nations Security Council Measures under Chapter VII of the UN Charter

The Security Council is entitled, under article 39, to adopt resolutions, in the form of both recommendations, so that they are not binding, and decisions, so that they are binding. Before going into details, it is necessary to underline that if under Chapter VI the involved State has to abstain from voting, as indicated by Article 27²³, under Article 39 this is not applicable anymore.

²⁰ Ibid

²¹ Ibid

²² Ibid

²³ United Nations, Charter of the United Nations, Article 27, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting

In terms of voting procedure, additionally, another fundamental difference with Chapter VI is that resolutions under the above mentioned Articles 40, 41 and 42, not being procedural matters, have to be approved not anymore by the affirmative vote of nine out of fifteen members, but the concurring votes of the permanent members also have to occur. This means that the above mentioned measures can be vetoed by the permanent members, according to the already mentioned Article 27.

These measures follow a three-levels structure, depending on the gravity of the dispute or situation. The Security Council can, for this reason, adopt, as already anticipated, provisional measures, under Article 40; measures not involving the use of force, under Article 41; and measures involving the use of force, under Article 42. It should be underlined that this three-levels structure does not imply that one necessarily has to precede the other. Contrarily, the Security Council adopts the specific measure that is retained to be better responding to a specific situation. Being the context unforeseeable, it might be useful and necessary to adopt, before than a ceasefire, for instance, a sanction. Moreover, prior going into details, it is necessary to state that these provisions are not subjected to the limit of domestic jurisdiction, this meaning the Security Council has no limits in entering into the *domaine réservé*, so in the domestic affairs, of the involved State when adopting one of the following measures.

Once analyzed the basic principles, it is now necessary to analyze the provisions more in detail.

Under Article 40, the Security Council may «call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable».²⁴ Being provisional and urgent, They refer to emergency measures. In advising the adoption of an emergency measure, the Security Council aims at avoiding an escalation or worsening of the matter. A textbook example could be a ceasefire. It should be noticed that the adoption of one of the measures under Article 40 is not compulsory, in the sense that it is not mandatory for the Security Council to adopt, as the first step, a measure in compliance with Article 40. Moreover, they should be interpreted as an invitation the Security Council

²⁴ United Nations, Charter of the United Nations, Article 40, 24 October 1945, 1 UNTS XVI, available at: <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: « In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures».

makes to the States, so that it all depends on their will. Being the final outcome in the hands of the States, and depending on their will to comply, it should be concluded that resolutions under Article 40 have to be intended as recommendations.

In the case in which the Security Council adopts resolutions under Article 41, not involving the use of force, as the severance of economic or diplomatic relations, or the severance of air communications, the Security Council sanctions a State that it considers to be threatening or to have already threatened, the peace.²⁵ The nature of what the Security Council believes the involved State has done cannot be second-guessed, having the Security Council the exclusive authority on the maintenance of peace and security. Additionally, if measures under Article 40 have a very specific provisional nature, measures under Article 41, being sanctions, necessarily have to be interrupted when the situation poses no danger anymore. Having the possibility of adopting both recommendations and decisions, accordingly, the Security Council is conscious that, sometimes, in adopting decisions, according to Conforti²⁶, States might voluntarily decide not to comply with their obligations. For this reason, the Security Council might include the creation of subsidiary bodies, so that they could control the compliance with the obligation of imposing the sanctions. Moreover, these bodies can also ensure that third States are not damaged by the sanctions.

The possibility for the Security Council to intervene is regulated by Article 42 – and followings - of the Charter of the United Nations. Article 42²⁷ provides the Security Council the power to adopt coercive measures implying the use of force, both military and non-military. Measures under Article 42 can, more in detail, refer to «demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations».²⁸

²⁵ United Nations, Charter of the United Nations, Article 41, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations».

²⁶ Conforti, Benedetto: *“Le Nazioni Unite”*, CEDAM, 2010

²⁷ United Nations, Charter of the United Nations, Article 42, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: «Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.».

²⁸ Ibid.

The military measures under Article 42 refer to a direct action that provides the Security Council the responsibility on the National Army that has been deployed, under an international command. However, if Article 43 mentions the duty to submit as soon as possible agreements on the availability of troops to the Security Council, then regulated by Articles 44 and 45, these three provisions have never been applied. Thus, the United Nations has no army of its own.

Hence, in order to maintain the possibility to intervene, the Security Council has adopted a series of mechanisms that could allow it to accomplish its powers, deploying United Nations forces, combining National Armies, or sometimes integrating or replacing them, with Regional Arrangements.

1.2.3. Regional Arrangements: Chapter VIII of the United Nations Charter and the 1992 Agenda for Peace

In 1992, 47 years after the United Nations Charter was signed, “An Agenda for Peace: Preventive diplomacy, peacemaking and peacekeeping”, a report written by Boutros-Boutros Ghali, former United Nations Secretary-General, called for strengthening peacemaking and peacekeeping. In order to do so, in paragraph 7, the report states:

«The Charter devotes Chapter VIII to regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action and consistent with the Purposes and Principles of the United Nations. [...]. In the past, regional arrangements often were created because of the absence of a universal system for collective security [...]. But in this new era of opportunity, regional arrangements or agencies can render great service if their activities are undertaken in a manner consistent with the Purposes and Principles of the Charter, and if their relationship with the United Nations, and particularly the Security Council, is governed by Chapter VIII. [...] Under the Charter, the Security Council has and will continue to have primary responsibility for maintaining international peace and security, but regional action as a matter of decentralization, delegation and cooperation with United Nations efforts could not only lighten the

burden of the Council but also contribute to a deeper sense of participation, consensus and democratization in international affairs».²⁹

As emerged, Regional Arrangements are regulated by Chapter VIII of the Charter of the United Nations. Article 52, accordingly, gives to the Regional Arrangements competence on the maintenance of international peace and security, when related to disputes between the Member States.³⁰

However, under Article 53, Regional Arrangements are competent on the maintenance of international peace and security, not only when related to States that are member of the Regional Arrangements, but also when used by the Security Council for its purposes.³¹

Five are the functions given to Regional Arrangements by the United Nations Security Council. Regional Arrangements can be used by the Security Council in order to get consultation on specific conflicts that both might be addressing at the same moment. Moreover, diplomatic initiatives connected to peacekeeping operations may require diplomatic support to that mission that can be specific to a Regional Arrangement. Moreover, when dealing with peace-enforcement, the Security Council may demand Operational Support, while, when dealing with peacekeeping, Co-deployment of forces can be required. Finally, when the Security Council retains it necessary, Regional Arrangements can be entitled to participate to Joint Operations, sharing roles on staffing, direction and financing of the Operations with the Security Council.

The increasing tendency and importance given to Regional Arrangements has been confirmed by the Statement made by the President of the United Nations Security Council, on May 24, 2016³², when he stated that the Security Council «*reiterates that*

²⁹ United Nations Secretary General, *An Agenda for Peace: Preventive diplomacy, peacemaking and peacekeeping*, par. 7, 17 June 1992, A/47/277, available at <http://www.un-documents.net/a47-277.htm> [last accessed 4 June 2017]

³⁰ United Nations, Charter of the United Nations, Article 52, par. 2, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: « The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council».

³¹ United Nations, Charter of the United Nations, Article 53, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: «The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action Under its authority [...]».

³² United Nations Security Council, Statement by the President of the Security Council, 24 May 2016, S/PRST/2016/8, available at http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_prst_2016_8.pdf [last accessed June 03, 2017]

*cooperation with regional and sub-regional organizations is critical to contributing to the prevention of the outbreak, escalation, continuation and recurrence of conflict, emphasizes the importance of a comprehensive approach to sustaining peace, particularly through the prevention of conflict and addressing its root causes».*³³ The Statement also remarks that Regional Arrangements can contribute to the improvement of Collective Security.

However, in order to be a Regional Arrangement, some criteria have to be met. The Organization has, at first, to have a regional nature, in a Geopolitical, rather than geographical, understanding. Moreover, goals and purposes of the Arrangement have to make it competent on, and in line with, the maintenance of international peace and security. And finally, it has to demonstrate a substantial –in its activities – and formal – with its Founding Act – compliance to United Nations ideals and aims.

All the criteria have been met by the North Atlantic Treaty Organization, a Regional Arrangement founded in 1949.

1.3. The North Atlantic Treaty Organization: Co-operation in Peacekeeping

1.3.1. The establishment of the North Atlantic Treaty Organization

NATO's engagement in Peacekeeping Operations has been the result of a dynamic and gradual process.

When established, in 1949, the North Atlantic Treaty Organization was an Organization set up by States that were “*resolved to unite their efforts for collective defense and for the preservation of peace and security*”.³⁴ The North Atlantic Treaty Organization, consequently, was committed to the safeguard of peace in the Euro-Atlantic geographical area.

³³ *Ibid.* p. 2/4

³⁴ North Atlantic Treaty Organization, The North Atlantic Treaty, 04 April 1949, Prologue, available at http://www.nato.int/nato_static/assets/pdf/stock_publications/20120822_nato_treaty_en_light_2009.pdf

In order to accomplish this aim, the Organization planned to promote the development of peaceful and friendly relations, as stated in Article 2³⁵, as well as a collective system of resistance to armed attacks to the Allies, under Article 3³⁶.

Moreover, the Parties, remarking their faith in the Charter of the United Nations, recalling Article 51 of the Charter, committed, under Article 5³⁷ of the North Atlantic Treaty, in the case of an armed attack – as defined in Article 6³⁸ - to one of the members, to grant assistance to the attacked State.

As a result, Article 5 gave formality to a system of collective defense, requiring the Parties to give assistance to the attacked member, by providing the aid they retain to be appropriate.

However, the North Atlantic Treaty Organization evolved its mission from a system of regional collective defense, to a Regional Organization committed to the general maintenance of international peace and security.

This evolution has not seen a modification of the NATO Founding Act. The creation of Missions non-under Article 5, hence, has been the result of a gradual process.

³⁵ North Atlantic Treaty Organization, The North Atlantic Treaty, 04 April 1949, Article 2, available at http://www.nato.int/nato_static/assets/pdf/stock_publications/20120822_nato_treaty_en_light_2009.pdf « The Parties will contribute toward the further development of peaceful and friendly international relations by strengthening their free institutions, by bringing about a better understanding of the principles upon which these institutions are founded, and by promoting conditions of stability and well-being. They will seek to eliminate conflict in their international economic policies and will encourage economic collaboration between any or all of them».

³⁶ North Atlantic Treaty Organization, The North Atlantic Treaty, 04 April 1949, Article 3, available at http://www.nato.int/nato_static/assets/pdf/stock_publications/20120822_nato_treaty_en_light_2009.pdf « In order more effectively to achieve the objectives of this Treaty, the Parties, separately and jointly, by means of continuous and effective self-help and mutual aid, will maintain and develop their individual and collective capacity to resist armed attack».

³⁷ North Atlantic Treaty Organization, The North Atlantic Treaty, 04 April 1949, Article 5 par. 1, available at http://www.nato.int/nato_static/assets/pdf/stock_publications/20120822_nato_treaty_en_light_2009.pdf « The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area.».

³⁸ North Atlantic Treaty Organization, The North Atlantic Treaty, 04 April 1949, Article 6, available at http://www.nato.int/nato_static/assets/pdf/stock_publications/20120822_nato_treaty_en_light_2009.pdf « For the purpose of Article 5, an armed attack on one or more of the Parties is deemed to include an armed attack:

- on the territory of any of the Parties in Europe or North America, on the Algerian Departments of France (2), on the territory of or on the Islands under the jurisdiction of any of the Parties in the North Atlantic area north of the Tropic of Cancer;
- on the forces, vessels, or aircraft of any of the Parties, when in or over these territories or any other area in Europe in which occupation forces of any of the Parties were stationed on the date when the Treaty entered into force or the Mediterranean Sea or the North Atlantic area north of the Tropic of Cancer».

1.3.2. NATO's gradual engagement with Peacekeeping

It all started in November 1991, with the adoption of a new Strategic Concept. The Strategic Concept is a NATO Official Document issued in order to remark purposes and functions of the North Atlantic Treaty Organization, as well as its security tasks. In sum, Strategic Concepts, in reviewing changes to the global security environment, define the NATO response to a new context.

In 1991, the world had to formulate a response to the collapse of the Soviet Union. NATO considered the security environment to have changed and, thus, wanted to react in what it retained the most appropriate way.

In noticing improvements to the overall security of the Allies³⁹, NATO admitted the existence of an evolving security environment, capable of posing challenges and risks that could have been different from the ones NATO had prepared to face since 1949. NATO was conscious that challenges could have been the result of economic, social or political (for ethnic or territorial disputes) difficulties⁴⁰. Hence, in deciding not to change its Founding Act, and maintaining its original purpose, committed to a broader approach to international security, so that NATO could have better faced the new opportunities and risks coming from a new security environment.⁴¹ The chosen strategy was the one of the adoption of political means, in order to strengthen dialogue and cooperation, aiming at increasing confidence and solidarity among the members. NATO was also ready to start bilateral and multilateral cooperation, with both member and non-member States, in order

³⁹ North Atlantic Treaty Organization, The Alliance's New Strategic Concept, 07 November 1991, Part. 1, Par. 1, available at http://www.nato.int/cps/sl/natohq/official_texts_23847.htm « Since 1989, profound political changes have taken place in Central and Eastern Europe which have radically improved the security environment in which the North Atlantic Alliance seeks to achieve its objectives».

⁴⁰ North Atlantic Treaty Organization, The Alliance's New Strategic Concept, 07 November 1991, Part. 1, Par. 9, available at http://www.nato.int/cps/sl/natohq/official_texts_23847.htm « Risks to Allied security are less likely to result from calculated aggression against the territory of the Allies, but rather from the adverse consequences of instabilities that may arise from the serious economic, social and political difficulties, including ethnic rivalries and territorial disputes, [...] which could involve outside powers or spill over into NATO countries, having a direct effect on the security of the Alliance».

⁴¹ North Atlantic Treaty Organization, The Alliance's New Strategic Concept, 07 November 1991, Part. 1, Par. 14, available at http://www.nato.int/cps/sl/natohq/official_texts_23847.htm « Two conclusions can be drawn from this analysis of the strategic context. The first is that the new environment does not change the purpose or the security functions of the Alliance, but rather underlines their enduring validity. The second, on the other hand, is that the changed environment offers new opportunities for the Alliance to frame its strategy within a broad approach to security».

to achieve peace and increased stability in Europe. With the aim of moving beyond the past tensions, NATO was also ready to start contributing to United Nations Missions.⁴²

NATO's openness and readiness to Peacekeeping Missions was then confirmed by the June 1992 Final Communiqué of the Ministerial Meeting of the North Atlantic Council (also including the Oslo Decision on NATO Support for peacekeeping activities under the responsibility of the OSCE).

The June 1992 Decision gave official status to the above mentioned intentions of the North Atlantic Treaty Organization, with the aim of contributing to a new level of peace in Europe.

This new mission and possibility represented for NATO a change maker in the history of global security. NATO stated for the first time to be *“prepared to support, on a case-by-case basis in accordance with our own procedures, peacekeeping activities under the responsibility of the CSCE⁴³, including by making available Alliance resources and expertise”*.⁴⁴

The increasing importance given to peacekeeping operations needed, though, to adopt a common framework of the issue. For this reason, in June 1993, NATO issued the Report of the Athens Ministerial Meeting of the North Atlantic Cooperation Council (better known as the Athens Report).

1.3.3. The Athens Report and NATO's definition of Peacekeeping

The Athens Report recognized the lack of a uniform definition of peacekeeping. In admitting this flaw in the system, NATO remarked the need of developing a common understanding. Hence, NATO adopted its own definition of Peacekeeping, being:

⁴² North Atlantic Treaty Organization, The Alliance's New Strategic Concept, 07 November 1991, Part. 1, Par. 41, available at http://www.nato.int/cps/sl/natohq/official_texts_23847.htm « In peace, the role of Allied military forces is to guard against risks to the security of Alliance members; to contribute towards the maintenance of stability and balance in Europe; and to ensure that peace is preserved. They can contribute to dialogue and co-operation throughout Europe by their participation in confidence-building activities, including those which enhance transparency and improve communication; as well as in verification of arms control agreements. Allies could, further, be called upon to contribute to global stability and peace by providing forces for United Nations missions».

⁴³ Currently known as OSCE – Organization for security and Cooperation in Europe

⁴⁴ North Atlantic Treaty Organization, Final Communiqué of the Ministerial Meeting of the North Atlantic Council, 04 June 1992, Part. 1, Par. 11, available at http://www.nato.int/cps/eu/natohq/official_texts_23983.htm

«the containment, moderation and/or termination of hostilities between or within States, through the medium of an impartial third party intervention, organised and directed internationally; using military forces, and civilians to complement the political process of conflict resolution and to restore and maintain peace».⁴⁵

The Organization, however, also understood the importance of giving a definition of Peacekeeping Operations, in order to reach a common understanding among the Members, aiming at the unity of their Military Forces, with the purpose of maximizing cooperation among them. As a consequence, NATO also gave its own understanding of Peacekeeping Operations, by stating:

«Peacekeeping operations based on Chapter VI of the UN Charter have traditionally involved the deployment of a peacekeeping force in the field, with the consent of the parties, including supervising demarcation lines, monitoring ceasefires and controlling buffer zones, disarming and demobilising warring factions and supervising borders. Over the past few years, the UN has significantly expanded the type of military operations carried out under "peacekeeping", to include for example protection of humanitarian relief and refugee operations. [...]».⁴⁶

Moreover, the organization also admitted the existence of Peacekeeping Operations under Chapter VII of the Charter of the United Nations, justifying them by acknowledging an extension of the notion of Peacekeeping, in order to ensure a better responsiveness to threats to the peace, breaches of the peace or Acts of Aggression.

In defining itself prepared to engage in peacekeeping operations, only if under clear and precise mandate of the Security Council or of the Organization for Security and Cooperation in Europe, NATO committed to enhance transparency and cooperation. Increasing cooperation, however, meant harmonization of training standards and acknowledgment of interoperability concerns.

In 1999, the North Atlantic Treaty Organization adopted a new Strategic Concept. The security environment had seen new challenges and sources of risks. Europe had to

⁴⁵ North Atlantic Treaty Organization Report to the Ministers by the NACC Ad Hoc Group on Cooperation in Peacekeeping, 11 June 1993, Part. 1, Par. 1, available at <http://www.nato.int/docu/comm/49-95/c930611b.htm>

⁴⁶ *Ibid.*

face the collapse of the Socialist Federal Republic of Yugoslavia, with all the subsequent ethnic conflicts and political disorders.

1.3.4. The 1999 Strategic Concept and NATO's engagement in non-Article 5 operations

The North Atlantic Treaty Organization wanted to formulate a new and adequate response to a newly evolved security environment. The 1999 Strategic Concept consolidated NATO's involvement in Peace Operations, as already demonstrated in Bosnia and Herzegovina, by explicitly acknowledging NATO's engagement in "*non-Article 5 crisis response operations*"⁴⁷. By adopting this definition, NATO officially evolved from a collective defense to a collective security Organization, ready to fulfil duties and requests of the United Nations Security Council, if in line with NATO's mission.

The readiness and availability of NATO has then been confirmed by the creation of what NATO considered to be the principal mechanism for the creation of security collaboration between the Alliance and other Partners: the Partnership for Peace.

The establishment of NATO-led Partnerships for Peace Operations has been described, in the April 1999 Report by the Political Military Steering Committee on Partnership for Peace, as

« the creation of non-Article 5 operations utilising NATO's military structures and incorporating contributions from PfP countries, carried out under the ultimate decision-making authority of the North Atlantic Council (NAC) ».⁴⁸

The creation of this mechanism confirmed NATO's views on the increased likelihood of its engagement into operations outside NATO's territory.

⁴⁷ North Atlantic Treaty Organization, The Alliance's Strategic Concept, 24 April 1999, Part. 1, Par. 29, available at http://www.nato.int/cps/on/natohq/official_texts_27433.htm «Military capabilities effective under the full range of foreseeable circumstances are also the basis of the Alliance's ability to contribute to conflict prevention and crisis management through non-Article 5 crisis response operations».

⁴⁸ North Atlantic Treaty Organization, Towards a Partnership for the 21st Century, 25 April 1999, Par. 2, available at http://www.nato.int/cps/po/natohq/official_texts_27434.htm

1.3.5. The 2010 Lisbon Summit: a renewed Strategic Concept and NATO's openness to Russia

New security threats in the early 2000s, as well as NATO's interest in increasing the number of its Partnerships, brought the Alliance to a review of their Strategic Concept. As a consequence, in 2010, a new Strategic concept was issued, remarking NATO's main tasks as being collective defense; crisis managements and cooperative security.⁴⁹

The 2010 Strategic Concept, additionally, in the spirit of increasing will of Partnerships, promoted the search for «*a true strategic partnership between NATO and Russia*».⁵⁰ The importance of NATO's openness to Russia was, apart from a game-changer in the security environment, considered to be fundamental. Moreover, it represented a confirmation of NATO's aims of moving beyond past divisions. The North Atlantic Treaty Organization, in fact, in the 2010 Strategic Concept remarked the value of cooperating with Russia, in affirming:

«we remain convinced that the security of NATO and Russia is intertwined and that a strong and constructive partnership based on mutual confidence, transparency and predictability can best serve our security».

However, cooperation between NATO and Russia, even if strategically necessary, was hard to achieve. NATO and Russia had different views, readings and interpretations of the security environment, as already shown in the 2010 Lisbon Summit Declaration, when NATO, in remarking the importance of cooperating with Russia, called on Russia to withdraw its recognition of Independence of South Ossetia and Abkhazia, two seceding regions in the Caucasian Area.⁵¹

⁴⁹ North Atlantic Treaty Organization, Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation adopted by Heads of State and Government in Lisbon, 19 November 2010, Core Tasks and Principles, Par. 4, available at http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_publications/20120214_strategic-concept-2010-eng.pdf

⁵⁰ North Atlantic Treaty Organization, Strategic Concept for the Defence and Security of the Members of the North Atlantic Treaty Organisation adopted by Heads of State and Government in Lisbon, 19 November 2010, Par. 33, available at http://www.nato.int/nato_static_fl2014/assets/pdf/pdf_publications/20120214_strategic-concept-2010-eng.pdf

⁵¹ North Atlantic Treaty Organization, Lisbon Summit Declaration, 20 November 2010, Par. 21, available at http://www.nato.int/cps/po/natohq/official_texts_68828.htm «We continue to call on Russia to reverse its recognition of the South Ossetia and Abkhazia regions of Georgia as independent states».

Differences between NATO and Russia culminated in the 2014 suspension of cooperation, as a result of the perception of Russia's challenge to the peaceful Europe after the, in NATO's view, 2014 *illegal military intervention*⁵² in Ukraine. However, in order to better grasp these different understandings, an analysis of the Russian interpretation of Peace Operations is needed.

1.4. Миротворчество (Mirotvorchestvo): The Russian approach to peacekeeping

1.4.1. The Russian definition of Peacekeeping

A very fast and intuitive way to understand the Russian approach to peacekeeping is to start from the Russian word for peacekeeping: миротворчество ("Mirotvorchestvo"). Literally, it means peace creation.

The focus here is on the word "creation". It implies a more proactive approach, a more physical approach, to peacekeeping. For this reason, scholars have interpreted the Russian approach to peacekeeping to be closer to peace enforcement, being the Russian interpretation a coercive interpretation of peacekeeping.⁵³

Coercion and enforcement, in fact, have always been considered keywords of the Russian-style peacekeeping. These two words are totally in compliance with the Russian perspective of power, being the one of the capacity of influencing the other actors. This approach to peacekeeping, and to power as well, has been considered totally in line with the Russian realist approach to International Relations. Realism, in fact, gives salience to the notion of power in the structure of International Relations.

However, realism gives little space to the influence of International Law. Contrarily, Russia has always shown continuity in putting emphasis on International Law

⁵² North Atlantic Treaty Organization, Statement by NATO Foreign Ministers, 01 April 2014, Par. 1, available at http://www.nato.int/cps/en/natolive/news_108501.htm

⁵³ Abilova, Olga: "Country Profile: Russian Federation", 27 October 2016, available at <http://www.providingforpeacekeeping.org/2016/10/31/peacekeeping-contribution-profile-russia/> [last accessed June 3, 2017] «Russia's concept of "peacekeeping" relies on a tradition of "muscular peacekeeping" and is as such closer to "peace enforcement" than "peacekeeping". This is evident in the Russian word for "peacekeeping" – "mirotvorchestvo," which is directly translated as "peace creation". This nuance in Russian thus tends to lend itself to a more coercive interpretation of peacekeeping. As such, Russian peacekeeping operations in the "near abroad" take on a much proactive role, often taking sides in favor of separatists, as in the cases of Moldova and Georgia».

as a source of stability. Moreover, Russia, in underlining the role of International Law, has always been conscious of the importance of both Customary Law (although not static) and of the United Nations Charter, considered to be the constitutional framework of humanitarian interventions.

1.4.2. The concept of Humanitarian Intervention

The notion of humanitarian intervention in Russia is controversial as well. The problem here is in both the terms “humanitarian” and “intervention”. As pointed out by Baranovsky⁵⁴, humanitarian intervention has always had, by definition, a negative connotation in Russia. This comes from a negative meaning the word intervention has in the Russian language (вмешательство – Vmeshatelstvo) that necessarily relates to the use of armed forces⁵⁵. Moreover, also the term humanitarian can be controversial, being human rights considered as a western prerogative, or an instrument the Western World applies in order to exercise pressure, as done at the time of the USSR.

Consequently, humanitarian reasons can be considered just as a pretext to intervene. In this optics, humanitarian interventions acquire an even worse understanding. For this reason, the attention to supporting humanitarian reasons for intervening is very low⁵⁶, as very low are the expectations on Russian involvement in peacekeeping (as an evidence, Russian deployed troops are usually very small in terms of number, but highly specialized units). As stated by President Putin, in February 2000, *«it is inadmissible, under the slogan of so-called “humanitarian intervention”, to cross out such basic principles of international law as sovereignty and territorial integrity of States»*.⁵⁷

⁵⁴ Baranovsky, Vladimir: “*Humanitarian Intervention – the Russian Perspectives*”, 08 May 2001, available at <http://pligin.viperson.ru/articles/vladimir-baranovsky-humanitarian-intervention-russian-perspectives> [last accessed June 3, 2017]

⁵⁵ The difference between interference and intervention plays in Russia a very important role.

⁵⁶ As stated by Baranovsky, Vladimir: “*Humanitarian Intervention – the Russian Perspectives*”, 08 May 2001, available at <http://pligin.viperson.ru/articles/vladimir-baranovsky-humanitarian-intervention-russian-perspectives> [last accessed June 3, 2017] «In general, however, options for intervening in order to protect human rights in other countries are not matters of high priority. This is clearly reflected in the official Foreign Policy Concept of the Russian Federation adopted in July 2000. Noteworthy, the section of this document entitled “Human rights and international relations” does not even mention the problem of humanitarian intervention. Instead, Russia’s self-assigned goal is very generally defined as “searching for respect of human rights and freedoms all over the world on the basis of observing the norms of international law».

⁵⁷ V. Putin, as cited in Baranovsky, Vladimir: “*Humanitarian Intervention – the Russian Perspectives*”, 08 May 2001, available at <http://pligin.viperson.ru/articles/vladimir-baranovsky-humanitarian-intervention-russian-perspectives> [last accessed June 3, 2017]

This does not ban humanitarian interventions in general, but criticizes those interventions that are violating the International Law. This is a confirmation of the role International Law plays in the Russian approach to peacekeeping operations, and to Foreign Policy more in general.

1.4.3. The importance of preserving the integrity of the Charter of the United Nations

The role of the International Law has also been confirmed by the 2000 Foreign Policy Concept of the Russian Federation, in which it has been stated that Russia could not accept the notion of humanitarian intervention as a justification of unilateral interventions that bypass the authority of the United Nations Security Council.⁵⁸

In order to be admissible, in fact, Peace Operations have to demonstrate, under the Russian perspective, a strict compliance with the Charter of the United Nations and, most of all, have to possess a clear mandate of the Security Council, where Russia is a permanent member. The centrality of the clearness of the mandate issued by the Security Council has been remarked in the 2013 Concept of the Foreign Policy of the Russian Federation, where it is stated that Russia

«strongly supports elaboration of precise peacekeeping mandates allowing for no arbitrary interpretation, particularly those implying the use of force, and the establishment of strict control over their implementation in the course of preparation of UN Security Council decisions on international security, including the launch of new peacekeeping operations or the extension of current ones».⁵⁹

The role of Russia in the Security Council, however, is considered to be of fundamental importance, for both securing the image of Russia as a Great power and for

⁵⁸ See: The Ministry of the Foreign Affairs of the Russian Federation, Concept of the Foreign Policy of the Russian Federation, 28 June 2000, Part 2, available at <https://fas.org/nuke/guide/russia/doctrine/econcept.htm> «Russia proceeds from the premise that the use of force in violation of the U.N. Charter is unlawful and poses a threat to the stabilization of the entire system of international relations. Attempts to introduce into the international parlance such concepts as "humanitarian intervention" and "limited sovereignty" in order to justify unilateral power actions bypassing the U.N. Security Council are not acceptable».

⁵⁹ The Ministry of the Foreign Affairs of the Russian Federation, Concept of the Foreign Policy of the Russian Federation, 18 February 2013, Par. 33, available at http://www.mid.ru/en/foreign_policy/official_documents/-/asset_publisher/CptICkB6BZ29/content/id/122186

exercising a sort of control on the decision-making process, when regarding Peace Operations (especially given the Russian interpretation of the matter).

Accordingly, Russia confirmed its willingness in participating in peacekeeping operations in its 2014 Military Doctrine.⁶⁰ Being, in fact, a permanent member of the Security Council, Russia believes it has more responsibility than other countries may have in maintaining international peace and security⁶¹ and in preserving the integrity of the United Nations Charter as well.

Russia, in fact, if on the one hand it is true that it fully recognizes the importance of Article 51, as it fully recognizes that States might believe they have legal obligations under the *opinio juris*, on the other hand it is also true that Russia still doesn't admit any exception to the compliance with the Charter of the United Nations. However, this does not avoid the existence of disagreements and misunderstandings on the interpretation of issues related to the use of force. The evidence of this divide was formalized in the 2008 Foreign Policy Concept of the Russian Federation, when it stated:

«Arbitrary and politically motivated interpretation by certain countries of fundamental international legal norms and principles such as non-use of force or threat of force, peaceful settlement of international disputes, respect for sovereignty and territorial integrity of States, right of peoples to self-determination, as well as the attempts to portray violations of international law as its "creative" application, are especially detrimental to international peace, law and order. Such actions erode the basis of international law and inflict a lasting damage to its authority».⁶²

Russia, moreover, tends to criticize United Nations Peacekeeping Operations because they might result to be aligned with Western interests, rather than the global ones.

⁶⁰ The Russian Federation, Military Doctrine of the Russian Federation, 26 December 2014, Par. 32, available at <https://www.offiziere.ch/wp-content/uploads-001/2015/08/Russia-s-2014-Military-Doctrine.pdf> «The main tasks of the Armed Forces, other troops and authorities in peacetime: [...] k. participation in peacekeeping operations (recovery) international peace and security, taking measures to prevention (elimination) of threats to the peace, the suppression of acts aggression (breach of the peace) on the basis of the Council's decisions UN Security Council or other bodies authorized to take such decisions in accordance with international law».

⁶¹ Abilova, Olga: "Country Profile: Russian Federation", 27 October 2016, available at <http://www.providingforpeacekeeping.org/2016/10/31/peacekeeping-contribution-profile-russia/> [last accessed June 3, 2017]

⁶² The Russian Federation, The Foreign Policy Concept of the Russian Federation, 12 July 2008, Par. 2, available at http://www.russianmission.eu/userfiles/file/foreign_policy_concept_english.pdf

This apparent one-sidedness of actions and interpretations is something that has always concerned Russia. The exclusivity of some fora, especially if they play a key role as NATO plays, creates concerns of partiality. In particular, Russia has always feared that NATO, considered to be a clear exclusion of Russia from the World Order,⁶³ could become an alternative to the United Nations. All of this was incompatible with the delegation of global functions to NATO, being the United Nations Security Council the only institution that could grant global impartiality. Accordingly, the 2010 Military Doctrine of the Russian Federation identifies as the first external military danger:

«the desire to endow the force potential of the North Atlantic Treaty Organization (NATO) with global functions carried out in violation of the norms of international law and to move the military infrastructure of NATO member countries closer to the borders of the Russian Federation, including by expanding the bloc».⁶⁴

Russian fears of disparity in decision-making power, integrated with the admittance of the existence of different understandings of the matter, resulted in the globally recognized strategic rivalry between Russia and NATO, often related to Russia's fears of being isolated not only in the World Order, as happened right after the collapse of the Soviet Union, but also in the global decision-making process on norms on security related topics.

However, the Russian dichotomy of international cooperation and national interest has shown to be traversable, in order to merge the gaps under a common interest. Openness to, and existence of, examples of cooperation and collaboration with not-too-much trustworthy partners, in fact, showed the possibility for Russia to bridge the gap with the other side. Contrarily, when common interests are hard to find, those gaps and misunderstandings seem to be unbreakable.

⁶³ Allison, Roy: *"Russia, the West and Military Intervention"*, Oxford University Press, 2013, Chapter 8

⁶⁴ The Russian Federation, Military Doctrine of the Russian Federation, 5 February 2010, Par. 8a available at http://carnegieendowment.org/files/2010russia_military_doctrine.pdf

CHAPTER TWO

BOSNIA AND HERZEGOVINA: THE IMPORTANCE OF COOPERATION

Introduction

The analysis of the legal framework and the evidence given to the possibility of adopting different interpretations, require now a practical application.

The examination of case studies, in fact, can be the opportunity for a better understanding of the matter. This will include both a legal and historical approach, in considering historical and legal evolutions of the United Nations Peacekeeping Missions. Moreover, relations between the two subjects of this dissertation, namely NATO and Russia, will be taken into consideration.

This chapter will analyze the 1992-1995 Bosnian Conflict, being the very first example and test for the NATO-Russia relations in the peacekeeping operations.

Born in 1991 as a peacekeeping mission in Croatia, facing the disintegration of Yugoslavia of the early 1990s, the United Nations Protection Force (UNPROFOR) saw a first evolution of its mandate in 1992, when it became entitled of delivering aids to the Bosnian region of the country, undergoing a humanitarian emergency.

Bosnia and Herzegovina was an even more problematic reality than Croatia. It was more ethnically fragmented and scared of being an agglomerate of a *Greater Serbia*.

The ethnic divide and tensions escalated quickly when Bosnia decided to depart from Yugoslavia. Bosnian Serbs started fighting, with the aid of the Yugoslavia's People Army (JNA), against the Muslim Bosnians, committing several atrocities. At the same time, Bosnian Croats also were committing atrocities directed to both the two ethnic groups.

The United Nations decided to expand the mandate of the UNPROFOR, initially devoted to peacekeeping in Croatia, in order to start dealing also with the Bosnian Conflict.

The mission in Bosnia and Herzegovina is very controversial. Between 1992 and 1995, the United Nations Security Council adopted around 55 resolutions on Bosnia and Herzegovina⁶⁵, in order to respond to a rapidly mutating environment.

⁶⁵ T. B. Seybolt, *Humanitarian Military Intervention The Conditions for Success and Failure*, SIPRI, Oxford University Press, 2008

Considering the misunderstandings among decision makers, as well as several operational failures - as with the Srebrenica massacre -, the United Nations understood that a peacekeeping operation was no longer appropriate, being there no peace to maintain⁶⁶. Consequently, with the adoption of the Security Council Resolution 1031/1995 the mandate evolved into peace enforcement, with the establishment of the Implementation Force (IFOR), led by NATO, already involved in the conflict since 1992.

This very high degree of involvement of a Regional Arrangement was a challenge for the United Nations, being the first time NATO was called to lead an operation. Additionally, the participation of NATO, in the role of protector of the UNPROFOR at first, and as IFOR leader, then, was a challenge for Russia. More in detail, that specific geographical area was very sensitive to Russia, being Yugoslavia a former ally, and a country that was culturally close to it (Bosnian Serbs were Christian Orthodox). Consequently, the fact that NATO could have increased its influence in that sensitive area was a considerable challenge for Russia. Moreover, it was also a challenge, and a test, for the new NATO-Russia relations, undergoing a new phase after the collapse of the Soviet Union.

2.1. Historical Analysis

2.1.1. The dissolution of Yugoslavia and the deployment of the UNPROFOR

The dissolution of Yugoslavia, a Federal State made of semi-autonomous republics divided in terms of borders according to historical ethnicities, represented the very first challenge Europe had to face since the end of the Second World War. If on one hand Milosevic, the Serbian leader, allowed the secession of Slovenia without a strong opposition, being a mono-ethnic and stable State, on the other hand, when Croatia inspired by Slovenia wanted to go on with its own secession, in 1991, things escalated very quickly.

Croatia was a problematic reality. Differently from Slovenia, it was ethnically mixed, because of the considerable amount of Croatian Serbs in the region. When Croatia demonstrated its aim in seceding from Yugoslavia, the rebel Croatian Serbs were joined

⁶⁶ *Ibid*

by the Yugoslavian National Army (JNA) and were told of preventing secession. This brought a series of atrocities in the region that captured the attention of the United Nations Security Council.

In a letter dated 24 November 1991,⁶⁷ the United Nations Secretary-General, Javier Pérez de Cuéllar, reported some updates on the meeting held with some representatives of Yugoslavia (namely, The Secretary-General Special Envoy, Mr. Vance; the President of Serbia, Mr. Milosevic; the President of Croatia, Mr. Tudjman; General Kadijevic, Minister of Defense of Yugoslavia; and Lord Carrington, former NATO Secretary General and Chairman of the 1991 Geneva Conference on Yugoslavia) on the Croatian crisis. More in detail, the United Nations Secretary-General referred to the withdrawal of a blockade of Yugoslavia to Croatia and a ceasefire to be started. The Secretary General also added:

*«As regards the possibility of a United Nations peace-keeping operation in Yugoslavia, each of the Yugoslav participants in yesterday's meeting stated that they wanted to see the deployment of such an operation as soon as possible».*⁶⁸

Thus, the United Nations Security Council established some protected areas in Croatia and secured them with the United Nations Protection Force (UNPROFOR).

The deployment of the UNPROFOR was the result of several negotiations and requests made by the Secretary General. The Security Council was very prudent about the deployment of the UNPROFOR, since it was skeptical about the outcome of the mission.⁶⁹

However, as stated by the new Secretary-General, Boutros Boutros-Ghali, *«the danger that a United Nations peace operation will fail because of lack of cooperation of the parties is less grievous than the danger that delay in its dispatch will lead to a breakdown of the ceasefire and to a new conflagration in Yugoslavia».*⁷⁰

⁶⁷ United Nations Security Council, S/23239, 24 November 1991, *Letter from the Secretary General addressed to the President of the Security Council* available here: http://peacemaker.un.org/sites/peacemaker.un.org/files/HR_911123_CeasefireAgreement.pdf

⁶⁸ *ibid.* page 2

⁶⁹ For more details: R. Zacklin, *The United Nations Secretariat and the Use of Force in a Unipolar World* Power v. Principle, Cambridge University Press, 2010

⁷⁰ United Nations, Report of the Secretary-General to the Security Council, S/23592 15 February 1992, para. 28, available here: <https://www.documentcloud.org/documents/2276628-19920215-syg-report-s-23592.html>

The peacekeeping operation had to cope with all the difficulties Croatia was facing, as a result of its ethnic divide and historical and geographical claims. The United Nations peacekeeping operation to Croatia was then deployed under the Security Council Resolution 743/1992, in which it is stated that the Security Council in establishing the UNPROFOR requested «*the Secretary General to take the measures necessary to ensure its earliest possible deployment*».⁷¹

As a result, in February 1992, the force was created in order to deal with Croatia. However, the mission soon had to face the situation in Bosnia and Herzegovina.

2.1.1. Bosnia and Herzegovina: the background



National and ethnic distribution in Yugoslavia
As appeared in T. Buchanan, *Europe's Troubled Peace*,
Wiley-Blackwell, 2012

Bosnia and Herzegovina had an even more complicated situation. The social dimension was highly fragmented.

Muslim Bosnians represented 43% of the population, while 17% of the population was represented by Bosnian Croats, and 31% of the population was made of Bosnian Serbs, who felt they were superior to Bosnian Muslims⁷².

With the exception of Bosnian Serbs, the majority of the population felt there was the risk of being agglomerated to the project of the *Greater Serbia*.

Taking inspiration from the secession of Slovenia and Croatia, also Bosnia and Herzegovina expressed its desire of departure from Yugoslavia, since it thought there could have been no Bosnia and Herzegovina in a Yugoslavia that was deprived of Croatia. In February 1992, in fact, a referendum was held, and the majority of voters opted for independence. The demonstration of the will of complete detachment from Yugoslavia,

⁷¹ United Nations Security Council, S/RES/743/1992, 21 February 1992, Par. 2, available here: [http://undocs.org/S/RES/743\(1992\)](http://undocs.org/S/RES/743(1992))

⁷² N. MacQueen, *Peacekeeping and the International System*, Routledge, 2006

and consequently from Serbia, made the Bosnian Serb community start a wave of revolts, that culminated in several attacks to the Muslims. Serbs received the assistance of the Yugoslavian National Army (JNA) in order to prevent the Bosnian secession.

2.1.2. The siege of Sarajevo, the deployment of the UNPROFOR and the construction of the underground tunnel

Right after the referendum, on March 1992, being the result in contrast with what the Serbs wanted to get, and being in contrast with the Serbian aim to prevent the independence of Bosnia, Bosnian Serb paramilitary forces, supported by the JNA, started positioning around Sarajevo. A month later, and specifically in April 6, 1992, the United States of America and the European Community officially recognized the independence of Bosnia and Herzegovina.

As a reaction, Bosnian Serb paramilitary forces and the JNA started firing Sarajevo, and mainly the symbols of the Muslim culture, by means of shelling and burning. Despite the fact that in June 1992 UNPROFOR was sent to Sarajevo, the siege continued until 1994. However, the end of the siege was only formal, since Serbs continued firing on Sarajevo until 1995, when NATO started bombing the Serb artillery as a response. Bombings halted in September 1995, when the Dayton Agreement was signed and expressed the end of the conflict. The siege of Sarajevo was an intensively dramatic phase of the dissolution of Yugoslavia. Thousands of people died and the city got almost completely destroyed. However, the siege of Sarajevo is considered to be dramatically unique, *«because of the heroic defense that its citizens maintained»*.⁷³

As emerged, the situation in Bosnia and Herzegovina escalated quickly and the United Nations decided to extend the mandate of UNPROFOR to Bosnia and Herzegovina, in order to ensure the delivery of humanitarian aids to Sarajevo, that was, as above mentioned, under siege.⁷⁴ More in detail, Resolution 758/1992 demanded the establishment of a safe zone in Sarajevo and its airport in order to ensure the delivery of the aids.

⁷³ R. C. Halls, *War in the Balkans, An Encyclopedic History from the fall of the Ottoman Empire to the Breakup of Yugoslavia*, ABC-CLIO LLC, 2014

⁷⁴ Done with the United Nations Security Council, S/RES/758/1992, 8 June 1992, available here: [http://undocs.org/S/RES/758\(1992\)](http://undocs.org/S/RES/758(1992))

The Sarajevo Airport was, in fact, put under control of the JNA and of the Serb paramilitary forces, impeding the delivery of humanitarian aids since April 1992. With the deployment of UNPROFOR at the Sarajevo Airport, after a long phase of negotiation with the Serbs, the Peacekeeping mission started using it for humanitarian purposes, both for evacuations and for the delivery of aids.

This represented a milestone for Bosnians, who were in the need of linking the Bosnian surroundings of the Sarajevo Airport with Dobrinja and Butmir, the Bosnian neighborhoods of the city of Sarajevo, inaccessible for Muslims because of the siege⁷⁵.

Thus, since *“military attempts to lift the siege of the city and connect with the units on the outside ring of the siege were on several occasions prevented by the enemy”*⁷⁶, not being the Sarajevo Airport controlled by the enemy anymore, Bosnians started validating several options. As a result, in order to grant the delivery of food, military equipment and humanitarian aid to the city, together with the possibility of granting Bosnians in Sarajevo an option to escape the city, the Bosnian Army and civil volunteers started on January 29, 1993, the construction of an underground tunnel.

The Tunnel consisted in a 785,5 meters long way underneath the UN Controlled Sarajevo Airport runway,⁷⁷ linking the already mentioned Dobrinja and Butmir Bosnian neighborhoods with the city of Sarajevo. During the four years of its usage, it granted the delivery of approximately 13 millions of kilograms of food, more than 500 thousands military goods, together with medical supplies and commercial goods.⁷⁸

2.1.3. UNPROFOR and the escalation of tensions in Bosnia

The mandate of the UNPROFOR remained active in Bosnia and Herzegovina for three years, until 1995. During those years, the United Nations Security Council adopted 55 Resolutions⁷⁹, trying to progressively face new challenges and difficulties.

During their mandate, the Peacekeeping Forces respected the prohibition on the use of force, apart from self-defense or when deemed necessary. However, the deployed

⁷⁵ For more details: R. J. Donia, *“Sarajevo: A Biography”*, University of Michigan Press, 2006

⁷⁶ Sarajevo Tunnel Official Website, *“The Idea of Building a Tunnel”* accessible Here: <http://tunelspasa.ba/#ideja-o-izgradnji-tunela>

⁷⁷ *Ibid*

⁷⁸ *Ibid*

⁷⁹ T. B. Seybolt, *Humanitarian Military Intervention The Conditions for Success and Failure*, SIPRI, Oxford University Press, 2008

Peacekeepers, fearing to become targets of the Serb violence, proved to be reluctant to the use of force⁸⁰.

Moreover, as pointed out by Woodward (1995),

*«The reluctance to use military force . . . remained a cover for major disagreements among the major powers about their objectives in the Balkan peninsula and the continuing absence of a policy toward the conflict itself».*⁸¹

As mentioned, the conflict in Bosnia and Herzegovina was in continuous escalation, with several rapes and murders being reported done to the Muslim Bosnians by the Serbs, in order to make the formers abandon Bosnia and Herzegovina. Moreover, atrocities were also done by and to the Croats. Reports of an “ethnic cleansing” undergone by the Serbs to the Muslims were too evocative of what the United Nations committed to avoiding: another holocaust.

The United Nations understood it had not enough capacities to accomplish its aims. Thus, also referring to the United Nations Secretary General Report “*An Agenda for Peace: Preventive diplomacy, peacemaking and peace-keeping*”,⁸² the Security Council adopted the Resolution 770/1992, calling for Regional Arrangements to intervene *with all measures necessary* to protect the UNPROFOR, grant the enforcement of the No-Fly-Zone created in 1991, grant help for the delivery of humanitarian assistance and to break the already mentioned siege of Sarajevo.⁸³

If it is true that waves of Bosnian refugees were fleeing the country, however, it is also true that some of the Bosnian Muslims decided to stay in Bosnia and Herzegovina. For this reason, a series of enclaves arose and the United Nations felt the obligation to protect them.

⁸⁰ As enhanced by T. Findlay “*The Use of Force in UN Peace Operations*”, Oxford University Press 2002

⁸¹ S. L. Woodward, “*Balkan Tragedy: Chaos and Dissolution after the Cold War*” - Brookings Institution: Washington, DC, 1995, p. 378. As cited in T. Findlay “*The Use of Force in UN Peace Operations*”, Oxford University Press 2002

⁸² United Nations Secretary General, *An Agenda for Peace: Preventive diplomacy, peacemaking and peacekeeping*, par. 7, 17 June 1992, A/47/277, available at <http://www.un-documents.net/a47-277.htm> [last accessed 4 June 2017]

⁸³ See T. Findlay “*The Use of Force in UN Peace Operations*”, Oxford University Press 2002

2.1.4. The creation of the Safe Areas and the Srebrenica Massacre

In 1993, therefore, the United Nations adopted two resolutions (819/1993⁸⁴ and 824/1993⁸⁵) in order to ensure the protection of six Muslim enclaves - namely Srebrenica, Sarajevo, Žepa, Goražde, Tuzla, and Bihaćin - in order to defend them from the use and threat of use of force by the Serbs.

By 1995, the situation in the enclaves had dramatically deteriorated. It all culminated in what the history remembers as the Srebrenica massacre of July 1995, when 8 thousand Muslim Bosnians were murdered while being under the protection of the Danish troops of UNPROFOR.

Srebrenica was a city in the Eastern part of Bosnia and Herzegovina. Because of Serb enlargement, Srebrenica was completely isolated from the other Muslim Bosnian enclaves. Consequently, it was entirely dependent on the UNPROFOR aid. United Nations convoys were being frequently blocked by Serb troops, but the United Nations was able to provide the necessary aid to Srebrenica for almost two years (since it was declared a safe area) with no unsurmountable difficulties. Being the peacekeepers, in compliance with the mandate, slightly equipped, however, a major difficulty arose in July 1995, when the Bosnian Serb Army (BSA) started its campaign directed to Srebrenica. Some of the Srebrenica inhabitants fled into the woods, while others found shelter at the nearer United Nations base, in Potocari. Serbs reached the base and, methodically dividing men from women, started killing approximately 8.000 men.

The Srebrenica Massacre was then recognized, in 2004, as genocide by the International Criminal Tribunal for the former Yugoslavia⁸⁶, with the Case N° IT-98-33-A. The International Criminal Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 (ICTY) is a United Nations International ad-hoc tribunal dealing with the 1900s war crimes (Genocide, Crimes Against Humanity, Violations of

⁸⁴ United Nations Security Council, S/RES/743/1992, 21 February 1992, Par. 2, available here: [http://undocs.org/S/RES/819\(1993\)](http://undocs.org/S/RES/819(1993))

⁸⁵ United Nations Security Council, S/RES/743/1992, 21 February 1992, Par. 2, available here: [http://undocs.org/S/RES/824\(1993\)](http://undocs.org/S/RES/824(1993))

⁸⁶ The United Nations, International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia Since 1991, Case N° IT-98-33-A, Judgement, 19 April 2004, available here <http://www.icty.org/x/cases/krstic/acjug/en/krs-aj040419e.pdf#page=16>

the Laws or Customs of War, Grave Breached of the Geneva Convention) that took place in the Balkan region. It was established in 1993 with the Security Council Resolution 827 (1993), giving the ICTY mandate for “*prosecuting persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia*”⁸⁷. Since its establishment, it has indicted 161 individuals, 83 of which have already been sentenced.⁸⁸

As already stated, in 2004 the ICTY recognized the Srebrenica massacre as a genocide, becoming the worse atrocity Europe faced after the Second World War, and a failure in the history of the United Nations Peacekeeping Operations, because of a lack of support from the chain of command.⁸⁹ It also meant the end of peacekeeping in Bosnia, replaced with peace enforcement as will be later analyzed.

2.1.5. The Dayton Agreement and the deployment of IFOR and UNMIBH

Meanwhile, the NATO air strikes significantly reduced the Bosnian Serbs artillery in Sarajevo, bringing them to the negotiating table in Dayton, Ohio.



As a result of these negotiations, the NATO-led Implementation Force (IFOR) was deployed,⁹⁰ in order to ensure the implementation of the later signed General Framework Agreement for Peace (GFAP) in Bosnia and Herzegovina, known as Dayton Agreement, concluded on November 21, 1995.

The Dayton Peace Accord

As appeared in T. Buchanan, *Europe's Troubled Peace*, Wiley-Blackwell, 2012

The Dayton Agreement divided Bosnia and Herzegovina into two

⁸⁷ United Nations Security Council, S/RES/827/1993, 25 May 1993, Art. 2

⁸⁸ United Nations International Criminal Tribunal for the Former Yugoslavia website, Infographic: ICTY Facts & Figures, available here: <http://www.icty.org/en/content/infographic-icty-facts-figures>

⁸⁹ R. C. Halls, “*War in the Balkans, An Encyclopedic History from the fall of the Ottoman Empire to the Breakup of Yugoslavia*”, ABC-CLIO LLC, 2014

⁹⁰ United Nations Security Council, S/RES/1031/1995, 15 December 1995, available here: [http://undocs.org/S/RES/1031\(1995\)](http://undocs.org/S/RES/1031(1995))

ethnically divided regions, one Croat-Muslim and another one made of Bosnian Serbs (the so-called Republika Srpska). Additionally, the United Nations also deployed the United Nations Mission in Bosnia and Herzegovina (UNMIBH)⁹¹ with functions of police training and institutional assistance.

2.2. Legal Framework

As already anticipated, the United Nations Security Council tried to progressively expand the UNPROFOR mandate during the three years of the Bosnian conflict. In order to do so, the Security Council adopted around 55 Resolutions all dedicated to UNPROFOR.

2.2.1. The extension of the UNPROFOR mandate

As stated above, the United Nations mission started dealing with Bosnia and Herzegovina in 1992, with the adoption of the Resolution 749/1992, where the Security Council stated it

*«Appeals to all parties and others concerned in Bosnia-Herzegovina to cooperate with the efforts of the European Community to bring about a cease-fire and a negotiated political solution».*⁹²

As a consequence of this expansion of the mandate, with the above mentioned Resolution 758/1992, the first Peacekeeping mission was deployed in Bosnia: UNPROFOR.

UNPROFOR, being a peacekeeping operation, at the beginning of its mandate was deployed in order to carry on methods and duties of peace maintenance. For this reasons, what UNPROFOR did at the very beginning was the implementation of traditional peacekeeping methods, both conventional and non-conventional. As pointed out by Findlay⁹³ (2002):

⁹¹ United Nations Security Council, S/RES/1035/1995, 20 December 1995, available here: [http://undocs.org/S/RES/1035\(1995\)](http://undocs.org/S/RES/1035(1995))

⁹² United Nations Security Council, S/RES/749/1992, 7 Apr 1992, Par. 6, available here: [http://undocs.org/S/RES/749\(1992\)](http://undocs.org/S/RES/749(1992))

⁹³ T. Findlay "The Use of Force in UN Peace Operations", Oxford University Press 2002

*«The use of force in these circumstances would often have been at best ineffective and at worst counterproductive. Mostly the methods of traditional peacekeeping were employed and worked. Constant negotiation and renegotiation, patience, perseverance and guile (and even non-traditional methods, such as bribery) were used to ensure that aid deliveries got through, albeit often in reduced amounts. Some peacekeepers used either implicit or explicit threats of the use of force to achieve tactical breakthroughs».*⁹⁴

At the very beginning of the mandate, thus, the United Nations was focused on the delivery of aids in the areas that mainly have been affected by the conflict. The United Nations, thus, decided also to limit the use of force because of the already mentioned likelihood of becoming the targets of the JNA violence.

In order to face that violence, however, the United Nations realized UNPROFOR needed help.

2.2.2. The involvement of the North Atlantic Treaty Organization

As a consequence, in compliance with “*An Agenda for Peace*” (A/47/277), the Security Council adopted the Resolution 770/1992, where it stated, after underlining the gravity of the Bosnian conflict, and after remarking the importance of finding a solution to that conflict, that the Security Council

*«Calls upon States to take nationally or through regional agencies or arrangements all measures necessary to facilitate in coordination with the United Nations the delivery by relevant United Nations humanitarian organizations and others of humanitarian assistance to Sarajevo and wherever needed in other parts of Bosnia and Herzegovina».*⁹⁵

This could only have referred to the North Atlantic Treaty Organization, the Regional Arrangement that existed for the protection of the Euro-Atlantic area. This was the first time NATO conducted an out-of-area operation. This raised up several concerns, mainly about what limits would have NATO had. Concerns were mainly raised from

⁹⁴ *ibid*, p. 222

⁹⁵ United Nations Security Council, S/RES/770/1992, 13 August 1992, available here: <http://www.nato.int/ifor/un/u920813a.htm>

Russia. In Russia, an increasing hostility was undergoing because of the growing influence of NATO in the Eastern Europe. Moreover, Russian people felt close to Serbs, since the latter were Slavs, and were faithful to the Orthodox Church. However, it is worth mentioning that Russia intended presenting itself as protector of Serbia and of the Orthodox Christian Nations⁹⁶, implementing a strategy made of both hard and soft power, in order to grant its influence in the Balkans. Russia, accordingly, had economic and political interests in the area and, as shown with Russia's strong critics on the Serbian Reforms, aimed at avoiding any Western influence in the area⁹⁷. However, despite its concerns, Russia did not veto any of the Resolutions of the United Nations Security Council directed to Bosnia and Herzegovina.

Even if main concerns arose because of the constraints imposed by the mandate and of the contrasts in terms of chain of authority, being the Secretary General the only person that could decide on the use of force, at the end the chain of authority was not blurred at all.

2.2.3. NATO's role in Bosnia and Herzegovina

The first thing NATO was called to ensure was the enforcement of the No-Fly-Zone (NFZ), meaning a tridimensional space in which flights are prohibited. The establishment of a NFZ finds its legal basis in Article 42 of the Charter of the United Nations. Thus, the power to establish a NFZ, being a coercive measure implying the use of force, is in the hands of the United Nations Security Council. The aforementioned NFZ was created by the United Nations Security Council Resolution 781/1992⁹⁸ referring at first to military flights and then extended with Resolution 816/1993⁹⁹ also to all the other

⁹⁶ Aghayev, Elvin, "Relations between Russia and Serbia", in "The Russian Federation European Researcher", Volume 8 n. 1, 2017

⁹⁷ Aghayev, Elvin, "Relations between Russia and Serbia", in "The Russian Federation European Researcher", Volume 8 n. 1, 2017

⁹⁸ United Nations Security Council, S/RES/781/1992, 9 October 1992, Par. 1, available here: <http://www.nato.int/ifor/un/u920813a.htm>: «Decides to establish a ban on military flights in the airspace of Bosnia and Herzegovina, this ban not to apply to United Nations Protection Force flights or to other flights in support of United Nations operations, including humanitarian assistance».

⁹⁹ United Nations Security Council, S/RES/816/1993, 31 March 1993, Par. 1, available here: <http://www.nato.int/ifor/un/u930331a.htm>: «Decides to extend the ban established by resolution 781 (1992) to cover flights by all fixed-wing and rotary-wing aircraft in the airspace of the Republic of Bosnia and Herzegovina, this ban not to apply to flights authorized by UNPROFOR in accordance with paragraph 2 below».

flights. The Resolution 816/1993 was also the first explicit authorization to the use of force, both nationally and regionally, by stating that the Security Council:

*«Authorizes Member States, seven days after the adoption of this resolution, acting nationally or through regional organizations or arrangements, to take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures in the airspace of the Republic of Bosnia and Herzegovina, in the event of further violations to ensure compliance with the ban on flights referred to in paragraph 1 above, and proportionate to the specific circumstances and the nature of the flights».*¹⁰⁰

The ban on flights was not respected. At first, NATO's action was the one of reporting several violations of the NFZ, but in 1994, after one year of NFZ violations, NATO decided to shot down four Serbian fighter aircrafts.

NATO's role, additionally, was not only the one of enforcing the NFZ, but also the one of ensuring the protection of UNPROFOR, the enforcement of the break of the siege of Sarajevo and the support for the delivery of humanitarian assistance.

Furthermore, with the creation of the safe areas, the role of NATO evolved together with the one of UNPROFOR.

With regards to the safe areas, it is worth recalling that the Security Council, in adopting Resolution 819/1993¹⁰¹, established the first safe area in Srebrenica, meaning an area safe from any armed attack or threat of an armed attack. More in detail, the Resolution stated that the Security Council

*«Demands that all parties and others concerned treat Srebrenica and its surroundings as a safe area which should be free from any armed attack or any other hostile act».*¹⁰²

The United Nations Security Council decided then to extend the status of safe area to other five enclaves, namely Sarajevo, Žepa, Goražde, Tuzla, and Bihaćin, with the adoption of the Resolution 824/1993¹⁰³. The resolution

«Declares that the capital city of the Republic of Bosnia and Herzegovina, Sarajevo, and other such threatened areas, in particular the towns of Tuzla,

¹⁰⁰ Ibid, Par. 4, emphasis added

¹⁰¹ United Nations Security Council, S/RES/819/1993, 16 April 1993, available here: <http://www.nato.int/ifor/un/u930416a.htm>

¹⁰² Ibid par. 1

¹⁰³ United Nations Security Council, S/RES/836/1993, 6 May 1993, available here: <http://www.nato.int/ifor/un/u930506a.htm>

*Zepa, Gorazde, Bihac, as well as Srebrenica, and their surroundings should be treated as safe areas by all the parties concerned and should be free from armed attacks and from any other hostile act».*¹⁰⁴

Safe areas were, initially, a success for the United Nations Peacekeeping Operations. They were made to obtain the withdrawal of the Serbian Militia, and of the JNA troops supporting the Serbs, and the end of the armed attacks. NATO was, for this reason, entitled of the deterrence from attacks to the safe areas. However, attacks kept on having the safe areas as targets. Consequently, the Security Council understood it had to consent the use of Air Power.

Legal concerns arose also with reference to the Air Power. The allowance of the use of Air Power was given with the adoption of the Security Council Resolution 836/1993, where it is stated that the Security Council

*«Decides that, notwithstanding paragraph 1 of resolution 816 (1993), Member States, acting nationally or through regional organizations or arrangements, may take, under the authority of the Security Council and subject to close coordination with the Secretary-General and UNPROFOR, all necessary measures, through the use of air power, in and around the safe areas in the Republic of Bosnia and Herzegovina, to support UNPROFOR in the performance of its mandate set out in paragraph 5 and 9 above».*¹⁰⁵

Air power was mainly divided into three options: Close Air Support (tactical, used if under or threatened of attack); Air Strikes (used as warning signal after a violation of an agreement); and Large Scale Strategic Air Strikes (a measure of enforcement in order to force into compliance).¹⁰⁶ Main concerns were related to the level of coordination with the Security Council. There were, in fact, different views on the appropriateness of one option rather than another. But different views on strategic approaches were not the only ones. NATO and the United Nations Security Council also had different views on what can be identified as a target. Thus, concerns arose questioning what would have happened whether the parties reached no agreement. However, suddenly ensured that a common position would have always been reached.

¹⁰⁴ Ibid, par 3

¹⁰⁵ United Nations Security Council, S/RES/836/1993, 4 June 1993, available here: <http://www.nato.int/ifor/un/u930604a.htm>

¹⁰⁶ For more details: Findlay T. *“The Use of Force in UN Peace Operations”*, Oxford University Press 2002,

All of this was then confirmed by Resolution 844/1993¹⁰⁷, where the Security Council

*«Reaffirms its decision in paragraph 10 of resolution 836 (1993) on the use of air power, in and around the safe areas, to support UNPROFOR in the performance of its mandate, and encourages Member States, acting nationally or through regional organizations or arrangements, to coordinate closely with the Secretary-General in this regard».*¹⁰⁸

In sum, NATO had to act in compliance with what coordinated with the United Nations Secretary General, being, as already anticipated, the decisions on the use of force in his hands. Thus, decisions on air striking, apart from those related to self-defense, were in the hands of the United Nations.

With regards to the Air Power, for instance, it is worth to mention, in order to understand the NATO approach, the NATO bombing on the Serb artillery of August 1994. In that occasion, Serbs, violated the integrity guarded by United Nations troops and seized their weapons. As a response, in protecting UNPROFOR, a NATO aircraft bombed a Bosnian Serb artillery and Serbs started returning the weapons they had taken.¹⁰⁹

2.2.4. The gray zone between Peacekeeping and Peace enforcement

Contrarily from NATO, the United Nations, as emerged, was reluctant on the use of force¹¹⁰, both because of compliance with the peacekeeping mandate, both since it could have brought its soldiers to become the targets of the violence -. Accordingly, it is

¹⁰⁷ United Nations Security Council, S/RES/844/1993, 18 June 1993, available here: <http://www.nato.int/ifor/un/u930618c.htm>

¹⁰⁸ Ibid, par. 4

¹⁰⁹ As reported in T. Findlay "The Use of Force in UN Peace Operations", Oxford University Press 2002, «On 2 August 1994 Rose received intelligence that the Serbs were about to seize weapons from two sites guarded by French and Ukrainian troops. He warned publicly that force would be used against the Serbs if they did so and immediately put NATO air power on standby to destroy the weapons as they left the site. When two days later the Serbs did seize weapons from the Ukrainian troops, de Lapresle came under great pressure from Smith to ask for attacks on strategic targets, including ammunition bunkers and communication sites, but he and Rose resisted. On 5 August NATO aircraft destroyed a Bosnian Serb self-propelled artillery piece. A second target was chosen but bad weather prevented an attack. Later the Serbs began returning all the heavy weapons they had taken. Rose claims that, although NATO was accused of carrying out 'pinprick attacks', this was a textbook example of 'the precise use of force in a peacekeeping mission», page 245

¹¹⁰ As reported in T. Findlay "The Use of Force in UN Peace Operations", Oxford University Press 2002, page 231-232: The use of air power on our behalf would clearly associate us with the side not being attacked, and thereafter we would very quickly be branded an intervention force, as opposed to an impartial peacekeeping

possible to state that on the one hand, there was NATO, entitled of the protection and enforcement of the UNPROFOR, while on the other hand there was UNPROFOR entitled to carry on negotiation related measures that were necessary in order to accomplish goals and duties of the peacekeeping mission. Moreover, United Nations Peacekeepers were the first who wanted to be supported by NATO and its Air Power and military capacity¹¹¹. Additionally, even if was not part of the mandate, despite they never received explicit authorization to the use of force to protect civilians, some UNPROFOR contingents decided to use their firepower in order to protect lives, given the gravity of the context. As explained by the Lieutenant-Colonel Stewart, commanding officer in Bosnia, in fact, those decisions were taken for interpretative, rather than human, reasons. As he explained:

*«I took the mandate we were given and examined in detail what it implied . . . I felt strongly that the main reason we had been sent to Bosnia was to support the operation to save lives—anyone’s life, for that matter. Moreover, any action taken with that intention was not simply defensible, it was an imperative».*¹¹²

The fact that soldiers started taking into consideration the possibility of using force was also enhanced by the 1994 Commander of the UNPROFOR, General Rose, when he stated that UNPROFOR, after in Tuzla 150 UN soldiers were taken as hostage and the United Nations responded with the use of force against the Serbs,

*«demonstrated to the Serbs and to the world that the UN was prepared to use extreme levels of force, so long as that use remained within the constraints of peacekeeping».*¹¹³

However, this brought the mission to be considered as being in a gray zone between peacekeeping and peace enforcement¹¹⁴. As noticed by several commentators, in fact, the main problem with this Peacekeeping operation in particular, was that there was no peace to keep.

¹¹¹ Ibid, page 228

¹¹² Ibid, page 226

¹¹³ Ibid, page 231

¹¹⁴ T. Findlay, “*The Use of Force in UN Peace Operations*”, Oxford University Press 2002,

2.2.5. The deployment of the IFOR: Peace enforcement in Bosnia and Herzegovina

The United Nations arrived at this conclusion only in 1995 - after the already mentioned Srebrenica Massacre - with the adoption of the Security Council Resolution 1031/1995¹¹⁵. This authorized the deployment of an Implementation Force (IFOR)¹¹⁶ and officially evolved the nature of the mission from being a peacekeeping operation to a peace enforcement operation, when stating it:

*« Authorizes Member States to take all necessary measures, at the request of IFOR, either in defence of IFOR or to assist the force in carrying out its mission, and recognizes the right of the force to take all necessary measures to defend itself from attack or threat of attack ».*¹¹⁷

The deployment of the IFOR was integrated, with the Security Council Resolution 1035/1995, by the establishment of the United Nations Mission to Bosnia and Herzegovina (UNMIBH), entitled of the training of a police force and the providing of institutional assistance.¹¹⁸

This new strategy proved to be successful. As stated by the United Nations Secretary General in 2002, *«through UNMIBH, the United Nations has demonstrated its ability to complete a complex mandate in accordance with a strategic plan and within a realistic and finite time frame. UNMIBH has completed the most extensive police reform and restructuring project ever undertaken by the United Nations».*¹¹⁹

¹¹⁵ United Nations Security Council, S/RES/1031/1995, 15 December 1995, available here: <http://www.nato.int/ifor/un/u951215a.htm>

¹¹⁶ *Ibid*, par 14: «Authorizes the Member States acting through or in cooperation with the organization referred to in Annex 1-A of the Peace Agreement to establish a multinational implementation force (IFOR) under unified command and control in order to fulfil the role specified in Annex 1-A and Annex 2 of the Peace Agreement»

¹¹⁷ *ibid*, par 17

¹¹⁸ United Nations Security Council, S/RES/1035/1995, 20 December 1995, Par. 2 available here: [http://undocs.org/S/RES/1035\(1995\)](http://undocs.org/S/RES/1035(1995)), «Decides to establish, for a period of one year from the transfer of authority from the United Nations Protection Force to the multinational implementation force (IFOR), a United Nations civilian police force to be known as the International Police Task Force (IPTF) to be entrusted with the tasks set out in Annex 11 of the Peace Agreement and a United Nations civilian office with the responsibilities set out in the report of the Secretary-General, and to that end endorses the arrangements set out in the report of the Secretary-General».

¹¹⁹ United Nations, Report of the Secretary-General on the United Nations Mission in Bosnia and Herzegovina, S/2002/1314, 2 December 2002, available here: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N02/706/20/IMG/N0270620.pdf?OpenElement>

Moreover, IFOR represented the first Peace Enforcement mission given to NATO. This gave to the mission an even more valuable relevance, being the test of both the new NATO strategy and of the new path of co-operation with Russia, the actor that had key interests in the area.

2.3. NATO – Russia relations

«I have come to Moscow today with a very simple message: we extend our hand of friendship to you. And I have come with a very direct offer to cooperate with you. The time for confrontation is over. The hostility and mistrust of the past must be buried. We see your country, and all the other countries of the former Warsaw Treaty Organization, no longer as adversaries but as partners ... »

Dr. Manfred Wörner, NATO Secretary General, 1990¹²⁰

With these words, in 1990, the NATO Secretary General opened his speech during the first official visit by a Secretary General of the NATO to Moscow. As already mentioned in the first chapter of this dissertation, it was the time of a new path towards cooperation and collaboration between NATO and the former Soviet Union Countries.

As shown, NATO had officially opened its doors to Russia with the 1991 Strategic Concept, where it affirmed its will of starting a new approach, directed toward cooperation. All of this was then confirmed with the adoption of the Partnership for Peace (PfP) in 1994.

Given the nature of this newborn partnership, Bosnia and Herzegovina was the very first test of the new NATO-Russia Relationship. However, as emerged, Russia was adopting a very prudent approach.

¹²⁰ North Atlantic Treaty Organization, Speech by Secretary General Manfred Wörner to Members of the Supreme Soviet of the USSR, 16 July 1990, available at www.nato.int/docu/speech/1990/s900716a_e.htm as cited in S. Cross, "Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo", The Journal of Slavic Military Studies, 15:2, 1-58, available at <http://dx.doi.org/10.1080/13518040208430519>

2.3.1. Russia's interests in the Balkans and its role as a mediator power

On the one hand, Russia had several concerns on the NATO out-of-area first mission, especially after the 1995 NATO air strikes, done as a response to the Srebrenica massacre and as a reaction to the inability of the UNPROFOR. On the other hand, Russia, as emerged, had clear strategic interests in the area affected by the conflict, in political as well as economic terms. Yugoslavia was, in fact, a former ally and communist country, and Serbs were Eastern Orthodox Slavs, whom it had social, cultural and religious connections with. Moreover, as already emerged, Russia promoted itself as protector of Serbia. All of this could have brought Russia to empathizing with Serbs, as Serbia called for Russian help. As stated by the Bishop of Bach Iriney «*Russia ought to play the part not only of peace mediator in the Balkans, but also a kind of defender of the Serbs. As the Germans defend the Croatians, and the Americans the Muslims, so the Russians must defend the Serbs*»¹²¹.

However, Russia decided to help the Serbians in a different way than the expected one. Russia, in fact, decided not to attack the West, siding with the Serbians, but decided to obtain a mediator role. Right after the collapse of the Soviet Union, accordingly, Russia was trying to consolidate its power in the international relations and thought the Bosnian conflict could have been the perfect occasion for playing an ambitious role.

As stated by the at the time President Yeltsin,

«*Certain people are trying to decide Bosnian questions without Russia's participation. We will not allow this to happen*».¹²²

All of this reflected the Foreign Policy of the former President of the Russian Federation, Boris Yeltsin, who wanted both to express his solidarity with the Serbs and, at the same time, wanted to acquire strength in the international arena, by trying to create a solid relationship with the West. With regards to the first purpose, Yeltsin, when referring to the Bosnian conflict, never put emphasis on the dimension of the conflict regarding claims of the establishment of a *Greater Serbia*, but only on territorial and

¹²¹ *Ibid*, p. 15

¹²² Russian Radio, Радио России, 16 February 1994, in FBIS-SOV (17 Feb. 1994) p.4. as cited in Cross, Sharyl. "Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo." In "The Journal of Slavic Military Studies" Volume 15 n. 2 (2002)

ethnic claims. Russia, in fact, when commenting the Bosnian question, always called for balanced considerations.¹²³

At the same time, however, President Yeltsin decided to maintain the duality of his Foreign Policy – being the one of openness to the Western World and, at the same time, directed at strengthening the Russian domestic affairs and popular consensus-. As stated by the NATO General Clark:

*«I had closely observed the double standard the Russians had applied while working for us in the Bosnia mission. They took care of the Serbs, passing them information, tipping them off to any of our operations, and generally doing their best to look after their 'fellow Slavs' while keeping up the full pretense of cooperation with us».*¹²⁴

This behavior of the Russian Federation showed the prevalence of National interests as the main driver of the Foreign Agenda, as already anticipated. Accordingly, Russia decided to cooperate with NATO when IFOR started its action, as a demonstration of the Russian faith and compliance with the PfP.

2.3.2. NATO – Russia cooperation in Bosnia and Herzegovina: a successful story

As emerged, Russia decided to help in, and support, the implementation of the Dayton Agreement, providing highly specialized units. Although interoperability problems obviously arose (soldiers reported sometimes it was difficult to communicate, despite the constant availability of a translator), the Partnership for Peace proved to be a success. Thanks to confidence and trust building measures, favorable conditions in working together arose, as enhanced by the US commander of the Multinational Bosnia Force, Major General Nash:

¹²³ Cross, Sharyl. "Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo." In "The Journal of Slavic Military Studies" Volume 15 n. 2 (2002), page 17: «Russians often called for a more balanced appraisal of the conflicts. For example, commenting on Bosnia in 1994, Russian Foreign Minister, Andrei Kozyrev, stated: '... it was not reasonable to mark everyone as good and bad guys as in a Western. It is not a Western but an ethnically colored civil war with no right, no wrong, no angels, no devils».

¹²⁴ Clark (note 78) page 377 as cited in Cross, Sharyl. "Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo." In "The Journal of Slavic Military Studies" Volume 15 n. 2 (2002), page 25

*«The partnership worked because (1) our nations had common strategic objectives (2) we were professional soldiers fulfilling our nations' mission (3) after fifty years of studying each other, we were very knowledgeable about each other; and (4) frankly, we did not get too much help from Washington or Moscow. Our leaders gave us a job to do, and for the most part, left us alone to do it».*¹²⁵

As could have been intuitively emerged, Russian and NATO troops had different sources of orders and command, as they also had a different tactical approach. Consequently, the agreement Russia and NATO reached was to let the Russian soldiers receive and follow orders coming from the Russian General to the mission.

All of this made challenges easier to overcome, so that soldiers could find the harmony and confidence that were necessary to obtain in order to let the Partnership for Peace work.

As enhanced by Cross¹²⁶, in fact,

*«Reports indicate that joint participation in peacekeeping provided an opportunity for former strategic adversaries to become increasingly familiar with one another on both professional and personal levels. US Army officer Tom Wilhelm writes about his experience working with the Russians in Bosnia. Wilhelm describes the Russian officers in Bosnia as 'superb' and offered the point that: 'This environment helps create professional bonds between myself and the Russians, and, by way of example, it establishes a level of expected professionalism from the factions».*¹²⁷

The higher level of professionalism and possibilities of success were ensured by the fact that the participation of Russia legitimized the foreign presence in Bosnia to the eyes of the Serbs, who saw in the Russian soldiers the possibility of being understood and helped.

¹²⁵ Nash, 'NATO, Bosnia' (note 103), as cited in Cross, Sharyl. *"Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo."* In *"The Journal of Slavic Military Studies"* Volume 15 n. 2 (2002), page 29

¹²⁶ Distinguished Professor & Director Kozmetsky Center, St. Edward's University & Global Policy Fellow, Kennan Institute

¹²⁷ Cross, Sharyl. *"Russia and NATO toward the twenty-first century: conflicts and peacekeeping in Bosnia-Herzegovina and Kosovo."* In *"The Journal of Slavic Military Studies"* Volume 15 n. 2 (2002), page 30

Russians, in participating to IFOR, were fundamental for the resolution of the conflict. They demonstrated to be ready to move beyond past tensions and they proved to be what Serbs considered to be a guarantee.

The success of the military-to-military cooperation was the result of the process of NATO's new approach to countries of the Warsaw Pact. NATO proved to be able to overcome the mistrust it had, and Russia proved to be ready to overcome interoperability challenges, if, however, both have at the same time the perception of a common interest to share.

Both, in fact, had specific interests in that area. Russia, as already stated, had sociocultural links with Serbs, while NATO feared the waves of migration could have brought to the extension of ethnic tensions all over Europe, the area it was called to protect.

However, this spirit of cooperation, achievable only if a common interest it to be pursued, was not meant to last too long.

Conclusions

The 1992-1995 Bosnian conflict was a test for several of the new equilibria the world had just set. It was a test for the new security environment Europe had created, but it was also a test for a completely renovated relationship between NATO and Russia, former enemies now looking for strategic cooperation.

However, despite several attempts at expanding the UNPROFOR mandate, UNPROFOR was not able of maintaining peace in a region where peace was not present at all. As a consequence, and as recognition of this failure, the United Nations decided to change the architecture of peace maintenance in Bosnia and Herzegovina, with the creation of an Implementation Force, entitled of enforcing the Dayton Agreements.

The NATO-led IFOR represented the first out of area mission led by NATO, bringing with it a series of concerns NATO was already facing when it decided to protect UNPROFOR in 1992. However, if when dealing with UNPROFOR concerns arose mainly by Russia, because of its economic, political and sociocultural links with the region, when leading IFOR, NATO saw Russia becoming one of its partners and started cooperating with NATO. On the other hand, it is worth to mention that Russia, being a United Nations Security Council permanent member, authorized the deployment of the

IFOR, thus NATO was obliged to cooperate with the Russian Federation, in compliance with its mandate.

The outcome was even better than expected and NATO and Russia were able to consolidate, and show to the world, their true and strategic partnership.

However, as emerged, this was possible only because both the actors understood they could have overcome the difficulties in the name of a common interest: Russia wanted to regain importance in the International Relations Arena, consolidating its Great Power status; and NATO wanted to demonstrate the necessity of its persistence, even in a completely mutated context, in which its original purpose, the safeguard of Europe from the Soviet Union threat, was no longer applicable.

But if these were the premises, the partnership could not have last for too long. Or, at least, it could have been easily breakable when, and if, the parties developed different interests.

This scenario realized very soon. Three years after the mandate of IFOR expired, the Balkans became again a test for the NATO-Russia relations. NATO and Russia had once again different interests and views, as well as a different approach to a conflict that would have this time caused the undermining of their relations: Kosovo.

CHAPTER THREE

KOSOVO AND THE UNDERMINING OF NATO-RUSSIA RELATIONS

Introduction

The 1999 Kosovo Crisis had unprecedented consequences on the newly reached equilibrium between NATO and Russia. This chapter aims at giving an analysis, both in historical and legal terms, of the Kosovo conflict and of the different perceptions NATO and Russia had, both when referring to the nature of the conflict, both when referring to the strategy to implement.

Historically, Kosovo had for centuries been shared between Albanians and Serbs, the two main ethnicities of the region. Albanians and Serbs inhabited Kosovo with changing proportions during the years, but both developed claims of belonging to the region as will be later analyzed. More in details, Albanians started developing claims of independence and started demanding increasing autonomy of Kosovo, while on the other hand, Serbs wanted Kosovo to be no more than a part of Serbia.

Because of the claims, Albanian Kosovars started obtaining increasing rights, specific to their group, and autonomy. The increased level of autonomy made the Albanians develop further claims. More in details, they demanded Kosovo being recognized as the 7th Republic of Yugoslavia in 1980s. Serbs saw no possibility of accepting such claims, since they thought they already had given enough autonomy and freedoms to the Albanian Kosovars. It all culminated in the 1981 bloody riots in Pristina. The state of emergency was declared and a wave of political repression started. Political repression, though, made the Albanians create a shadow State, in order to reach their goals by non-violent means.

However, when Albanian Kosovars realized that the already analyzed Dayton Negotiations were exclusively taking into considerations Bosnia and Herzegovina, being affected by violence, they decided to change their strategy and started supporting the establishment of an underground force, the Kosovo Liberation Army (KLA), responsible of several attacks to the Serbs.

Serbs, supported by the Serb paramilitary organizations (as the Arkan's Tigers), as will be later enhanced, started responding to the KLA attacks in 1996¹²⁸ and the only result was the beginning of a vicious cycle.

The situation captured the attention of the International Community, namely of an international working group on Kosovo, named Contact Group, and of the Organization for Security and Cooperation in Europe (OSCE). The escalation of the situation was then brought to the attention of the Security Council.

The Security Council started adopting several Resolutions on Kosovo, calling the parties to find a solution through dialogue and condemning the violence of both sides. The Security Council Resolutions will be later analyzed more in details.

The above mentioned Resolutions were being disregarded by the two sides. Thus, because of the increasing violence and the worsening humanitarian situation, NATO, already active in the area because of the already analyzed IFOR, decided to implement a strategy made of "*diplomacy backed by credible force*"¹²⁹, threatening the use of force in order to deter further attacks.

Being a solution to be found through dialogue, international mediation was needed in order to reach a political Agreement. In 1999, therefore, as will be later analyzed more in details, at the Rambouillet Peace Conference, the Contact Group proposed a Draft Peace Agreement to be signed by both Albanians and Serbs. Only the Albanians signed the Agreement. Serbs, contrarily, refused to sign the Agreement for fears of Kosovo becoming a de-facto Albanian protectorate, as will be later enhanced.

After the Rambouillet Conference, Serb activities in the region increased and NATO, concerned about the likelihood of a humanitarian emergency¹³⁰, and aiming at putting pressure on Serbia in order to reach an Agreement, started bombing on Belgrade, initiating what it thought would have been a temporary campaign, but that at the end turned into an 11 weeks war.

NATO bombings on Belgrade were not sanctioned by the Security Council, despite not being authorized. This caused a very strong resentment in Russia and the

¹²⁸ A. Schnabel and R. Thakur, "Kosovo, the changing contours of world politics, and the challenge of world order" in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

¹²⁹ N. Butler, "NATO: from collective defence to peace enforcement" in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

¹³⁰ *Ibid.*

subsequent undermining of the relations between the two actors, namely NATO and Russia, as will be later analyzed more in details.

Nevertheless, Russia showed it was not ready to completely detach from NATO, because of both economic and political unpreparedness. Therefore, Russia decided to play an active role in finding a solution to the issue and consolidate its role as a mediator and independent power. All of this strengthens the theory according to which the two parties, namely NATO and Russia, can decide to marginalize their irreconcilabilities, if done in order to reach a goal that cannot be reached if not working together.

3.1. Historical Analysis

3.1.1. Kosovo: social background and claims



Kosovo Region
In J. Norris, "Collision Course",
Greenwood Publishing Group,

Relatable to Slovenia, Croatia and Bosnia, the 1999 Kosovo crisis was also arising from claims of independence, being Kosovo a region of Serbia, originating from a very strong ethnic divide. Since 1991, the Albanian ethnicity started asking for the independence of Kosovo, from Serbia, because of historical and ethnical claims. A 1991 Serbian census, in fact, reported the ethnical division of the region. In total, in 1991 Kosovo had 1.954.747 inhabitants, of which 82.2% was made of Albanians, 10% was represented by Serbs and the remaining were South Slavs Muslims, Roma, Montenegrins, Turks, Croats and others.¹³¹

Therefore, it is possible to state that the two main ethnic groups were the Albanians and Serbs. The two groups started competing about the role they played and were playing in the region, since the very beginning of the history of Kosovo. All of this was being enhanced by the fact that the ethnic divide had not been stable and linear in the

¹³¹ M.J. Calic, "Kosovo in the Twentieth century: a historical account", in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

years¹³². Furthermore, Serbs and Albanians started competing on historical perceptions that were coherent with their cause and their views.

More in details, Serbs perceived Kosovo as the cradle of their culture. They believed Kosovo was not a populated area before their arrival, proving it with the claim for which Kosovo was already the cultural and religious epicenter of the Serbs already in the 13th century. In terms of religion, Serbs felt Kosovo as their cradle because of the considerable amount of Orthodox Churches and Monasteries, and because of the remarkably presence of the Pec Monastery, being the Patriarchate and spiritual seat of the Serbian Orthodox Church.

Culturally, Serbs had a perception of Kosovo as the cradle of their patriotic ideals and, more in general, of the Serbian patriotism. In 1389, in Kosovo Polje, Serbs fought against the Ottomans in a battle considered to be the basis of Serbia's patriotism. In that episode, the Serbian Prince, considered as a martyr, died. Despite Serbs were defeated and the Ottoman rule started, however, the battle is considered to be fundamental. It represents the role Serbians played in Kosovo in the 14th century, when they were defending Serbia and its territory, especially referring to where the battle took place, Kosovo.

On the other side of the spectrum, Albanians tried to demonstrate their belonging to Kosovo because of the Illyrian origins of their people, claiming they inhabited Kosovo before the arrival of the Serbs, differently from what the Serbs claimed. Moreover, Albanians tried to prove their special rights because of the Ottoman rule on the region, as already mentioned.

Despite claims of ethnography, it is true that, during the years, Albanians and Serbs shared the territory of Kosovo, with, as anticipated, changing composition, mainly because of migration waves.¹³³ However, the social background has always been characterized by several tensions, impeding the development of a fully acceptance of each other.¹³⁴

An enhanced and constant mutual distrust was the key feature of the social background. Almost no interethnic marriages were celebrated, and Serbs felt Albanians

¹³² *Ibid*

¹³³ M.J. Calic, "Kosovo in the Twentieth century: a historical account", in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

¹³⁴ *Ibid*

adopted a demographic policy aiming at increasing their population levels - in order to marginalize the Serb ethnic group -, being the Albanian birth rate remarkably greater than the Serb one¹³⁵. On the other side of the spectrum, Albanians felt marginalized by the Serbs – being the latter those who, despite being a minority, detained the power - in terms of social consideration and rights.

3.1.2. The Albanian pacific quest for autonomy

The perception of the Serbs among the Albanians strengthened the latter's claims for the independence of Kosovo from Yugoslavia, then culminated in the 1943 declaration of Kosovo as a province of Albania. This reflected the need for the Albanians to obtain a considerable and increasing level of autonomy. The 1943 declaration was then rejected in 1945, when Kosovo officially became annexed to Serbia. In 1946, as resulting from claims of increasing autonomy, the Kosovo legal status became the one of an autonomous district, but in 1966, after the Albanians were demanding Kosovo to get republican status, it evolved into an autonomous province, but still under the jurisdiction of Serbia. In 1974, with the adoption of a new Constitution of Yugoslavia, the Autonomous Province of Kosovo received an increased level of autonomy, implicating the establishment of an autonomous administration, an autonomous Parliament and an autonomous judicial power. In short, it gave federal status to Kosovo, now detaining the power to adopt a Constitution of its own.

The increased level of autonomy granted to Kosovo allowed the Albanians to perpetrate an Albanization policy, disapproved and opposed by the Serbs. All of this culminated into the 1981 bloody riots in Pristina, the capital of Kosovo, where the Albanian Kosovars demanded Kosovo to become the 7th Republic of Yugoslavia. The clash with the Serbs escalated quickly. The President of Yugoslavia had to declare the state of emergency and Kosovo underwent a period of political repression. The political repression culminated then in the purges of late 1980s (when of a total of 170.000 Albanians in the public sector, only 55.000 were not dismissed¹³⁶) and the 1989 removal of special rights and administrative autonomy. More in details, in 1989 the Albanians had

¹³⁵ *Ibid*

¹³⁶ D. Anastasijević, "The closing of the Kosovo cycle: Victimization versus responsibility", in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

to renounce to special conditions they had obtained during the years from the Serbians. For instance, nearly half a million of Albanian students were expelled from Serb schools, and Albanians were deprived of the right of purchasing real estate without a Court judgment of allowance.¹³⁷

This situation, however, did not prevent the Albanians from establishing a shadow and parallel State, according to their non-violent policy. Albanians, thus, had their own executive, administrative, legislative, medical and education system. All of this strengthened their claims of autonomy, culminated in the 1991 referendum on independence.

Nearly the entire Albanian population supported the independence of Kosovo, but the results of the referendum were disregarded in Serbia. As a consequence, the Albanians started thinking of renouncing to their non-violent path to independence. The necessity of abandoning a non-violent strategy was then made clear to the Albanians with the already analyzed Dayton Accords, when negotiations included discourses on Bosnia and Herzegovina, because of the existence of a conflict, but not on Kosovo.

3.1.3. The turning point: the spread of the paramilitary forces

Having the Dayton Accords disregarded the situation in Kosovo, Albanians started promoting and supporting the formation of an underground force, the Kosovo Liberation Army (KLA). The KLA was a paramilitary organization, considered to be responsible of several attacks at the expenses of the Serbs.

On the other side of the spectrum, the Serbs were supported by the Serb Police Force and Serb militias, the most notorious of which was the Serbian Volunteer Guard, also known as the Arkan's Tigers, from the nom de guerre of its leader, Zelko Raznatovic. The Arkan's Tigers was a Serb paramilitary group born in early 1990s as a soccer fan club and then evolved into a militia in order to contest and obstruct the breakup of Yugoslavia¹³⁸. The group, at first active in Croatia and then also in Bosnia, started supporting the Serb ethnicity also in Kosovo in late 1990s. The Serbs, in fact, started

¹³⁷ D. Anastasijević, "The closing of the Kosovo cycle: Victimization versus responsibility", in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

¹³⁸ A. Alvarez, "Milicias and Genocide", in "War Crimes, Genocide & Crimes Against Humanity" Vol. 2 pages. 1-33

responding to the KLA attacks in 1996¹³⁹. The violence then culminated in the March 1998 Drenica episode, when more than 70 Albanians, including children and women, were massacred by the Serb Police force.¹⁴⁰ The Serb response made the Albanians commit even more acts of revenge, generating what can be defined as a vicious cycle in the form of an ethnic cleansing. The situation escalated very quickly, and the region had to face several atrocities, fear and a considerable number of displaced people, as will be later enhanced.

3.1.4. The International Community response: the United Nations Security Council Resolutions and NATO

The situation captured the attention of the Security Council. On March 31, 1998, the Security Council adopted Resolution 1160, calling the parties to find a solution through dialogue, as will be later analyzed more in details. The Resolution was then strengthened by Security Council Resolution 1199 of September 1998, when, as will be described later more in details, the Security Council ordered a ceasefire and called the parties to carry on the withdrawal of security forces, the collaboration on investigation on war crimes and the allowance of the delivery of humanitarian aids. The above mentioned Security Council Resolution was disregarded by both the ethnicities. The Security Council then urged the parties to comply with Resolution 1199 of September 1998, adopting Resolution 1203 in October 1998, but no result was achieved. As a consequence, NATO started threatening the use of force, implementing its strategy of “diplomacy backed by credible force”¹⁴¹. NATO, in fact, interpreted the Security Council Resolution 1199 of September 1998 as implying the authorization to the use of “*all necessary means*”, while such provision was not included¹⁴². This interpretation proved to be very

¹³⁹ A. Schnabel and R. Thakur, “Kosovo, the changing contours of world politics, and the challenge of world order” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴⁰ A. Demjaha “The Kosovo conflict: A perspective from inside” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴¹ N. Butler, “NATO: from collective defence to peace enforcement” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴² M.J. Calic, “Kosovo in the twentieth century: A historical account” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

controversial. It made several concerns arise, especially from Russia and China, fearing NATO could strengthen its role in the area, replacing the one played by the United Nations Security Council.

As a result of its strategy of “*diplomacy backed by credible force*”¹⁴³, NATO decided to issue an ultimatum. The ultimatum, despite being controversial, as will be later analyzed, had its consequences. President Milosevic declared, in October 1998, he was ready to withdraw the Yugoslav forces and to accept OSCE unarmed personnel.

3.1.5. The Rambouillet Peace Conference and its Aftermath: the 11 weeks war in Kosovo

The international community was now ready to play an active role to find a solution in the region. Back in 1997, an international working group on the Kosovo Crisis, the “Contact Group” (composed of Italy, Russia, the United States, the United Kingdom, France and Germany) called for international negotiation on Kosovo and, in the same year, the Organization for Security and Cooperation in Europe (OSCE) sent some unarmed observers.¹⁴⁴ The outcome of this international effort was made evident in 1999, when the Contact Group pressured all the parties to the conflict to start the negotiation process. As a result, in February, in Rambouillet, France, all the parties attended a Peace Conference, where the Contact Group proposed a Draft Peace Agreement to be signed by both Serbians and Albanians. The text proposal included increased self-governance for the region and the deployment of an international force that could have taken care of the implementation of the Agreement. The text, however, was signed by the Albanians, but not by the Serbs, because of fears of the transformation of Kosovo in a de-facto Albanian protectorate¹⁴⁵.

As a consequence of the refusal of the Serbs, and because of increased Serb violence in Kosovo, on March 24, 1999, NATO started bombing Belgrade, without

¹⁴³ N. Butler, “NATO: from collective defence to peace enforcement” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴⁴ M.J. Calic, “Kosovo in the Twentieth century: a historical account”, in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴⁵ A. Schnabel and R. Thakur, “Kosovo, the changing contours of world politics, and the challenge of world order” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

having any mandate nor Security Council authorization. Despite knowing it could have been controversial, NATO decided to bomb Belgrade in order to put pressure on the Serbians to sign the Rambouillet Peace Agreement and to “*prevent more human suffering and more repression and violence against the civilian population of Kosovo*”¹⁴⁶. NATO thought bombings on Belgrade would have lasted not for too long. Contrarily, Serbia didn’t show any sign of weakness, and the outcome was an 11 weeks war. Because of the war, atrocities in the region increased, by both the sides. In total, the Kosovo crisis counts over 10 thousands deaths and more than 800.000 displaced persons.¹⁴⁷

3.1.6. The different perspectives on NATO Bombings

Because of the above mentioned claims, as it might have emerged, NATO thought it was conducting a humanitarian intervention. As anticipated, NATO interpreted the Security Council Resolution 1199 of September 1998, in recognizing the situation in Kosovo as a threat to the peace, as authorizing the use of force. Thus, NATO bombings were, in the NATO perspective, in compliance with the above mentioned Resolution. However, as already stated, NATO intervention made different standpoints arise. On the other side of the spectrum, accordingly, as enhanced by Conforti,

«the three months’ air war by NATO forces against the Republic of Yugoslavia in 1999 during the Kosovo crisis must also be considered as a clear violation of the Charter. Quite different is the problem whether this kind of actions, and of any other armed actions for humanitarian reasons, can be justified from a moral point of view»¹⁴⁸.

Bombings, not being authorized nor sanctioned by the Security Council, despite Russia – permanent member of the Council – demanded official condemnation, made Yugoslavia denounce illegal aggression and violation of its territorial sovereignty.

Moreover, Russia, the position of which will be later analyzed more in details, being a former ally of Yugoslavia, decided to detach from the West, after its previous

¹⁴⁶ NATO Secretary General J. Solana, Press Statement, as cited in C. Guicherd “International Law and the War in Kosovo”, *Survival*, Vol. 41 n. 2

¹⁴⁷ M.J. Calic, “Kosovo in the Twentieth century: a historical account”, in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁴⁸ B. Conforti, “*The Law and Practices of the United Nations*”, Martinus Nijhoff Publishers, 2005

rapprochement, and decided to play an active role by contributing to find a solution to the issue.

3.1.7. The Aftermath of the 11 Weeks War and the deployment of UNMIK and KFOR

As a consequence of its decision on acting as a mediator, Russia and the other G8 powers, remarking the political role the G8 forum plays, elaborated a text that they retained Yugoslavia could have had accepted and signed.

The text was then proposed to the Security Council and it permitted the adoption, on June 10, 1999, of Resolution 1244 and of the Military Technical Agreement with Serbia. The Resolution, as will be later analyzed more in details, called for administrative autonomy of Kosovo, to be guided by an interim administration, namely the United Nations Mission in Kosovo (UNMIK), supported by several international organizations and institutions. With regards to UNMIK, Kosovo was divided into 5 administrative districts, each assigned to a country, namely Mexico, the United Kingdom, France, Denmark and Ireland. On the other hand, with regards to the international institutions, the United Nations High Commissioner for the Refugees (UNHCR) cared of matters related to Humanitarian assistance, the OSCE supported the UNMIK with institutional building related issues, and the European Union helped with the reconstruction of the region.¹⁴⁹ Additionally, the Resolution gave powers to an Implementation force – the Kosovo Force (KFOR) -, taking care of the 5 military zones in which Kosovo was divided. The Military zones, similarly to the administrative districts, were given each to an international command, namely to the United Kingdom, France, Italy, Germany and the United States of America.¹⁵⁰

Despite the assistance KFOR and UNMIK were providing to the region, Kosovo still had a political and security gap to be refilled. With regards to the political situation, the post-conflict vacuum was refilled by former KLA combatants. The KLA was now undertaking a process of demilitarization, as ordered by the Security Council Resolution 1244 of June 1999, but the nature of the KLA, being the one of a paramilitary

¹⁴⁹ A. J. R. Groom and Paul Taylor, “The United Nations system and the Kosovo crisis”, in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁵⁰ *Ibid*

underground force, was causing the spread of a very high distrust because of security, and political, concerns.

Additionally, the Albanians had adopted a policy of revenge against the Serbs. They started demolishing their houses and committing several atrocities to the Serbs¹⁵¹. As a consequence, Serbs fled the region and those who decided to stay had been agglomerated in enclaves, becoming dependent on the protection of the KFOR.

On February 17, 2008, Kosovo declared its independence, but the situation in the region is currently less than stable. Some KLA combatants have been elected to the Kosovo Parliament, but some are accused of war crimes and organs, weapons and drug trafficking, causing institutional disenchantment and distrust.

Moreover, clashes between the two ethnicities are still a reality. As a consequence, the assistance of the international community still proves to be fundamental.

3.2. Legal Analysis

3.2.1. The United Nations Security Council Resolution No. 1160

As already anticipated, the first Resolution on Kosovo the Security Council issued was Resolution 1160, adopted on March 31, 1998. In condemning the use of force of the Serbian police force and the attacks of the KLA, as already emerged, and admitting of acting under Chapter VII of the Charter of the United Nations, the Security Council decided to call

“upon the Federal Republic of Yugoslavia immediately to take the further necessary steps to achieve a political solution to the issue of Kosovo through dialogue and to implement the actions indicated in the Contact Group statements of 9 and 25 March 1998”¹⁵²

The above mentioned statements refer to the background activities of the already analyzed international working group on the Kosovo crisis, the Contact Group. More in details, the statement of March 9, 1998, asked President Milosevic to end the violence in the region and commit to find a solution through dialogue.

¹⁵¹ A. Demjaha “The Kosovo Conflict: A Perspective From Inside” In “Kosovo And The Challenge Of Humanitarian Intervention: Selective Indignation, Collective Action, And International Citizenship”, A. Schnabel And R. Thakur, United Nations University Press, 2000

¹⁵² United Nations Security Council, RES 1160/1998

The Contact Group, additionally, requested, among the other proposals, a UNHCR mission to Kosovo, supported the deployment of an OSCE-led mission, proposed the establishment of an international framework that could have helped with the promotion of society building activities in Kosovo and asked the ICTY to gather information on atrocities in Kosovo.¹⁵³

On March 25, 1998, at the Bonn Meeting, Contact Group issued a second statement on Kosovo. The statement, apart from requiring compliance with the previous one, demanded compliance with the arms embargo that by that time was under consideration in the Security Council, condemned terrorist activities in the region and supported the establishment of a greater level of autonomy in Kosovo.¹⁵⁴

As emerged, the two statements were recalled in the above mentioned Security Council Resolution 1160 of 1998. More in details, the Resolution started by clearly condemning both terrorist activities of the KLA on the one hand¹⁵⁵, and the violent actions of the Serbian police forces, on the other. In condemning the use of violence by both sides, the Security Council called the parties to find a solution entering “*without preconditions into a meaningful dialogue on political status issues*”.¹⁵⁶

In order to do so, the Security Council decided the beginning of an embargo, both in the form of sales and supplies,

“of arms and related matériel of all types, such as weapons and ammunition, military vehicles and equipment and spare parts for the aforementioned”¹⁵⁷.

In order to check the compliance with the above mentioned provisions, the Security Council also established a Special Committee. In short, this first Resolution admitted acting under Chapter VII of the Charter of the United Nations, promoted compliance with the embargo on weapons and the Contact Group statements – suggesting a peaceful solution implying greater autonomy to Kosovo and self-administration -.

The Security Council, however, in noting the ICTY acknowledgment of the situation as representing an armed conflict, and being concerned with the worsening of the humanitarian situation – being the amount of displaced persons around 250.000

¹⁵³ Contact Group, London Contact Group Meeting, 9 March 1998, Statement on Kosovo

¹⁵⁴ Contact Group, Bonn Contact Group Meeting, 25 March 1998, Statement on Kosovo

¹⁵⁵ United Nations Security Council, RES 1160/1998, Prologue

¹⁵⁶ *Ibid*, par. 4

¹⁵⁷ *Ibid*, par. 8

people¹⁵⁸ and because of the considerable waves of refugees -, on September 23, 1998, adopted Resolution 1199.

3.2.2. The acknowledgement of the existence of a threat to the peace: The Security Council Resolution No. 1199

The Security Council Resolution 1199 reaffirmed the compliance with the above mentioned Security Council Resolution 1160 of March 1998, but this time, remarking to act under Chapter VII, acknowledged the existence of a threat to the peace. More in the specific, this second Security Council Resolution on Kosovo demanded a ceasefire to be implemented and maintained, supported by several actions to prevent the deteriorating of the humanitarian situation. Therefore, the Security Council Resolution 1199, recalling the Security Council Resolution 1160 of March 1998, called

“upon the authorities in the Federal Republic of Yugoslavia and the Kosovo Albanian leadership to enter immediately into a meaningful dialogue without preconditions and with international involvement”¹⁵⁹.

The Security Council Resolution 1199 of September 1998, additionally, demanded the withdrawal of security units, the establishment of international continuous monitoring in Kosovo and asked the FRY to comply with facilitating the delivery of humanitarian aids. Moreover, Yugoslavia was demanded to cooperate with the investigations on possible war crimes in the region, as carried out by the ICTY.

Additionally, the Resolution called

“upon Member States and others concerned to provide adequate resources for humanitarian assistance in the region”.¹⁶⁰

As enhanced, this provision, together with the admittance of acting under Chapter VII of the Charter of the United Nations, was interpreted by NATO as implying the authorization “of all necessary means” to ensure the compliance with the demands of the Security Council.¹⁶¹ It was on the basis of this and of the next Resolution that NATO decided to issue an ultimatum to the Serbs and then to start its air operation.

¹⁵⁸ United Nations Security Council, RES 1199/1998

¹⁵⁹ United Nations Security Council, RES 1199/1998 par. 1

¹⁶⁰ United Nations Security Council, RES 1199/1998 Par. 12

¹⁶¹ M.J. Calic, “Kosovo in the Twentieth century: a historical account”, in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

3.2.3. The International Community measures in compliance with the Security Council Resolution 1199

The Security Council Resolution 1199 was perceived to be requiring more actions from the international community. The existence of a ceasefire to be implemented and maintained required, accordingly, an international effort and force that could check the compliance with the Resolution. Thus, on October 16, 1998, the OSCE signed an Agreement with the FRY for the deployment of a Verification Mission to Kosovo, then circulated as a Security Council document n. S/1998/978. The OSCE Verification Mission, under the status of diplomatic entity, consisted of 2000 unarmed operators, whose safety and security was to be guaranteed from the FRY¹⁶². The Verification Mission had to check the compliance with the ceasefire and prevent the creation of roadblocks, as of the existence of unusual border control. Additionally, it had to cooperate with the return of displaced persons and with the electoral process in Kosovo. Finally, it also had to prevent and monitor whether the police or the military were conducting inappropriate actions. The importance of the Verification Mission, additionally, was the evidence of the FRY efforts to cooperate with the international community, as well as with Serbian and Kosovar authorities, in taking actions to put an end to the Kosovo crisis.

The OSCE Verification Mission was not the only measure the International Community took in order to check the compliance with the Security Council Resolution 1199 of 1998. Accordingly, on October 15, 1998, NATO signed with the Federal Republic of Yugoslavia an Agreement on the NATO Kosovo Verification Mission, circulated as a Security Council document n. S/1998/991. The NATO Verification Mission had to complement the OSCE Verification Mission. In short, NATO was entitled to take care of the air space, while the OSCE one was a Verification Mission on the ground. NATO, thus, established a Mutual Safety Zone with the FRY, meaning that the FRY agreed not to conduct operations in the NATO Controlled air zone, in order to check the compliance with the already mentioned Security Council Resolution 1199 of 1998.¹⁶³

¹⁶² United Nations Security Council, "Letter Dated 19 October 1998 From The Permanent Representative Of Poland To The United Nations Addressed To The Secretary-General, Annex: Agreement On The Kosovo Verification Mission Of The Organization For Security And Cooperation In Europe", S/1998/978

¹⁶³ United Nations Security Council, "Letter Dated 22 October 1998 From The Chargé D'affaires A.I. Of The Mission Of The United States Of America To The United Nations Addressed To The President Of The Security Council, Annex: Kosovo Verification Mission Agreement Between The North Atlantic Treaty Organization And The Federal Republic Of Yugoslavia", S/1998/991

Both the Agreements were, then, welcomed, endorsed and supported in the Security Council Resolution 1203, adopted on October 24, 1998. The Security Council Resolution 1203 remarked the condemnation of

“all acts of violence by any party, as well as terrorism in pursuit of political goals by any group or individual, and all external support for such activities in Kosovo, including the supply of arms and training for terrorist activities in Kosovo”.¹⁶⁴

Because of these concerns, the Security Council, if previously called for States to provide adequate resources, decided now to urge them to do it. Moreover, the Security Council also urged

“States and international organizations to make available personnel to the OSCE Verification Mission in Kosovo”.¹⁶⁵

The two previously mentioned Agreements on the Verification Forces were, accordingly, perceived as fundamental. The text of the Security Council Resolution 1203 of October 1998, in fact, states that the Security Council “*demand the full and prompt implementation of these agreements by the Federal Republic of Yugoslavia*”.¹⁶⁶ The Agreements were, therefore, a stronger action of the international community that was this time determined to find a solution to the Kosovo crisis, ceasing terrorist and violent actions and preparing the path for a productive dialogue among the parties.

3.2.4. The Rambouillet Peace Conference

As already anticipated, in February 1999 all the parties of the Kosovo crisis participated, in Rambouillet, in a Peace conference, mediated by the Contact Group, aiming at finding a solution through dialogue.

The Rambouillet Accords, in the form of a Draft Peace Agreement, were signed by the Albanians, but not by the Serbians, because of concerns on the increased autonomy for the region. The text, accordingly, recognizing the aim of finding a political solution to the issue, indicated the necessity of establishing a democratic self-government in Kosovo, meaning the establishment of a political structure made of autonomous

¹⁶⁴ United Nations Security Council, RES 1203/1998

¹⁶⁵ *Ibid*, par. 7

¹⁶⁶ *Ibid*.

legislative, executive and judicial institutions. The text also stressed the equality of all citizens, to be expressed via free, fair and competitive elections.¹⁶⁷ The text advocated for the end of the use of force¹⁶⁸, as well as for the safe return of displaced persons, to be ensured in cooperation with the UNHCR¹⁶⁹. Additionally, it granted access for international aids, previously impeded, and amnesty for all imprisoned persons, with the only exception of those charged of crimes against the International humanitarian law. The latter, as stated in the text of the Agreement¹⁷⁰, should have been prosecuted by the International Criminal Tribunal for the Former Yugoslavia, to which Kosovo should have provided complete cooperation.

With regards to the ICTY investigations on Kosovo, it is necessary to stress the role of President Milosevic in the conflict. President Milosevic was, in fact, responsible of persecuting, expelling and killing Albanian Kosovars, Bosnian Muslims and Croats *“in an effort to ensure continued Serbian control over the province”*¹⁷¹. On May 27, 1999, accordingly, the already analyzed International Criminal Tribunal for the Former Yugoslavia (ICTY) indicted President Milosevic for his violations of international humanitarian law. It represented the first time in the history of the Tribunal *“to charge a Head of State during an on-going armed conflict with the commission of serious violations of international humanitarian law”*.¹⁷² In June 2001, President Milosevic was transferred into the custody of the ICTY Detention Unit, where he was found dead on March 11, 2006.

As already anticipated, the Rambouillet Agreement was not signed by Serbia. As a response to the increasing Serb violence, and aiming at making Serbia change its

¹⁶⁷ United Nations Security Council, “Letter Dated 4 June 1999 From the Permanent Representative of France to the United Nations Addressed to the Secretary-General; Annex 1: Rambouillet Accords”, Art, 1, Par. 4: “Citizens in Kosovo shall have the right to democratic self-government through legislative, executive, judicial and other institutions established in accordance with this Agreement. They shall have the opportunity to be represented in all institutions in Kosovo. The right to democratic self-government shall include the right to participate in free and fair elections”.

¹⁶⁸ Ibid, Art. 2, Par.1: “Use of force in Kosovo shall cease immediately. In accordance with this Agreement, alleged violations of the cease-fire shall be reported to international observers and shall not be used to justify use of force in response”.

¹⁶⁹ Ibid, Par, 3 and 4

¹⁷⁰ Ibid, Par. 13, (a): “All Parties shall fully cooperate with the International Criminal Tribunal for the Former Yugoslavia in its investigations and prosecutions, including complying with its requests for assistance and its orders”.

¹⁷¹ The United Nations International Criminal Tribunal For The Former Yugoslavia, Case No. IT-99-37-PT, Second Amended Indictment

¹⁷² The United Nations International Criminal Tribunal For The Former Yugoslavia, Press Statement, JL/PIU/403-E

decision, together with the aim of preventing a major humanitarian catastrophe, NATO, interpreting Security Council Resolution 1199 of 1998 as authorizing the use of force, as already mentioned, decided to bomb Belgrade, even if it had no explicit authorization of the Security Council. Bombings, despite meant to be temporary, protracted themselves for 11 weeks, culminating into a full-scale war.

3.2.5. The G-8 Principles and the Security Council Resolution 1244

A political solution to the crisis was now urgent and mandatory. The international community realized the gravity of the situation and, after a G-8 Foreign Ministers meeting held in May, 1999, agreed on fundamental principles on a political solution to the crisis. As declared in the statement by the Chairman of the above mentioned meeting, the first principle to be implemented was the

“Immediate and verifiable end of violence and repression in Kosovo”.¹⁷³

The end of the use of force was to be reached with the demilitarization of the KLA and the withdrawal of forces, to be replaced by the deployment of a civil force¹⁷⁴ that could have taken care of an interim administration¹⁷⁵, facilitating the return of the displaced persons and the delivery of humanitarian aids¹⁷⁶. Moreover, the text stressed the importance of the implementation of the Rambouillet Accords, as well as of the territorial integrity of the FRY. Additionally, all the countries agreed on the submission of the above mentioned principles to the Security Council, in order to obtain a final, complete and integrated, Resolution.

Thus, on June 10, 1999, the Security Council adopted Resolution 1244. The Security Council Resolution 1244, recognizing and regretting the non-full compliance with the previous resolutions, but still determined to put in action a political solution to the crisis, decided that such solution was to be found in the implementation of the G-8

¹⁷³ United Nations Security Council, “Letter Dated 6 May 1999 From the Permanent Representative of Germany to the United Nations Addressed to the President of the Security Council; Annex 1: Statement by the Chairman on the conclusion of the meeting of the G-8 Foreign Ministers held at the Petersberg Center on 6 May 1999” par. 1

¹⁷⁴ Ibid, Par. 1: “Deployment in Kosovo of effective international civil and security presences, endorsed and adopted by the United Nations, capable of guaranteeing the achievement of the common objectives”.

¹⁷⁵ Ibid, Par. 1 “Establishment of an interim administration for Kosovo to be decided by the Security Council of the United Nations to ensure conditions for a peaceful and normal life for all inhabitants in Kosovo”.

¹⁷⁶ Ibid, Par. 1 “The safe and free return of all refugees and displaced persons and unimpeded access to Kosovo by humanitarian aid organizations”.

general principles, annexed to the Resolution. The Security Council Resolution 1244 of June 1999, additionally, defined the above mentioned principles more in details, in Annex 2, being the principles the FRY accepted to comply with. The principles in Annex 2 were the result of the effort of the European Union envoy, the President of Finland Mr. Athisaari, and the Russian envoy, the former Prime Minister, Mr. Chernomyrdin, whose role was fundamental because of the influence Russia had in the region. Russia, accordingly, despite all the concerns on the issue, was able to make the FRY accept an Agreement on the requirements and functions the compliance of which was to be implemented and monitored by an International Security Force. The International Security Force was to be deployed, accordingly, to deter hostilities, as well as to check the KLA demilitarization process. All of this could have created the conditions to the establishment of

“a secure environment in which refugees and displaced persons can return home in safety, the international civil presence can operate, a transitional administration can be established, and humanitarian aid can be delivered”.¹⁷⁷

The International Security Force, additionally, was to be deployed aiming at

“Facilitating a political process designed to determine Kosovo’s future status, taking into account the Rambouillet accords”¹⁷⁸.

As already emerged, the situation required both civil and military International Security presence. As a result, under the Security Council Resolution 1244, with regards to the civil sphere, the United Nations Mission to Kosovo (the already mentioned UNMIK) was deployed and integrated, with regards to the military sphere, with the already anticipated NATO-led Kosovo Force (KFOR).

The fact that the Security Council was about to adopt such a decision on the deployment of an International Security Force had already been acknowledged in the Military Technical Agreement signed between NATO and the FRY and Serbia on June 9, 1999, concerning the deployment of the already anticipated International Military Force KFOR.

As stated in the Military Technical Agreement,

"The State Governmental authorities of the Federal Republic of Yugoslavia and the Republic of Serbia understand and agree that the international security

¹⁷⁷ United Nations Security Council, Resolution 1244, adopted on June 10, 1999, Par. 9, (c)

¹⁷⁸ Ibid, par. 9 (e)

force ("KFOR") will deploy following the adoption of the UNSCR referred to in paragraph 1 [on the deployment of an international security force] and operate without hindrance within Kosovo and with the authority to take all necessary action to establish and maintain a secure environment for all citizens of Kosovo and otherwise carry out its mission. They further agree to comply with all of the obligations of this Agreement and to facilitate the deployment and operation of this force.”¹⁷⁹

Moreover, obligations were directed at the cessation of the hostilities, but at the same time at the authorization on the use of force, if necessary,

“[...] to ensure compliance with this Agreement and protection of the international security force ("KFOR"), and to contribute to a secure environment for the international civil implementation presence, and other international organizations, agencies, and non-governmental organizations”¹⁸⁰.

For the second time, NATO was called to protect peace and stability in the Balkans. As it may have emerged, however, this time NATO's actions caused more controversies than they did before, especially with regards to Russia. NATO bombings on Belgrade, accordingly, caused the undermining of its relations with the Russian Federation, an actor that was fundamental to reach a political solution to the Kosovo crisis, because of its influence on Serbia and on the FRY.

3.3. The undermining of NATO-Russia relations

As already mentioned, the Kosovo crisis reshaped the NATO-Russia relations. All of this was resulting from different perceptions on the issue, as it was resulting from different perceptions on what solution could have been found, as on what could have been the means to reach such solutions.

In order to better understand the different perceptions, a focus on Russia's view, compared to the NATO one, is about to be given.

¹⁷⁹ North Atlantic Treaty Organization, “Military Technical Agreement between the International Security Force ("KFOR") and the Governments of the Federal Republic of Yugoslavia and the Republic of Serbia”, Art. 1, Par. 2

¹⁸⁰ Ibid, Art. 1, Par. 4 (b)

3.3.1. Russia's interests in Kosovo and the Russian perception of the crisis

As it may have already emerged, Russia had strong ties with the Balkans, both economically, both socially. With regards to the economic interests, Russia was responsible of oil and gas deliveries in the region. However, this proved not to be a sufficient element to understand Russia's ties with the region.¹⁸¹ Accordingly, when Russia decided not to comply with the energy resources embargo, it did so because it retained the embargo was not properly adopted, meaning it was not in compliance with international law¹⁸². Thus, the decision not to comply with it was a political, rather than economical, one. Therefore, Russia was worried politically – meaning it had concerns about its role in the international community – rather than economically.¹⁸³

Furthermore, with regards to the social sphere, Russia always had a very strong ethno-religious solidarity with Serbia, as previously emerged. Moreover, Russia perceived the FRY as being a victim of the powerful countries, mainly referring to the West.¹⁸⁴ All of this, if added with the evidence of the FRY as considered as a potential ally to Russia, explains the phenomenon of little if none popularity in the Russian media of the atrocities and of the ethnic cleansing that were undergoing in Kosovo prior to NATO bombings. As a result, at the very beginning, Russia had a strongly critic perception of the conflict as being the result of NATO's violation of international law, in committing aggression to Serbia.

As pointed out by the Russian General Ivashov, in 1999,

“NATO, as an organization that has committed an act of aggression and a crime, has no right today of being part of a European security system. Europe needs other institutions that will guarantee the security, firstly of all the states of Europe and, secondly, that will not threaten... acts of aggression even outside of Europe”¹⁸⁵

¹⁸¹ V. Baranovsky “Russia: Reassessing national interests” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁸² *Ibid*

¹⁸³ *Ibid*

¹⁸⁴ *Ibid*

¹⁸⁵ Statement by General Ivashov, 31 March 1999, as cited in O. Antonenko, “Russia, NATO and European Security after Kosovo”, *Survival*, Vol. 41, no. 4, Winter 1999-2000, pp. 124-144

This perception became more moderated during the years, also because of the increasing Russian media coverage of the events. But Russia, despite being always less empathetic with Serbians, kept advocating that Serbs were not the only ones to blame on for the atrocities.

This changing attitude coincided with a changing approach of Russia to the issue. Russia, accordingly, had within its borders relatable situations. The Russian Federation was conducting operations in Chechnya, in order to prevent it from seceding from Russia, and was afraid of the creation of a “Kosovo pattern” - meaning NATO bombings with no condemnation of the Security Council in the name of reaching a solution - to be applied from that moment on.¹⁸⁶ Chechnya was to many Russians relatable to Kosovo as the Chechens were relatable to the Albanians.

Moreover, the never declared condemnation of NATO’s conduct from the Security Council was also challenging Russia’s role in the international arena. As pointed out by Brovkin, “the war made it painfully clear that Russia was no longer a great power, and that the West pursued its policies in Europe and elsewhere regardless of Russian objections”.¹⁸⁷ Russia, in fact, as already anticipated, had asked for condemnation of NATO bombings on Belgrade, but no condemnation was issued by the Security Council, where Russia is a permanent member.

The perception of the undergoing erosion of the role of Russia in the Security Council, together with fears of the creation of a Kosovo pattern, made Russia put a big emphasis on the role it had to play in finding a solution to the issue and in reconstructing the region. Russia, therefore, could have assumed a new role, namely the one of a mediator country, consolidating the autonomy of its foreign policy with respect to the NATO one.

3.3.2. NATO Bombings: a comparison of the NATO and Russia’s perspective

On the other side of the spectrum, NATO thought that threatening the use of force, after the air strikes in Bosnia, could have been an efficient strategy of “Diplomacy backed

¹⁸⁶ The similarity of this episode and others to the Kosovo Crisis represents one of the reasons for which Russia stated it will never recognize Kosovo as an Autonomous State.

¹⁸⁷ V. Brovkin, “Discourse on NATO in Russia during the Kosovo War” *Demokratizatsiya*, vol. 7, no. 4, 1999, p. 544.

by credible force"¹⁸⁸. But why did NATO bomb? As stated by NATO Secretary General in March 1999, bombings on Belgrade were necessary to “*prevent more human suffering and more repression and violence against the civilian population of Kosovo*”.¹⁸⁹ Thus, NATO decided to use force for political reasons, rather than legal.¹⁹⁰

Legally, the use and threat of use of force is an exclusive power of the Security Council, and NATO had no allowance to do so. Though, as already anticipated, it should be remarked that NATO thought the authorization to the use of force was the result of the Security Council Resolution 1199, because of its explicit reference to Chapter VII of the Charter of the United Nations.¹⁹¹ More in details, NATO’s view was comparable to what the former President of France, Mr. Chirac, described as the French opinion on the issue.

President Chirac, accordingly, stated that, despite acknowledging the exclusive powers of the Security Council on the use and threat of use of force,

“we have a resolution which does open the way to the possibility of military action. I would add, and repeat, that the humanitarian situation constitutes a ground that can justify an exception to a rule, however strong and firm it is”.¹⁹²

However, it is now necessary to recall what it has been stated before, meaning that Russia does not consider the humanitarian argument as a valid reason for intervention. As pointed out by Vladimir Orlov, in the interview attached to this dissertation,

“The pretext of protection of Kosovars, because of humanitarian-related issues, was to Russia no more than just a pretext to intervene”¹⁹³.

With this in mind, it is clear how the two sides, namely NATO and Russia, had irreconcilable perspectives.

¹⁸⁸ N. Butler, “NATO: From collective defence to peace enforcement” in “Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship”, A. Schnabel and R. Thakur, United Nations University Press, 2000

¹⁸⁹ NATO, Statement of the NATO Secretary General, 23 March 1999, NATO Press Release (1999)040); see <http://www.nato.int/docu/pr/1999/p99-040e.htm>, As cited in C. Guicherd (1999) International law and the war in Kosovo, *Survival*, vol. 41, no. 2, Summer 1999, pp. 19-34

¹⁹⁰ C. Guicherd (1999) International law and the war in Kosovo, *Survival*, vol. 41, no. 2, Summer 1999, pp. 19-34

¹⁹¹ *Ibid.*

¹⁹² As cited in C. Guicherd (1999) “International law and the war in Kosovo”, *Survival*, vol. 41, no. 2, Summer 1999, pp. 19-34

¹⁹³ Interview with Vladimir A. Orlov, international security and Russia’s foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

3.3.3. Russia's decision on cooperating on the basis of a mutual interest

Nevertheless, Russia was conscious that a strong confrontation with NATO would have meant a new age of isolation, and it was not prepared to face such outcome. Moreover, Russia was not economically, nor militarily, ready for isolation.¹⁹⁴ Thus, Russia decided to preserve once again its national interests, “seeking an accommodation with the West”.¹⁹⁵

Accommodation, however, didn't mean assimilation. Russia was trying to obtain international recognition as a mediator, capable of preserving its own views and interests in the region, without confronting with NATO. The role of the Special Representative of Russia in Yugoslavia, Viktor Chernomyrdin, in finding a compromise, together with the United Nations Special Envoy for Kosovo, Martti Ahtisaari, between the NATO demands and the FRY concerns, was fundamental to find a solution to the crisis. Therefore, Russia decided to advocate for NATO's demands to the FRY, trying to find a compromise, and at the same time Russia decided to establish a military to military cooperation with NATO, providing Russian contingents to the KFOR. The Russian participation to the KFOR and the level of tension between Russian contingents and NATO were made evident after the June 1999 march of 200 peacekeepers from Bosnia to Pristina. With that event, Russia showed it didn't want to be ostracized when finding a solution to, and reconstructing, Kosovo.

Russia, in fact, understood that “*credit for helping end the war, even on NATO's terms, was better than no credit at all*”.¹⁹⁶ And that was made possible thanks to the role Russia was playing in all the fora that were involved in the crisis.

Once again, Russia decided to give privilege to its international recognition, by assuming a fundamental role, rather than privileging its distrust to NATO. Moreover, Russian presence in the Balkans remarked Russia's presence in Europe.¹⁹⁷

¹⁹⁴ O. Antonenko, “Russia, NATO and European Security after Kosovo”, *Survival*, Vol. 41, no. 4, Winter 1999-2000, pp. 124-144

¹⁹⁵ V. Brovkin, “Discourse on NATO in Russia during the Kosovo War” *Demokratizatsiya*, vol. 7, no. 4, 1999, p. 544.

¹⁹⁶ E. Yesson, “NATO and Russia in Kosovo”, *Perspectives* No. 13, Special Issue: The Balkans, NATO and European Security after the Kosovo War (Winter 1999/2000), pp. 11-19

¹⁹⁷ V. Gobarev, “Russia-NATO relations after the Kosovo crisis: Strategic implications”, *The Journal of Slavic Military Studies*, vol. 12, no. 3, pages 1-17

However, this is not to say that NATO-Russia relations did not have to face any repercussion. Contrarily, Russia realized NATO could not have been the trustworthy partner it thought it had become to Russia. Nevertheless, the Kosovo crisis made Russia understand the limits its cooperation with NATO had to take into consideration and had to accept, rather than try to overcome them. As enhanced by Vladimir Orlov,

“starting from the Kosovo campaign, those who were involved in the Russian decision-making process, as well as in the military community, and in the public opinion as well, started to have a concept of NATO as a real rival to Russia”¹⁹⁸.

With this new approach in mind, it is possible to state that the Kosovo crisis had an unprecedented impact on the new NATO-Russia relations. It constituted not a breach, but a change of direction. Each side was more aware and conscious of the existence of irreconcilabilities. At the same time, nevertheless, both became conscious of the fact that irreconcilabilities could have been marginalized, if in order to preserve an interest specific to each side, as international recognition for Russia and NATO’s new role and mission.

Thus, the Kosovo Crisis, if on one hand represented the undermining of NATO-Russia relations, because of renewed mutual distrust and skepticism, it also represented the possibility of finding a common denominator, although minimum, in order to achieve a goal that, though specific to each of the two, could not have been reached if not acting together.

Conclusions

If with the Bosnian war NATO and Russia were able to resist to the test the war caused to their equilibrium, the Kosovo crisis constituted a change of directions in this relation.

¹⁹⁸ Interview with Vladimir A. Orlov, international security and Russia’s foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

On one side of the spectrum, NATO wanted to underline its role as guarantor of peace and stability in Europe. In line with this aim, NATO had to *“prevent more human suffering and more repression and violence against the civilian population of Kosovo”*¹⁹⁹.

This humanitarian imperative, however, was not shared with Russia. The Russian Federation, in fact, saw NATO intervention, based on humanitarian reasons, as a pretext to intervene, aiming at replacing the United Nations Security Council, in which Russia is a permanent member, role in the Euro-Atlantic geographical area.

With the Kosovo crisis, Russia understood NATO was not a completely trustworthy partner, if not even a rival to their foreign policy. But being conscious of the fact it was not ready to detach from NATO and from the West, because of economic and military weakness, Russia became conscious of the irreconcilabilities it had to accept, rather than overcome.

Russia needed to show its influence and its presence in the Balkans, being at the same time a demonstration of Russia's influence and importance in Europe. All these reasons brought Russia to decide advocating for NATO demands to the FRY when finding a compromise for a solution to the crisis.

This approach proves how the two sides can sideline their resentments in order to pursue what each retains it's better for its own ambitions. The case-by-case approach still proved to be the better description of NATO-Russia relations, despite the unprecedented consequences of the Kosovo crisis to this relation.

The undermining, but not breach, of relations between the two sides introduced a path of deteriorating relations, with increasing suspicion and mistrust.

Russia started being afraid it could have been the next Serbia, meaning a victim of the Kosovo pattern. As already anticipated, accordingly, Russia had its own “Kosovos”, indicating separatist regions aspiring to becoming part of the West.

The Balkans, hence, resembled to many what was undergoing in the Southern Caucasian region, where ethno-territorial disputes summed with historical claims were increasing the claims of independence of the separatist movements.

Russia's concerns were not totally unfounded. A new crisis was about to explode and to pose a challenge, once again, to the NATO-Russia relations. If the previous

¹⁹⁹ NATO, Statement of the NATO Secretary General, 23 March 1999, NATO Press Release (1999)040); see <http://www.nato.int/docu/pr/1999/p99-040e.htm>, As cited in C. Guicherd (1999) International law and the war in Kosovo, Survival, vol. 41, no. 2, Summer 1999, pp. 19-34

challenges were in a region closer to NATO, however, and Russia had to somehow adapt, this time the geographical focus shifted to a region closer to Russia, both in terms of borders, both in terms of geopolitics: Georgia.

CHAPTER FOUR

GEORGIA: WHEN CONFRONTATION REPLACES COOPERATION

Introduction

The Kosovo crisis, as analyzed, made relations between Russia and NATO undermine. With this preceding, the 2008 Georgian War, constituting a further deterioration of the relations between the two actors, resulted in the complete rupture of their relationship.²⁰⁰

Historically, after the collapse of the Soviet Union, Georgia was focused on the establishment of a newly independent, autonomous and democratic State. This mission was pursued by the President Gamsakhurdias, a representative of the nationalist movement. The nationalist nature of the political agenda, however, left little or none space for special policies on the existing ethnic minorities in Georgia²⁰¹.

As will be later analyzed more in details, at the very beginning of the Soviet Union, South Ossetia and Abkhazia, two regions then agglomerated in Georgia, were granted special status because of their ethnic composition, being populated almost exclusively by minorities. The collapse of the Soviet Union, together with the nationalist policy of Gamsakhurdias, made claims of independence of the two regions arise. This brought to the early 1990s conflicts in Abkhazia and South Ossetia, ended with the de-facto secession of the two regions and with the signing of the cease-fire Sochi and Moscow Agreements, the former on the situation in South Ossetia, and the latter on Abkhazia.

The two Agreements established a framework for a peacekeeping mission in Georgia, the Joint Peacekeeping Force, JPKF, composed of Russians, North Ossetians, South Ossetians, and Georgians. Georgia, being a newly independent State, was concerned about the presence of Russians on its soil and, because of fears of an increasing Russian influence, started looking for an alternative guarantor for its security²⁰².

²⁰⁰ Smith, Julianne: *"The Nato-Russia Relationship: defining Moment or déjà vu?."* In *Politique étrangère* Volume 4, 2008

²⁰¹ T. Gordadze, "Georgian-Russian Relations in the 1990s", in Cornell, E. Svante, and Starr, S. Friedrick: *"The guns of August 2008"*, ME Sharpe, 2009

²⁰² *Ibid*

This coincided with the election of Eduard Shevardnadze, a pro-Western politician, as President of Georgia. The Shevardnadze Presidential term was characterized by the freezing of the conflicts in the two separatist regions. His accommodative approach to international politics, together with increasing corruption and decreasing economic stability²⁰³, made popular disenchantment arise. This disenchantment was also the result of the increasing popularity of reformist movements, guided by Mikheil Saakashvili, among the young generations in Georgia.

Because of this increasing popular disenchantment, the reformist movements started revolting against the Presidency. All of this culminated in the so-called Rose Revolution, that brought Saakashvili to power, winning the 2004 Presidential elections, as will be later analyzed. Saakashvili adopted as the top priority of his political agenda the territorial integrity of Georgia. This reopened tensions in Abkhazia and South Ossetia, bringing them closer to Russia, since the perceived security level of the two regions decreased because of the increasing number of Georgian troops on their soils. Russia, meanwhile, had used its soft and hard power in order to become the guarantor of the security and stability of the two regions, including the supply of military equipment, aiming at avoiding any NATO influence in the area²⁰⁴.

This Russian support for the two regions made tensions increase. The Separatist militias of the two regions, supported by Russia, started attacking the Georgian troops. This brought Georgia, as will be later enhanced, to respond with an attack in Tskhinvali, the Capital of South Ossetia, in August 2008. Russia counterattacked and forced Georgia to withdraw. Five Days after the beginning of the conflict, Nicolas Sarkozy, President of the European Union, intervened as the mediator, allowing the involved parties to reach an Agreement: The Six-Points Plan, that will be later analyzed.

The Russian intervention, not being based on the authorization of the use of force by the United Nations Security Council, nor having a precise legal basis, as will be later analyzed more in details, had been hardly condemned by Georgia. Georgia perceived Russia's intervention as a full-scale invasion, while Russia claimed to intervene in Georgia in response to a Georgian attack and genocide in South Ossetia, as will be later analyzed.

²⁰³ N. Nilsson, "Georgia's Rose Revolution: The Break With the Past" in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

²⁰⁴ A. Illarionov, *"The Russian Leadership's Preparation for War, 1999–2008"*, in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

Furthermore, as stated by Vladimir Orlov, Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs:

«Politically as well as militarily, it was important to defend our allies in the region, South Ossetians and Abkhazians. By this, it meant to defend them not only verbally, so not just protesting at the UN Security Council, but defending them, unfortunately, with wars».²⁰⁵

This misunderstanding was perceived as Russia's full detachment from NATO and caused the complete rupture²⁰⁶ of their mechanisms of cooperation, referring to both the political cooperation established with the creation of NATO-Russia Council in 2002, and to the Partnership for Peace, the military-to-military cooperation mechanism.

4.1. Historical Analysis



Map of the region

As appeared in M.S. Barabanov, A.V. Lavrov, V. A. Tseluiko, "The Tanks of August", edited by R.N. Pukhov, Center for Analysis of Strategies and Technologies, 2010

The 2008 conflict in Georgia, despite being an intrastate conflict, saw a high degree of internationalization. The international nature of the conflict was depending on the participation of international actors, namely the Russian

Federation, as well as on the reasons why such participation was put in existence and on the international concerns it made arise.

²⁰⁵ Ceremigna, Jasmine: Interview with Vladimir A. Orlov, International security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs, May 2017

²⁰⁶ Smith, Julianne: "The Nato-Russia Relationship: defining Moment or déjà vu?." In *Politique étrangère* Volume 4, 2008

Georgia was for both NATO and Russia in a strategic geographical position. The proximity to the Black Sea, the availability of energy resources (in terms of oil and gas) and its strategic location as a bridge between Europe, the Middle East, and Central Asia, made Georgia a country with which an alliance would have been strategic for both NATO and Russia.

4.1.1. NATO's interests in Georgia

Common interests were not the only factors that made Georgia relevant to NATO, being NATO's closeness to Georgia the result of several elements.

Georgia had, since its independence, very strong ties with the United States of America, as demonstrated with the signing, in March 1994, of the Bilateral Investment Treaty, allowing more favorable conditions for US Investments in Georgia.²⁰⁷

US ties with Georgia implied NATO's interest for the region²⁰⁸. Accordingly, in 1994, Georgia joined the Partnership for Peace, the NATO's already examined mechanism of military-to-military cooperation. Moreover, Georgia's Euro-Atlantic orientation, as proven with Georgia's contribution to the NATO Mission in Afghanistan (where Georgia was among the top non-Member States contributors²⁰⁹), and its commitment to adopting Western standards on liberalization of its economy, and democratization, were valuable elements to NATO.²¹⁰

NATO, additionally, had economic interests in Georgia, because of the availability of energy resources that could have allowed the creation of oil and gas pipelines without transiting on the Russian soil, thus implying the European energetic autonomy²¹¹. All of these factors were perceived by Russia as a potential threat to its influence in the area²¹², being Georgia a strategic region to Russia as well.

²⁰⁷ Georgia Bilateral Investment Treaty, Signed March 7, 1994; Entered into Force August 17, 1997, available at <https://www.state.gov/documents/organization/43561.pdf> [last accessed September 25, 2017]

²⁰⁸ Ondrejcsák, Robert: "*Perspectives of NATO-Georgia Relations*", Center for European and North Atlantic Affairs Website, available at: <http://cenaa.org/analysis/wp-content/uploads/2013/02/Ondrejcsak-pdf.pdf> [last accessed September 25, 2017]

²⁰⁹ *Ibid*

²¹⁰ *Ibid*

²¹¹ *Ibid*

²¹² A. Vlassov "The End of Multi-Vector Policies" in *Russia in Global Affairs*" Vol. 6 No. 4 October – December 2008

4.1.2. Russia's interests in Georgia

The Georgian conflict, thus, was more than a conflict between Georgia and Russia, as it may have emerged with the analysis of NATO's interests in the region. The Georgian conflict implied geopolitical concerns, having the region strategic value for Russia as well.

Russia, in remarking its role in the Post-Soviet Space by intervening in Georgia, as will be later seen, underlined how no other actor could have replaced its influence in the area²¹³, preventing Georgia's cooperation with NATO.

South Ossetia and Abkhazia, thus, were the instruments the Russian Federation retained strategic to make NATO understand how, in a geographical area this time different than the previous ones, being this time closer to its borders, the Russian Federation wanted to play its supremacy role²¹⁴.

The reasons behind this approach were multiple. Russia, after the Kosovo crisis, as emerged, started detaching from NATO and reshaping its foreign policy on the basis of its national interests once again. This was also possible because of a change in the leadership, taken by the former KGB officer, Vladimir Putin in 2000. Putin wanted to give the Russian Federation its role as a superpower once again, this time in terms of influence in the "near abroad"²¹⁵. With Vladimir Putin, in fact, the foreign policy of the Russian Federation started to be oriented again on the concept of "spheres of influence"²¹⁶.

Because of its goal of obtaining a supremacy role, Russia wanted to avoid NATO to expand in what it perceived as its area of influence, and was ready to take all the necessary measures to let this not happen, as confirmed by the Minister of Foreign Affairs, Sergey Lavrov, in April 2008, when he declared: "We will do everything possible to prevent the accession of Ukraine and Georgia to NATO."²¹⁷

²¹³ D. J. Smith, "*The Saakashvili Administration's Reaction To Russian Policies*", in Cornell, E. Svante, and Starr, S. Friedrich: "*The guns of August 2008*", ME Sharpe, 2009

²¹⁴ A. Vlassov "The End of Multi-Vector Policies" in *Russia in Global Affairs* Vol. 6 No. 4 October – December 2008

²¹⁵ Ratsiborynska, Vira: "*When Hybrid Warfare Supports Ideology: Russia Today*" NATO Defense College – Research Division, 2016

²¹⁶ Erkomaishvili, David: "*A New Chance for Leadership*" in *Russia in Global Affairs* Vol. 6 No. 4, 2008

²¹⁷ D. J. Smith, "*The Saakashvili Administration's Reaction To Russian Policies*", in Cornell, E. Svante, and Starr, S. Friedrich: "*The guns of August 2008*", ME Sharpe, 2009

Abkhazia and South Ossetia, thus, were, for Russia, the perfect scenario where it could have expressed its supremacy, confronting with the NATO Countries for geopolitical concerns. Moreover, the existence of conflicts on its borders represented a threat to Russia. Not intervening in South Ossetia and Abkhazia would have likely caused a domino effect in the other separatist scenarios the Russian Federation had, as in the Caucasus and in the Black Sea regions²¹⁸. Additionally, not intervening in South Ossetia would have had consequences in North Ossetia, the Russian region on the border with Georgia, “*where the situation could have got completely out of federal control*”²¹⁹ because of flows of refugees and likelihood of increasing political instability.

4.1.3. The background of the August 2008 War: Georgia after the collapse of the Soviet Union

The claims of independence of the Abkhazia and South Ossetia began largely before the collapse of the Soviet Union. At the time of the Soviet Union, Abkhazia and South Ossetia had special status, being populated almost exclusively by ethnic minorities. At the very beginning, Abkhazia had the same legal status of Georgia, namely the one of a Socialist Soviet Republic, and only after a decade it was incorporated into the latter. After the collapse of the Soviet Union, the two regions were recognized as part of the newly independent State of Georgia.

Being a newborn State, Georgia saw increasing popular support for nationalist propaganda, culminated into the election of Gamsakhurdias, the leader of the nationalist movement, as President. This made Georgia focus on State-level policies, rather than on the inclusion of the minorities. As a result, claims of independence started arising in the two regions.

Between 1991 and 1992, South Ossetia and Abkhazia unilaterally declared their independences, creating their own State Systems (meaning they had their own parliaments, their armies, educational systems and institutions²²⁰), but the declarations of

²¹⁸ E. Stepanova, “*South Ossetia and Abkhazia: Placing the Conflict in Context*”, SIPRI Policy Brief, November 2008

²¹⁹ S. Belkovskiy, Agentstvo Politicheskikh Novostey, 11 August 2008, as cited in: NATO Defense College, Research Review: “Understanding the Georgia Conflict, Two Years on Reviews and Commentaries” – September 2010

²²⁰ C. King, “*The Five-Day War: Managing Moscow After the Georgia Crisis*”, as appeared in Foreign Affairs, Volume 87, No. 6

independence were declared invalid by Georgia. Georgia, as a response, sent troops to both the regions in order to ensure stability and hinder the undergoing de-facto secessions. As a result, between 1992 and 1993, Georgia had to face two bloody intrastate wars, in both the regions, ending with the signing of the 1993 Sochi Agreement, with regards to South Ossetia, and of the 1994 Moscow Agreement, with regards to Abkhazia.

The two Agreements, as will be later analyzed more in details, made Georgia de-facto accept increased Russia's influence in the region. Russia was allowed to have its own military bases in Georgia, as well as to appoint the ministers of Security, Defense and Interior. Furthermore, with the adoption of the Sochi Agreement, as will be later enhanced, Russia received the mandate for a peacekeeping mission.

The Moscow Agreement established the Joint Control Commission for Georgian-Ossetian Conflict Resolution (JCC), a Commission composed of representatives of Russia; North Ossetia (part of the Russian Federation); South Ossetia and Georgia, finalized at maintaining security in the region. However, the composition of the commission made Georgia feel underrepresented and in the need of looking for alternatives²²¹. Being a newly independent State, accordingly, Georgia wanted to avoid the Russian pressure once again.

On the other side of the spectrum, Russia wanted to avoid NATO's influence in the area, and the composition of the peacekeeping mission was allowing Russia to pursue its strategy. Georgia, in fact, was the only not pro-Russia component of the JCC.

NATO Countries, additionally, were, at first, more interested in maintaining stability in the area, rather than in preventing Russia from acquiring a predominant role in the South Caucasus²²², as demonstrated with NATO Countries approving the Security Council Resolution on the establishment of the JCC. The limited interest of NATO Countries on the issue in the years right after the 1991-1992 conflicts resulted in the freezing of the hostilities in South Ossetia and Abkhazia, if not for some sporadic clashes. This stability, made dissatisfaction arise among the Georgian citizens, who started being increasingly concerned about the Russian military presence on their soil and felt they were under the Russian pressure once again. The Georgian President, Shevardnadze,

²²¹ T. Gordadze, "Georgian-Russian Relations in the 1990s", in Cornell, E. Svante, and Starr, S. Friedrick: *"The guns of August 2008"*, ME Sharpe, 2009

²²² *Ibid*

despite being the initiator of a pro-western political agenda, was criticized of being “reactive and ineffective”²²³, because of the frozen nature of the conflicts.

Between the late 1990s and early 2000s, however, NATO Countries started showing their interest to the Georgian demands of inclusion. Projects of a new pipeline with no transit on the Russian soil, together with projects of military training and aids (i.e. Georgia Train and Equip Program - GTEP – sponsored by the US) started arising. Moreover, under his Presidential term, Shevardnadze started looking for further connections with NATO, as shown by Georgia’s withdrawal from the Collective Security Treaty Organization (CSTO) in 1999, and culminated in the declaration on Georgia’s ambition of joining NATO.

Despite the increasing ties with NATO Countries, and NATO as well, the popular disenchantment with the Presidency kept increasing, because of “*stagnation, corruption, and semi-authoritarianism during Shevardnadze’s later years in power*”²²⁴. Georgia needed, or perceived to need, in order to find a valid alternative to Russia, someone “proactive and demanding”²²⁵, someone who would have taken care of the reforms the country needed in order to avoid the Russian control.

The new Georgian generation, furthermore, was being part of the undergoing reformist movements and turmoil. This reformist activism, together with the disenchantment with the Presidency of Shevardnadze, culminated in the 2003 Rose Revolution.

4.1.4. The turning point: The Rose Revolution and its aftermath

In March 2003, Georgia held Presidential elections. Shevardnadze, the incumbent President, won, but different vote tabulations made a series of contestations arise. These revolts, known as the Rose Revolution (because of demonstrators storming the Parliament session holding roses, the symbol of Georgia), made Shevardnadze declare the state of

²²³ Svante E. Cornell and S. Frederick Starr, “*The guns of August 2008: Russia’s war in Georgia*” the Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, 2009

²²⁴ N. Nilsson, “Georgia’s Rose Revolution: The Break With the Past” in Svante E. Cornell and S. Frederick Starr, “*The guns of August 2008: Russia’s war in Georgia*” the Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, 2009

²²⁵ Svante E. Cornell and S. Frederick Starr, “*The guns of August 2008: Russia’s war in Georgia*” the Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, 2009

emergency and lately, not being supported by the internal security forces, decided to resign. New elections were held, and Mikheil Saakashvili, the leader of the Rose Revolution, was elected President of Georgia.

The election of Saakashvili represented a game changer in the history of the Georgia-Russia relations. Saakashvili, being the leader of the reformist activism, initiated a series of reforms, in trying to reach the standards that were necessary in order to achieve NATO accession. Saakashvili, thus, aimed at transforming the Georgian economy in a liberal one, and aimed at reaching a complete democratization of the country. However, the top priority of his political agenda was the territorial integrity.

The importance given to the goal of territorial integrity, to be achieved in the shortest amount of time, and with no gradual transition, was the key element of the Saakashvili Presidential term. It was because of the priority that Saakashvili gave to territorial integrity that Georgia reopened the frozen tensions in South Ossetia and Abkhazia. Saakashvili had his own strategy for achieving this result. However, this strategy was based on a basic miscalculation: Saakashvili thought the leaders of the unstable regions lacked popular support. Thus, he initiated a wave of political turmoil and anti-smuggling policies against the regions. This strategy proved to be effective in Adjara, a smaller unstable region used as a test for Abkhazia and South Ossetia. However, by increasing the number of Georgian troops in the other two regions, Saakashvili increased the popular perception of the Georgian military as constituting a threat, bringing the two ethnicities closer to Russia, as a result of Russia's policy in Abkhazia and South Ossetia.

Russia, in fact, had meanwhile increased its activity in the regions, both in terms of soft and hard power. The Russian strategy was the one of limiting the opportunities for other influences in the area than the Russian one, as well as the one of keeping Abkhazia and South Ossetia unstable in order to avoid Georgia's NATO accession. As pointed out by Angela Merkel, in fact, a country with territorial disputes cannot join NATO. For this reason, Russia adopted a series of measures directed against Georgia, perceived as becoming an enemy because of its declaration of aiming at joining NATO²²⁶.

In order to furtherly destabilize Georgia, Russia removed the Free-Visa policy the two countries had, oversimplifying, on the opposite, the Visa policies for the regions of Abkhazia and South Ossetia. Moreover, Russia started sending military equipment to the

²²⁶ T. Gordadze, "Georgian-Russian Relations in the 1990s", in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

unstable regions (despite the signing of the 2005 Joint Communiqué on the withdrawal of Russian troops to be achieved by the end of 2008); started supporting pro-Russian candidates for the local elections; cut the supply of electricity to Georgia; started appointing key roles in the economic sector; limited Georgia's economy by blocking the subsidiaries coming from Russia; adopted sanctions against Georgia; limited the export and import flows; unilaterally cut connections causing a de-facto embargo; accused Georgia of being responsible for Genocide for the early 1990s conflicts, and, ultimately, distributed Russian passports to citizens of the two regions (passportization policy) in order to consider them as Russian citizens. However, the Russian intervention as protection of its citizens abroad, as will be later analyzed, had no United Nations Security Council authorization, nor the protections of the citizens abroad had any legal basis²²⁷.

Tensions with Russia increased in March 2007, when, as a reaction to the Putin speech at the Munich Conference, seen as a declaration of open confrontation with the Western countries,²²⁸ the Georgian Parliament unanimously voted for Georgia's accession to NATO.

4.1.5. The escalation of tensions and the August 2008 Five Day war

The increasing westernization of the near abroad State of Georgia culminated in the March 2008 Georgia's withdrawal from the JCC. This, together with the NATO declaration after the 2008 Bucharest NATO Summit, when NATO declared that Membership Action Plans (support to countries wishing to join NATO), were about to be put in action for Georgia and Ukraine, made tensions between Georgia and Russia further develop. As a response, on April 20, 2008, Russia shot down a Georgian Unmanned Aerial Vehicle (UAV), becoming responsible for breaching the Moscow Agreement²²⁹.

Since then, violence escalated quickly. Russia increased its military presence in the regions and started supporting the Secessionists acts of violence against Georgia. At

²²⁷ International Crisis Group, "Russia Vs Georgia: The Fallout", Europe Report N°195 – 22 August 2008

²²⁸ A. Illarionov, "The Russian Leadership's Preparation for War, 1999–2008", in Cornell, E. Svante, and Starr, S. Friedrich: "The guns of August 2008", ME Sharpe, 2009

²²⁹ United Nations Security Council, S/2008/631, "Report of the Secretary-General on the situation in Abkhazia, Georgia", 3 October 2008, available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Georgia%20S2008%20631.pdf> [last accessed August 29, 2017]

the very beginning, clashes were mainly located in Abkhazia, with explosions and increased tensions between Abkhazia and Georgia. But when in July a group of Georgian officers was captured by the South Ossetian Militia, the focus shifted to South Ossetia. Car bombings, airspace violations, firings and shelling on villages, with no safeguards for civilians²³⁰, followed, forcing South Ossetians to flee their region and move to North Ossetia, since both Russia and Georgia were pushing for a military solution.²³¹ As a response to the South Ossetians acts of violence, on August 7, 2008, Georgia declared a unilateral ceasefire, but then, after a few hours, launched an attack on Tskhinvali, the capital of South Ossetia. The attack to Tskhinvali was the Georgian response to an information on Russian troops transiting over the Georgian soil, via the Roki Tunnel – a tunnel connecting the two Countries -, perceived as a preparation for a major war.

The Russian counteroffensive to the Georgian attack on Tskhinvali arrived right after the Georgian bombings and the result was a Five-Day war, after which Georgia withdrew, not being prepared for a high-intensity war with Russia. Russia, contrarily, advanced also in other areas than those in the South Ossetian region. In their advance, South Ossetians started cleansing and destroying Georgian villages and expelled the local Georgians, as a revenge of when South Ossetians had to flee the region as a consequence of the Georgian attacks. In total, a United Nations High Commissioner for Refugees (UNHCR) Report counts a peak of around 140.000 displaced persons because of the 2008 conflict in Georgia.²³²

4.1.6. The international mediation and the end of the conflict

The situation captured the attention of the International Community, that aimed at providing international mediation. As a result, the President of France, Nicolas Sarkozy, on behalf of the European Union, acted as a mediator between Russia and Georgia, allowing the signing of a cease-fire Agreement, including a six points plan, as will be later enhanced. The Agreement allowed the cessation of military actions; the ending of any use of force; the complete withdrawal of Georgian troops; full and

²³⁰ Amnesty International Publications, "Civilians in the line of fire: The Georgia-Russia Conflict", 2008

²³¹ A. Illarionov, "The Russian Leadership's Preparation for War, 1999–2008", in Cornell, E. Svante, and Starr, S. Friedrich: "The guns of August 2008", ME Sharpe, 2009

²³² UN High Commissioner for Refugees (UNHCR), "The end of the road? A review of UNHCR's role in the return and reintegration of internally displaced populations", July 2010

unimpeded accession of Humanitarian Aids; the withdrawal of Russian troops and the mandate for additional security measures to be held by Russia; and, finally, an international discussion on the issue. However, despite the Sarkozy letter, clarifying the meaning of additional security measures, as will be later analyzed, Russia interpreted the additional security measures provision as allowing it to maintain control of the areas, impeding the solution of the territorial disputes, thus impeding Georgia's accession to NATO. Hence, Russia decided to establish buffer zones, under its control, as part of its mission of keeping Georgia unstable²³³.

In late August 2008, Russia unilaterally recognized the independence of Abkhazia and South Ossetia, becoming able to sign bilateral Agreements with the regions. As a result, Russia was entitled of militarily supporting the regions in maintaining security in the areas. However, as of today, Abkhazia and South Ossetia remain part of Georgia. In September 2008, a European Monitoring Mission (EUMM) was deployed in Georgia, in order to check the compliance with the Six Point Agreement. However, as an evidence of the Russian influence in the regions, the authorities of South Ossetia and Abkhazia have denied EUMM the access to their territories²³⁴.

4.2. Legal Analysis

4.2.1. The legal basis of Russia's peacekeeping mission to Georgia: the 1992 Agreements

As already mentioned, the first Agreement Georgia and the Russian Federation signed on the undergoing territorial disputes was the Agreement on Principles of Settlement of the Georgian - Ossetian Conflict (known as the Sochi Agreement), signed by President Yeltsin on behalf of the Russian Federation, and President Shevardnadze on behalf of Georgia, on June 24, 1992.

The Agreement reaffirmed the commitment of the parties to the UN Charter and covered the territorial dispute in South Ossetia. It allowed the parties to engage, among the other provisions, in a ceasefire and in the withdrawal of the armed forces²³⁵, as well

²³³ P. Fegenhauer: *"After August 7: The Escalation of the Russia-Georgia War"*, in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

²³⁴ EUMM Website

²³⁵ Agreement on Principles of Settlement of the Georgian - Ossetian Conflict, Sochi, June 1992, Article 1

as to ensure the free movement of people, goods and services²³⁶ and to guarantee an impartial media coverage of the events²³⁷. This last provision was retained to be necessary, since both the parties of the conflict had adopted a soft power strategy of influencing the media coverage of the war.²³⁸ However, the main provision contained in the Agreement is considered to be the one on the establishment of the already mentioned Joint Control Commission.²³⁹

The Joint Control Commission had to check compliance with the Agreement and, in the eventuality of violations, had to investigate the causes of such violations and propose reparations.²⁴⁰ Additionally, Article 3 of the Sochi Agreement also authorized the deployment of the Commonwealth of Independent States (CIS) – South Ossetia Joint Peacekeeping Force (JPKF), when stating:

«Until the aforementioned tasks are implemented, joint forces on coordination of activities aimed at establishment of peace and maintenance of order shall be created within the Control Commission».²⁴¹

The JPKF was commanded by the Russians and composed of Russian, North Ossetian, South Ossetian and Georgian troops. The JPKF, however, as emerged, made Georgia feel underrepresented and put on a side with respect to the other components²⁴². As an evidence, Georgian troops quite often didn't patrol together with the counterparts, which usually patrolled in mixed and joint troops in the territory of South Ossetia²⁴³.

If the Sochi Agreement covered South Ossetia, on September 3, 1992, President Yeltsin on behalf of the Russian Federation and President Shevardnadze on behalf of the State of Georgia signed the Moscow Agreement (S/24523) on the territorial dispute in Abkhazia.

²³⁶ Agreement on Principles of Settlement of the Georgian - Ossetian Conflict, Sochi, June 1992, Article 4

²³⁷ Agreement on Principles of Settlement of the Georgian - Ossetian Conflict, Sochi, June 1992, Article 5

²³⁸ Svante E. Cornell and S. Frederick Starr, *"The guns of August 2008: Russia's war in Georgia"* the Central Asia-Caucasus Institute & Silk Road Studies Program Joint Center, 2009

²³⁹ Agreement on Principles of Settlement of the Georgian - Ossetian Conflict, Sochi, June 1992, Article 3

²⁴⁰ *Ibid.*

²⁴¹ *Ibid.*, par. 3

²⁴² T. Gordadze, "Georgian-Russian Relations in the 1990s", in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

²⁴³ Global Peace Operations Review: South Ossetia – Georgia, 2007

In the Moscow Agreement, the two Presidents reaffirmed the importance for both the countries of the Charter of the United Nations, as well as their commitment to the respect for human and minority rights and individual freedoms.

The Agreement, then, remarked the importance of ensuring the territorial integrity of Georgia and established a ceasefire in Abkhazia.²⁴⁴ Moreover, the Agreement, in stating in Article 1 that

«a Monitoring and Inspection Commission, composed of representatives to be appointed by the authorities of Georgia including Abkhazia, and Russia, shall be established immediately»²⁴⁵,

defined the framework for the deployment of a Monitoring Commission that could have checked the compliance with the Agreement. The Commission had to check compliance with the ceasefire in Abkhazia, as well as with the provisions on the free flows of goods²⁴⁶, humanitarian aids²⁴⁷ and refugees²⁴⁸, and on the prevention of the spread of forms of discrimination on the basis of ethnicity, language, religion or nationality²⁴⁹. Moreover, the Mission also had to check the neutrality of the armed forces.²⁵⁰

4.2.2. The United Nations Observer Mission in Georgia (UNOMIG) and the freezing of the conflict

The Moscow Agreement has been then recalled in the United Nations Security Council Resolution 849, adopted on July 9, 1993. This Resolution, in noting the increased tensions in the Region of Abkhazia, suggested the investigation on conditions for the deployment of United Nations Observers²⁵¹, then approved with the Security Council Resolution 854 (1993).²⁵²

²⁴⁴ United Nations Security Council, Letter Dated 8 September 1992 From the Charge d'affaires A.I. of the permanent Mission of the Russian Federation to the United Nations addressed to the President of the Security Council, Annex I, Article 1

²⁴⁵ *Ibid.* Par. 2

²⁴⁶ *Ibid.* Article 4

²⁴⁷ *Ibid.* Article 7

²⁴⁸ *Ibid.*, Article 5

²⁴⁹ *Ibid.* Article 8

²⁵⁰ *Ibid.* Article 9

²⁵¹ United Nations Security Council, Security Council Resolution 849 (1993) [Abkhazia, Georgia], 9 July 1993, S/RES/849 (1993), Article 3

²⁵² United Nations Security Council, Security Council Resolution 854 (1993) [Abkhazia, Georgia], 6 August 1993, S/RES/854 (1993), Article 1

As a result, the United Nations, in adopting the Security Council Resolution 858, on August 24, 1993, admitting the nature of the conflict in Georgia as a threat to the peace²⁵³, decided to establish the United Nations Observer Mission in Georgia (UNOMIG)²⁵⁴, in order to check the compliance with the “Agreement On A Cease-Fire In Abkhazia And Arrangements To Monitor Its Observance” signed in Sochi on July 27, 1993²⁵⁵.

Before the deployment of the UNOMIG, however, the ceasefire was broken. As a result, a new ceasefire Agreement, the “Agreement on a Cease-Fire and Separation of Forces”, was signed by representatives of Georgia and Abkhazia, in Moscow, on May 14, 1994. The Agreement established a ceasefire²⁵⁶, divided the Abkhazian region into restricted-weapons zones²⁵⁷, and imposed the withdrawal of heavy military equipment from the area²⁵⁸. Additionally, the 1994 Moscow Agreement, in its Protocol, established the deployment of the Peacekeeping Force of the Commonwealth of Independent States (CISPKF). The CISPKF had to check the compliance with the Ceasefire Agreement and “promote the safe return of refugees and displaced persons”.²⁵⁹

The Deployment of the CISPKF was then welcomed by the United Nations, by adopting the Security Council Resolution 937 on July 21, 1994. Resolution 937 (1994) extended the UNOMIG functions, granting CISPKF the UNOMIG support²⁶⁰ in checking compliance with the 1994 Moscow Agreement²⁶¹. More in details, the Security Council Resolution 937 (1994) gave UNOMIG powers

«To maintain close contacts with both parties to the conflict and to cooperate with the CIS peace-keeping force and, by its presence in the

²⁵³ United Nations Security Council, Security Council resolution 858 (1993) [Abkhazia, Georgia], 6 August 1993, S/RES/858 (1993), Prologue

²⁵⁴ *Ibid.* Article 2

²⁵⁵ United Nations Secretary General, Report S/26250, Annex I “Agreement On A Cease-Fire In Abkhazia And Arrangements To Monitor Its Observance”

²⁵⁶ United Nations Security Council, Report S/1994/583, Letter Dated 17 May 1994 from the Permanent Representative of Georgia to the United Nations addressed to the President of the Security Council”, Annex I: “Agreement On A Cease-Fire In Abkhazia And Arrangements To Monitor Its Observance” Article 1

²⁵⁷ *Ibid.*, Article 2 par. 1

²⁵⁸ *Ibid.* Article 2 par. 3

²⁵⁹ *Ibid.* Protocol

²⁶⁰ United Nations Security Council, Security Council resolution 937 (1994) [Abkhazia, Georgia], 21 July 1994, S/RES/937 (1994), Article 6, Par. 2

²⁶¹ *Ibid.*, Par. 1

area, to contribute to conditions conducive to the safe and orderly return of refugees and displaced persons»²⁶².

Since then, the conflict froze. The UNOMIG commitment to finding a peaceful solution was then strengthened in 1997 with the engagement of the Group of Friends of the Secretary General, a group of States composed of Russia, the United Kingdom, the United States, France and Germany. The Group of Friends of the Secretary General promoted dialogue and tried to find a political solution, proposing in the early 2000s a plan made of three phases. At first, they proposed the parties to reach an Agreement on renouncing to the use of force and to commit to ensure the safe return of displaced people.

Then, economic recovery and, finally, political discussion. However, with the election of Saakashvili in 2004, as emerged, relations between Russia and Georgia severely deteriorated and a political solution became unlikely to be found.

4.2.3. The reopening of tensions and the Six-Points Plan Agreement

The escalating worsening of relations between Russia and Georgia culminated in the already analyzed Five-Day War of early August 2008. As anticipated, the Five-Day War ended with the signing of the Six Points Plan Agreement on August 12, 2008. The Agreement was the result of the mediation of the President of France, Nicolas Sarkozy, who, in his role as President of the European Union, managed to solve the Georgian Crisis making both the parties subscribe to six main principles and goals.

More in details, the parties committed to renounce to the use of force²⁶³ and to ensure the cessation of the hostilities²⁶⁴. Georgia and Russia committed also to ensure the free movement of people, goods and services²⁶⁵, as well as to participate in an international discussion on Abkhazia and South Ossetia²⁶⁶. Moreover, the parties agreed on the withdrawal of troops, both Georgian²⁶⁷, and Russian²⁶⁸. The latter, however, were allowed to temporarily implement additional security measures.²⁶⁹

²⁶² *Ibid*, Par. 9

²⁶³ Council of the European Union, Press Release, Extraordinary Meeting General Affairs and External Relations, Brussels, 13 August 2008, Art. 2 Par. 1

²⁶⁴ *Ibid*, Par. 2

²⁶⁵ *Ibid*. Par. 3

²⁶⁶ *Ibid*. Par. 6

²⁶⁷ *Ibid*. Par. 4

²⁶⁸ *Ibid*. Par. 5

²⁶⁹ *Ibid*.

This last provision could have seemed vague. Therefore, on August 15, 2008, President Sarkozy sent a letter to President Saakashvili, after holding a meeting with the President of the Russian Federation, Dimitri Medvedev.

As stated in the letter of President Sarkozy,

«As I made clear at our joint press conference in Tbilisi, these “additional security measures” may only be implemented in the immediate proximity of South Ossetia to the exclusion of any other part of Georgian territory».²⁷⁰

The Georgian President, in fact, was concerned about the presence of Russian troops on the Georgian soil since, as emerged, Russian troops had advanced away from South Ossetia, the area they were entitled to protect.

Thus, Sarkozy retained necessary to add clarifications to the provision on the additional security measures, by which Sarkozy meant temporary, thus provisional, activities, pending the establishment of an international system, concerning the patrol of the areas affected by the conflict in South Ossetia.

The parties, then, reaffirmed their commitment to implementing the plan, as remarked in the Communiqué issued by the Presidency of the French Republic on September 9, 2008, on the Implementation of the Plan of 12 August 2008²⁷¹.

The Communiqué set the timeline for the withdrawal of the troops and reaffirmed the importance of the UNOMIG and OSCE Missions – deployed in the early 1990s as Observer Mission in Georgia - for the stability of the regions. Moreover, the parties set the beginning of the international discussion for October 2008, in Geneva. European Observers, additionally, were thought to be deployed in order to replace the Russian ones, as a confirmation of the temporary nature of the Russian additional security measures.²⁷²

²⁷⁰ N. Sarkozy, “Letter to President Mikhail Saakashvili sent on 14 August 2008”. Paris, 16 August 2008, available here: <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/GeorgiaSarkozyLetter.pdf>

²⁷¹ French Embassy in Moscow, Website, Communiqué issued by the Presidency of the French Republic on September 9, 2008, on the Implementation of the Plan of 12 August 2008

²⁷² *Ibid*

4.2.4. The Deployment of the European Union Monitoring Mission in Georgia and the current scenario

As a result, on September 15, 2008, the Council of the European Union adopted, under Title V of the EU Treaty, concerning provisions on Common Foreign and Security Policy, the “Council Joint Action of 15 September 2008 on the European Union Monitoring Mission (EUMM) in Georgia”.²⁷³

The Council Joint Action established the EUMM, headquartered in Tbilisi, as an evidence of the European Union effort in securing a peaceful environment in Georgia²⁷⁴. As stated in its Preamble, the legal basis for the deployment of the EUMM was the August 2008 Six-Points Agreement, with the Agreement on its Implementation, both already analyzed²⁷⁵.

The European Union Monitoring Mission in Georgia, thus, was deployed, in order to:

« [...] contribute to stabilization, normalization and confidence building whilst also contributing to informing European policy in support of a durable political solution for Georgia». ²⁷⁶

The Joint Action, then, in Article 4 defines Stabilization, Normalization and Confidence-building implied, when designated as Missions in Article 3. More in details, in order to achieve stabilization, the EUMM was tasked since its very beginning of monitoring, analyzing and reporting the advancements or violations of the compliance with the Six-Points Agreement and with its Implementation Agreement.²⁷⁷

With regards to the Normalization goal, the EUMM was tasked with monitoring, analyzing and reporting evolvments related to the rule of law and the activities of civil governance, including institutions and infrastructures.²⁷⁸

²⁷³ Official Journal of the European Union, L 248/26, Council Joint Action 2008/736/CFSP, 17 September 2008

²⁷⁴ *Ibid*, Preamble, Par. 1

²⁷⁵ *Ibid*, Preamble, Par. 3: “The six-point Agreement achieved on 12 August 2008 on the basis of the EU's mediation efforts, as supplemented by the Agreement reached on 8 September 2008 for its implementation, remains the basis for the stabilization process”.

²⁷⁶ Official Journal of the European Union, L 248/26, Council Joint Action 2008/736/CFSP, 17 September 2008, Article 2

²⁷⁷ *Ibid*, Article 3, par. 1

²⁷⁸ *Ibid*, Article 3, par. 2

Finally, when referring to implementing Confidence Building, the EUMM had to act as a liaison, in order to prevent further escalation of tensions, promoting dialogue between the parties and other actors.²⁷⁹

The EUMM was composed of unarmed civilians who had to guarantee the safety of Abkhazians and South Ossetians by preventing a new escalation of the conflict. Thus, it was deployed to safeguard the boundary lines of Abkhazia and South Ossetia. However, the two regions had denied EUMM the access to their soil.²⁸⁰ Nevertheless, the EUMM had actively engaged in promoting transparency in Georgia, as proven with the Technical Agreement signed with the Ministry of Internal Affairs in October 2008 on increased transparency on military equipment, and with the Technical Agreement signed in November 2015 with the State Security Services on increasing transparency.²⁸¹ Its mandate is currently still in action and it has been renewed until December 2018.²⁸²

As already mentioned, the EUMM stressed the importance of the UNOMIG for the stability of the two regions. However, as the United Nations Secretary General Ban Ki-Moon noticed in his Report dated October 3, 2008²⁸³, the UNOMIG Mandate was limited to the region of Abkhazia. Thus, it had no powers in South Ossetia nor in the areas the Russian troops occupied outside of South Ossetia. Nevertheless, UNOMIG proved to be fundamental in delivering fundamental humanitarian assistance to the affected areas in Abkhazia.

The UNOMIG mandate expired in 2009 and has not been renewed since then, having the Russian Federation vetoed its extension, calling for a new security regime in the area, aiming at making the Russian Federation obtain a key role.

Russia, accordingly, was, as already emerged, still interested in maintaining its influence in the area, in order to avoid any influence coming from NATO. Georgia, in fact, was closer to NATO than to Russia and the latter, as emerged, was ready to take all the necessary measures to avoid Georgia accession to NATO.

As it might have emerged, the relations between NATO and Russia had severely deteriorated in the aftermath of the Georgian conflict. Cooperation was not an option

²⁷⁹ *Ibid*, Article 3, par. 3

²⁸⁰ European Monitoring Mission – Official Website

²⁸¹ European Monitoring Mission – Factsheet – April 2017

²⁸² *Ibid*.

²⁸³ United Nations Security Council, Report of the Secretary-General on the situation in Abkhazia, Georgia, S/2008/631, October 3, 2008

anymore. In its place, Confrontation seemed to be the predominant component of this new relation.

4.3. NATO – Russia relations

As already anticipated, the 2008 conflict in Georgia furtherly deteriorated the NATO-Russia relations, already worsened after the Kosovo Crisis. Russia, more in details, had the perception it had left too many liberties to NATO on the Kosovo conflict and post-conflict events²⁸⁴. Thus, when NATO Countries recognized the independence of Kosovo, in 2008, Russia responded by unilaterally recognizing the independence of Abkhazia and South Ossetia.²⁸⁵

The Five-Day war of August 2008 between Georgia and Russia in South Ossetia brought to the complete rupture of the recently achieved cooperation between NATO and Russia²⁸⁶. All forms of cooperation achieved until the Georgian War, in fact, were suspended, both referring to the NATO-Russia Council (established in Rome in May 2002, as already seen) and to the already examined Partnership for Peace.

This rupture was originating from a radically different interpretation of the conflict. Russia and NATO had a completely different view of the dispute between Georgia and the separatist regions. Therefore, in order to better grasp the reasons why confrontation replaced cooperation since 2008, an analysis of the different interpretations is required.

4.3.1. NATO's interpretation of the Russian intervention

NATO had the impression Russia wanted to reshape the Post-Soviet space according to its newly affirmed hegemonic approach to the International Relations. This new approach coincided with the election of Vladimir Putin in 2000 as President of the Russian Federation. President Putin wanted to secure Russia's role in the Commonwealth of Independent States (CIS) as the one of *primus super pares*, capable of strengthening Russian interests and influence in the area, annulling the national identity of the CIS

²⁸⁴ J. Smith, "The NATO-Russia Relationship: Defining Moment or Déjà Vu?", Center for Strategic and International Studies, 2008

²⁸⁵ *Ibid*

²⁸⁶ *Ibid*

States.²⁸⁷ This was also confirmed by the soft and hard power strategies the NATO Member States identified as means Russia used in order to obtain its hegemonic role. The passportization policy, meaning the distribution of Russian passports to Abkhazians and South Ossetians, together with the energy policy and the establishment of military bases in the areas, were all soft and hard power measures NATO Countries thought Russia was using in order to remark its predominance.

Thus, the NATO Member States, especially the new members and former Soviet Union countries – the Baltic States - developed an understanding of Russia's intervention in Georgia as the one of an invasion in a foreign country²⁸⁸. More in details, former Soviet Union countries saw the Russian invasion as a threat to their own security and called for the application of Article 5 of the North Atlantic Treaty, concerning collective defense.²⁸⁹

4.3.2. Russia's claims for intervention

On the other side of the spectrum, Russia had a radically different perspective. Russia thought Georgia was already responsible for committing genocide, and then that in August 2008 was following a “Blitzkrieg” (invasion) Plan²⁹⁰. Russia, accordingly, declared it had to intervene in order to protect those who needed it.²⁹¹

Russia thought it had to intervene both in the protection of the Russian citizens, both in order to accomplish its peacekeeping mandate in Georgia²⁹². As stated by Vladimir Voronkov, Permanent Representative of the Russian Federation at OSCE, accordingly,

²⁸⁷ V. Ratsiborynska “When Hybrid Warfare Supports Ideology: Russia Today”, Research Paper, NATO Defense College, No. 133, November 2016

²⁸⁸ C. King “The Five-Day war: Managing Moscow After the Georgia Crisis” in Foreign Affairs, November – December 2008

²⁸⁹ M. de Haas, “NATO-Russia relations after the Georgian Conflict”, in Atlantisch Perspectief, Vol. 33, No. 7, November 2009

²⁹⁰ As stated by V. Shlykov, in K. Giles “Understanding the Georgia Conflict: two years on Reviews and Commentaries” Research Paper, NATO Defense College, September 2010

On the Invasion Plan, K. Simonov “Russia 2008. Report on Transformation” – Part IV: “Russian Foreign Policy”

²⁹¹ A. Buzgalin & A. Kolganov, “The Five-Day War: Major Results”, in “Russia in Global Affairs” Vol. 6 No. 4 October – December 2008

²⁹² I. Kotlyarov “The Logic of South Ossetia Conflict” in “Russia in Global Affairs” Vol. 6 No. 4 October – December 2008

«The Russian Federation will not leave its citizens and peacekeepers in South Ossetia to the mercy of fate and will take all necessary measures to protect them».²⁹³

With regards to the first aim, the Russian Federation thought it was a constitutional responsibility it had to guarantee. Furthermore, after the passportization policy, Russia interpreted the notion of its citizens as referring to its new citizens and, at the same time, to the Russian peacekeepers who were deployed in Georgia. As stated by the Ministry of the Foreign Affairs, Sergey Lavrov:

«(the) life and dignity of our citizens, wherever they are, will be protected in accordance with the Constitution of the Russian Federation».²⁹⁴

With regards to the second aim, Russia's peacekeeping mission in Georgia was part of the Russian strategy of acquiring the role of "Supreme arbiter"²⁹⁵ of the stability of the CIS, being Russia the only country in the area that could have provided stability in the region. In order to become a supreme arbiter, however, Russia had to become an attractive alternative to NATO. Russia, in doing so, promoted itself as guarantor of the integrity, and stability, of the post-Soviet Space, defined as a zone of strategic interest in the Foreign Policy Concept of the Russian Federation.²⁹⁶

As stated by Vladimir Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs:

«That was probably the very first lesson for the West that Russia not only talks about, but also defends, its interests as happened in South Ossetia and the Georgian conflict»²⁹⁷.

Nevertheless, the Post-Soviet Space countries were still looking towards the Atlantic or the European alternatives, rather than to the Russian one. Thus, in order to show the CIS Countries the relevance of the Russian alternative, Russia had to intervene

²⁹³ V. Voronkov, Statement made at the Special Meeting of the OSCE Permanent Council, August 8, 2008

²⁹⁴ As cited in R. Allison: "Russia, the West, and Military Intervention", Oxford University Press, 2013

²⁹⁵ A. Vlassov "The End of Multi-Vector Policies" in *Russia in Global Affairs* Vol. 6 No. 4 October – December 2008

²⁹⁶ D. Erkomaishvili: "A New Chance for Leadership" in *Russia in Global Affairs* Vol. 6 No. 4 October – December 2008

²⁹⁷ Interview with Vladimir A. Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

in Georgia, as emerged in a statement by the Kremlin, in which the intervention in Georgia was described as an “operation to compel Georgia toward Peace”²⁹⁸.

Accordingly, it was in the name of stability and respect for minorities that Russia recognized the independence of Abkhazia and South Ossetia. Under the Russian perspective, because of the atrocities caused by Georgia, the two regions could have never been part of Georgia again²⁹⁹. Thus, as stated by Sergey Karaganov, Russian Political scientist, Head of the Council of Foreign and Defense Policy, shortly before the recognition of the independence of the two regions,

«We can’t lull ourselves with a relatively bloodless disintegration of the Soviet Union. We are in the middle of this disintegration, and the process can play up any time. The current unrecognized states must get extremely pragmatic treatment, and if reunification is impossible, then we must work toward their recognition as states and vest them with full responsibility. Nobody said that the Soviet Union would necessarily break up into only fifteen countries. There may be seventeen or even more countries in the end».³⁰⁰

Hence, Russia decided to intervene in Georgia. The Russian intervention marked its first confrontation against another State after the collapse of the Soviet Union.

4.3.3. Russia, Self Defense and the Responsibility to Protect

The Russia’s first military intervention in another State was explicated by the Russian Federation with the adoption of humanitarian reasons based on the legal principles of Self-Defense and Responsibility to Protect. Before going into details with the Russian explanation, it is necessary to give a brief understanding of both the principles.

The principle of Self-Defense is regulated by Article 51 of the Charter of the United Nations, where it is stated:

²⁹⁸ S. Markedonov: “The Five-Day War Through the Prism of Post-Soviet Politics” in *Russia in Global Affairs*” Vol. 6 No. 4 October – December 2008

²⁹⁹ International Crisis Group: “*Russia Vs Georgia: The Fallout*” Europe Report N°195, 22 August 2008, available at <https://www.crisisgroup.org/file/1886/download?token=dm2-V9VE> [last accessed August 29, 2017]

³⁰⁰ *Ibid*

«Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an *armed attack* occurs against a Member of the United Nations, *until the Security Council has taken measures necessary to maintain international peace and security*».³⁰¹

On the other hand, the principle of the Responsibility to Protect occurs in the case in which a State fails in protecting the lives of its citizens from “gross violations of human rights”³⁰². If that is the case, other States than the one where violations have taken place can intervene.

The principle of the Responsibility to Protect has been defined by the United Nations in 2005, when it approved the 2005 World Summit Outcome Resolution (General Assembly Resolution 60/1). As stated in paragraph 138 of the General Assembly Resolution,

«Each individual State has the Responsibility to Protect its populations from genocide, war crimes, ethnic cleansing and crimes against humanity».³⁰³

Thus, the Russian Federation thought both the aforementioned principles were applicable to the humanitarian emergency in Georgia, considered as a genocide and as an attack against its citizens.

As stated by the Deputy Minister of the Foreign Affairs of the Russian Federation and State Secretary, Grigory Karasin, during the Five-Day war,

«Today is the fourth day of tragic events, of a real humanitarian tragedy and catastrophe which began after what I think is the criminal decision by the Georgian leadership to subject to massive attack with the employment of all available modern weapons the city of Tskhinvali and South Ossetia as a whole. The results are truly catastrophic. More than two thousand people have died, mostly Ossetians. Among them the majority are Russian citizens. [...] What

³⁰¹United Nations, “*Charter of the United Nations*”, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed June 03, 2017], Article 51, emphasis added

³⁰² Conforti, Benedetto: “*Diritto Internazionale*”, Editoriale Scientifica, 2014

³⁰³ United Nations General Assembly, Resolution 60/1, 2005 World Summit Outcome, 24 October 2005, par. 138

happened in Tskhinvali bore the obvious hallmarks of genocide against the Ossetian people».³⁰⁴

Being, in the Russian view, a humanitarian catastrophe, and more specifically a genocide that was also affecting Russian citizens, the Russian Federation decided to explain its counterattack with the principle of Self-Defense. This was confirmed by the Deputy Minister of the Foreign Affairs of the Russian Federation and State Secretary, Grigory Karasin, when he stated:

«Having used a right to self-defense, since Russian citizens have died, including Russian servicemen who served in the peacekeeping contingent and were on the territory of the foreign State in accordance with an internationally recognized mandate, Russia in difficult battles is now conducting a peace coercion operation».³⁰⁵

However, meaning by Self-Defense the protection of its own citizens from genocide, it would have been more accurate explaining the Russian intervention on the basis of the principle of the Responsibility to Protect. Accordingly, as stated by the Minister of the Foreign Affairs of the Russian Federation, Sergey Lavrov, recalling the already mentioned Statement of the President of the Russian Federation, Dimitri Medvedev,

«According to our Constitution there is also Responsibility to Protect – the term which is very widely used in the UN when people see some trouble in Africa or in any remote part of other regions. But this is not Africa to us, this is next door. This is the area where Russian citizens live. So the Constitution of the Russian Federation, the laws of the Russian Federation make it absolutely unavoidable to us to exercise Responsibility to Protect».³⁰⁶

However, the application of the Responsibility to Protect as legal basis for the Russian intervention proved to be controversial.

³⁰⁴ The Ministry of the Foreign Affairs of the Russian Federation, Transcript of Remarks and Response to Media Questions by Russian Deputy Minister of Foreign Affairs/State Secretary Grigory Karasin at Press Conference at RIA Novosti News Agency, Moscow, August 10, 2008

³⁰⁵ The Ministry of the Foreign Affairs of the Russian Federation, Transcript of Remarks and Response to Media Questions by Russian Deputy Minister of Foreign Affairs/State Secretary Grigory Karasin at Press Conference at RIA Novosti News Agency, Moscow, August 10, 2008

³⁰⁶ The Ministry of the Foreign Affairs of the Russian Federation, Interview By Minister Of Foreign Affairs Of The Russian Federation Sergey Lavrov To BBC, Moscow, August 9, 2008

The principle of the Responsibility to protect, accordingly, is applicable in the case in which both peaceful means and both actions of the State in which territory the crimes against humanity have been committed, have failed³⁰⁷. Moreover, the authorization to the use of force by the United Nations Security Council, in detaining exclusive competence on the use of force, is mandatory. As stated in paragraph 139 of the already mentioned 2005 World Summit Outcome Resolution, accordingly,

« [...] we are prepared to take collective action, in a timely and decisive manner, through the Security Council, in accordance with the Charter, including Chapter VII, on a case-by-case basis and in cooperation with relevant regional organizations as appropriate, should peaceful means be inadequate and national authorities are manifestly failing to protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity».³⁰⁸

Since the Russian Federation intervention had no Security Council authorization, nor the protection of its own citizens abroad could be considered as part of the Responsibility to protect principle³⁰⁹, nor of the principle of Self-Defense, since the latter refers to an attack from one State to another³¹⁰, the Russian explanations seem to have no legal basis.

Accordingly, the Georgia's Permanent Representative to the United Nations Security Council, Irakli Alasania, declared that the Russian intervention, with its advance away from South Ossetia, became "a full-scale occupation of parts of Georgia"³¹¹. This interpretation was then confirmed by the Human Rights Watch Report on the Five-Day War, where it is stated:

« Under international humanitarian law territory is considered "occupied" when it is under the control or authority of foreign armed forces, whether partially or entirely, without the consent of the domestic government. [...] When Russian forces entered Georgia,

³⁰⁷ Conforti, Benedetto: *"Diritto Internazionale"*, Editoriale Scientifica, 2014

³⁰⁸ United Nations General Assembly, Resolution 60/1, 2005 World Summit Outcome, 24 October 2005, par. 139

³⁰⁹ G. Evans, "Russia, Georgia and the Responsibility to Protect", *Amsterdam Law Forum*, Volume 1 No. 2

³¹⁰ Conforti, Benedetto: *"Le Nazioni Unite"*, CEDAM, 2010

³¹¹ United Nations Security Council, S/PV.5953, 10 August 2008, available at <http://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Georgia%20SPV%205953.pdf> [last accessed September 26, 2017]

including South Ossetia, which is de jure part of Georgia, they did so without the consent or agreement of Georgia. International humanitarian law on occupation therefore applied to Russia as it gained effective control over areas of Georgian territory».³¹²

This understanding of the Russian conduct reflected the NATO condemnation of Russia's military action as

«disproportionate and inconsistent with its peacekeeping role, as well as incompatible with the principles of peaceful conflict resolution set out in the Helsinki Final Act, the NATO-Russia Founding Act and the Rome Declaration³¹³».

The NATO interpretation of the Russian intervention, as an evidence of the fact that any form of cooperation with NATO was not likely to be, culminated in its decision on suspending the NATO-Russia Council Activities. As a response, Russia withdrew from the Partnership for Peace, the mechanism of military-to-military cooperation. Cooperation had been replaced by confrontation.

Conclusion

If the Kosovo Crisis made Russia realize it was not ready to detach from NATO, the 2008 Five-Day War outcome was completely different.

Russia, this time, purposely decided to detach from NATO, in order to demonstrate to both NATO and CIS Countries its role as a Global Power, capable of shaping its foreign policy exclusively on the basis of its national interests.

This was proven with the intervention in Georgia, Russia's first intervention against a country after the collapse of the Soviet Union, and with Russia's unilateral recognition of the independence of both Abkhazia and South Ossetia.

This detachment and unilaterality of Russia's foreign policy culminated in the complete severance of political and military relations between Russia and NATO. The two powers,

³¹² Human Rights Watch, *“Up in Flames: Humanitarian Law Violations and Civilian Victims in the Conflict over South Ossetia”*, 2009, available at <https://www.hrw.org/sites/default/files/reports/georgia0109webwcover.pdf> [last accessed September 26, 2017]

³¹³ North Atlantic Treaty Organization, Press Release (2008) 104, 19 August 2008, available at: http://www.nato.int/cps/en/natohq/official_texts_29950.htm?selectedLocale=en [last accessed September 26, 2017]

as emerged, right after the Five-Day War, suspended their joint activities and froze the existing mechanisms of cooperation, referring to both the NATO-Russia Council, the Political cooperation institution founded in 2002, and to the Partnership for Peace, the NATO Military to Military cooperation mechanism.

This apparently negative escalation of the NATO-Russia relations, however, was not meant to last too long.

In March 2009, accordingly, despite Russian troops not having been withdrawn completely from Georgia, the NATO-Russia Council activities resumed, because of developments of common interests and new security threats, as the situation in Afghanistan.

This confirms the fact that the two sides can overcome their difficulties and misunderstandings, if done in order to react to a common interest or to a common security threat, as terrorism was in the late 2000s.

The Georgian war, however, made clear how a complete cooperation, as desirable during the Bosnian war, was no longer possible. This landmark of the relations between the two powers opened the way to a new phase, the current one, being the one of the apparent mistrust.

CHAPTER FIVE

THE CURRENT STATUS: THE APPARENT MISTRUST

Introduction

As analyzed, the Five Day war in Georgia had, among its consequences, the interruption of the NATO-Russia cooperation, in institutional (when referring to activities in the NATO-Russia Council) and military (when referring to the Partnership for Peace) terms.

As stated by the NATO Secretary General, Anders Fogh Rasmussen, this happened because of the persistence of elements of weakness at the foundations of their relationship³¹⁴. Mistrust and misunderstandings, accordingly, have been key components of the NATO-Russia relationship and have been, at the same time, the reasons behind several interruptions of this relationship.

A profound mistrust brought NATO and Russia to have a perception of each other as a potential threat. As will be later analyzed, NATO felt threatened by Russia's hegemonic approach to the International Relations, begun with the election of Vladimir Putin as President in 2000. On the other side of the spectrum, Russia felt threatened by NATO eastwards enlargement, perceived as an expansion at the expenses of Russia, begun in 1994. Despite mutual reassurances, mistrust prevailed and NATO and Russia never reached a full acceptance of each other³¹⁵, as will be later stressed.

The *fil rouge* of this dissertation, however, has been the theory according for which NATO and Russia, when conscious of having a common interest for which an adequate response would require their cooperation, can marginalize their mistrust and misunderstandings.

In the aftermath of the Georgian Conflict, this theory found its application in the situation in Afghanistan. NATO activities in Afghanistan started in 2001, when it received the Security Council mandate³¹⁶ for the deployment of the International Security

³¹⁴ Carnegie Europe, "*NATO and Russia, a new beginning*", Event Transcript, September 18, 2009

³¹⁵ A. Tsyganovok, "*The Russia-NATO mistrust: Ethnophobia and the double expansion to contain 'the Russian Bear'*", in "*Communist and Post-Communist Studies*" Volume 46, 2013

³¹⁶ United Nations Security Council, Resolution 1386, adopted on December 20, 2001

Assistance Force (ISAF), the NATO-led Mission to Afghanistan. ISAF had to provide assistance to Afghanistan in countering terrorism and the Taliban insurgency. NATO, as will be later analyzed, gradually received Russia's collaboration for the delivery and transfer of supplies and personnel to the ISAF, signing in April 2008 an Agreement on the transit on the Russian territory of non-lethal cargos to ISAF.

The Georgian war, however, made Russia formally suspend the Agreement. Nevertheless, Russia kept reaching bilateral agreements with NATO countries, in order to preserve the stability of the mission. Russia's decision to cooperate with NATO in Afghanistan had national roots. As will be later seen, Russia cooperated with NATO on the basis of its national interest, as it did in Bosnia and then in Kosovo as well. And on the basis of its national interest decided not to damage the stability of the mission, despite contrasts with NATO on the Georgian conflict.

Because of Afghanistan, then, in 2009 the two sides marginalized their incomprehension on Georgia and reopened their mechanisms of cooperation, both politically and militarily. This culminated in the decision on the NATO use of the Ulyanovsk airport as a hub for ISAF related purposes in 2012³¹⁷.

Cooperation in Afghanistan, however, came to an end in 2014, when the Ukrainian Crisis exploded. The Ukrainian crisis, exploded because of Russia's economic, political and cultural ties with Ukraine, a country that was becoming closer to the EU and to NATO, as will be later seen, froze the NATO-Russia relationship once again.

Russia and NATO have two unbridgeable perceptions of the Ukrainian crisis, as will be later analyzed more in details, and this reflected the importance of the key components of their relationship, namely mistrust and misunderstandings. In order to better grasp this difference, an analysis of both interpretations will be given.

The Crimean Crisis introduces the current scenario, being the one of an apparent mistrust. Russia and NATO have a frozen relationship, but a dialogue has started, being cooperation necessary to adequately respond to global security issues.

³¹⁷ Government of the Russian Federation, Decree n. 637, "*Amending the Government of the Russian Federation Resolution n. 218 of March 18, 2008*", adopted on June 25, 2012

5.1. The Aftermath of the Georgian Conflict

The 2008 Five Day war in South Ossetia between Georgia and Russia caused a further alteration of the NATO-Russia relations.

The end of the institutional cooperation in the NATO-Russia Council, and the severance of the military to military cooperation, begun with the Partnership for Peace, caused a freezing of the relations between the two actors. This status of the relationship persisted until both sides understood that, as stated by the NATO Secretary General, Anders Fogh Rasmussen, *“NATO-Russia cooperation is not a matter of choice – it is a matter of necessity”*³¹⁸.

Both NATO and Russia were conscious of the existence of global security issues, for which cooperation between the two was mandatory to formulate adequate responses³¹⁹. Institutional cooperation, however, was not enough: despite the existence of the NRC, the two actors were not able to prevent the explosion of the Georgian Conflict³²⁰. After the Georgian war, in order to cooperate, NATO and Russia had to reset their relations, since, as stated by Rasmussen,

“Our relationship went into a freeze – because the foundations of this relationship were not strong enough”.³²¹

5.1.1. The hindrances to a reset of the relationship between NATO and Russia

Strengthening the relationship would have required strong political will on both sides³²², in trying to avoid mistrust and misunderstandings, being both still perceiving each other as a potential threat.

On the one hand, Russia was feeling threatened by NATO’s eastwards enlargement, perceived as an expansion at the expenses of the Russian Federation: Russia thought NATO was trying to encircling and insulating the Russian Federation with its eastwards

³¹⁸ Carnegie Europe, *“NATO and Russia, a new beginning”*, Event Transcript, September 18, 2009

³¹⁹ Ministry of Defense of the Russian Federation, Statement by the Army General, in *“Начальник Генерального штаба Вооруженных Сил России генерал армии Валерий Герасимов оценил перспективы европейской безопасности”*, April 26, 2017

³²⁰ O. Antonenko and B. Giegerich, *“Rebooting NATO–Russia Relations”*, in *“Survival”*, Volume 51 n.2, 2009

³²¹ Carnegie Europe, *“NATO and Russia, a new beginning”*, Event Transcript, September 18, 2009

³²² *Ibid.*

enlargement. NATO's eastwards enlargement had started in 1994, with the accession of Czech Republic, Hungary, and Poland. A second wave was in 2004, when Romania, Bulgaria and the – former Soviet Union Countries – Baltic States (Estonia, Latvia, and Lithuania) became NATO members. In 2008, then, NATO Membership Action Plans for Georgia and Ukraine furtherly deteriorated Russia's perception of the NATO enlargement, being these two countries strategically important for Russia's national interests, as emerged for Georgia and as will emerge for Ukraine.

Russia's suspicion on NATO's enlargement was also, and still is, as will be later seen, acknowledged in the Russian Federation National Security Strategy to 2020, approved in 2009, where it is stated:

*“A determining aspect of relations with NATO remains the fact that plans to extend the alliance's military infrastructure to Russia's borders, and attempts to endow NATO with global functions that go counter to norms of international law, are unacceptable to Russia.”*³²³

The identification of NATO's enlargement as a threat to Russia was disproved by the NATO Secretary General in September 2009, when he reassured Russia that NATO's enlargement was not to be perceived as an expansion at Russia's expenses, finalized at encircling or marginalizing it, but rather as a factor of stabilization at its borders.³²⁴ But Differences on the interpretation of NATO enlargement were not the only obstacles to a reset of NATO-Russia relations.

Russia, by intervening in Georgia, remarked the supremacy of its national interests in its foreign policy, making Russia regain its role as a superpower in the International Relations and reacquire military credibility, by winning the conflict³²⁵. Russia, thus, became conscious it had a different bargaining power than before.

The 1990s examined wars in the Balkans have been, for Russia, a humiliating experience³²⁶. In Russia's view, NATO, in those circumstances, exploited the Russian economic and military weakness³²⁷, knowing that it was convenient for Russia to adapt

³²³ President of the Russian Federation Decree No. 537, “*National Security Strategy of the Russian Federation to 2020*” adopted on May 12, 2009

³²⁴ Carnegie Europe, “*NATO and Russia, a new beginning*”, Event Transcript, September 18, 2009

³²⁵ A. Rachvald, “*A ‘reset’ of NATO–Russia relations: real or imaginary?*”, in “*European Security*”, Volume 20 n. 1, 2011

³²⁶ O. Antonenko and B. Giegerich, “*Rebooting NATO–Russia Relations*”, in “*Survival*”, Volume 51 n. 2, 2009

³²⁷ *Ibid*

to NATO's policy, not having the strength to challenge it. The Georgian war overturned this scenario.

By increasing its military and political credibility, in the aftermath of the Georgian war, Russia was expecting repercussions in its relationship with NATO. The renewed relationship should have been based now on the principle of parity³²⁸, with NATO acknowledging Russia's new role and "privileged interests" in the Post-Soviet Space³²⁹, as defined by the former President of the Russian Federation, Dmitry Medvedev, in 2008.³³⁰

Russia's expectations brought into play all NATO members, among which the perception of Russia as a threat was not uniform. Former Soviet Union countries, for instance, perceived Russia as a threat because of the intervention in Georgia on behalf of Russian citizens living abroad. This resembled the situation in the Baltic States, being NATO Member States, as well as in Ukraine, for which NATO had developed a Membership Action Plan. The Baltic States, accordingly, were concerned about Russia intervening on their territories on behalf of the Russian minority. But Baltic States were also concerned about increasing Russian influence in political and economic terms. After their independences, in fact, Russia had maintained its influence in the area, both with its energy security policy and with its propaganda instruments.

This, combined with the NATO perception of Russia as readopting its hegemonic approach to the International Relations, made clear how mutual distrust was a key component of the current status of the relationship between NATO and Russia.³³¹

5.1.2. The importance of cooperation

Both Russia and NATO were conscious of the current hindrances, but at the same time both were also conscious of the need of outweighing them. As stated by Rasmussen,

³²⁸ A. Rachvald, "A 'reset' of NATO–Russia relations: real or imaginary?", in "European Security", Volume 20 n. 1, 2011

³²⁹ O. Antonenko and B. Giegerich, "Rebooting NATO–Russia Relations", in "Survival", Volume 51 n. 2, 2009

³³⁰ D. Trenin, "Russia's spheres of interest, not influence", in Center for Strategic and International Studies, "The Washington Quarterly", Volume 32 n. 4, 2009

³³¹ A. Tsygankov, "The Russia-NATO mistrust: Ethnophobia and the double expansion to contain 'the Russian Bear'", in "Communist and Post-Communist Studies" Volume 46, 2013

“I believe that of all of NATO’s relationships with Partner countries, none holds greater potential than the NATO-Russia relationship. Yet I also believe that none is so much burdened by misperceptions, mistrust and diverging political agendas.

[...] There are some fundamental issues on which NATO and Russia disagree, and they will not disappear overnight. However, I do believe that it is possible for NATO and Russia to make a new beginning – and to enjoy a far more productive relationship in the future.

[...] I believe that NATO and Russia should immediately look to reinforce our practical cooperation in all the areas where we agree we face the same risks and threats to our security -- and there are many of those areas.”³³²

The NATO Secretary General words were a confirmation of what the Russian Foreign Minister, Sergey Lavrov, stated in a meeting with the President of the United States of America, Barak Obama, after a first rapprochement between the two States when Lavrov met the US Secretary of State, Hillary Clinton, at the G8 Forum in Geneva.

Lavrov’s words proved that the Russian view coincided with the NATO one. As stated by Lavrov,

*“I think we work in a very pragmatic, businesslike way on the basis of the common interest whenever our positions coincide, and on the basis of respect to each other whenever we have disagreements, trying to narrow the disagreements for the benefit of our countries and the international stability”.*³³³

The new NATO - Russia relationship, thus, would have provided mechanisms of cooperation, being a necessity to both, but only in *“selected areas of mutual interest”*³³⁴.

³³² Carnegie Europe, *“NATO and Russia, a new beginning”*, Event Transcript, September 18, 2009

³³³ The White House, Office of the Press Secretary, *“Remarks by President Obama and Russian Foreign Minister Lavrov after Meeting”*, May 7, 2009

³³⁴ A. Rachvald, *“A ‘reset’ of NATO–Russia relations: real or imaginary?”*, in *“European Security”*, Volume 20 n. 1, 2011

5.1.3. Afghanistan: a selected area of mutual interest

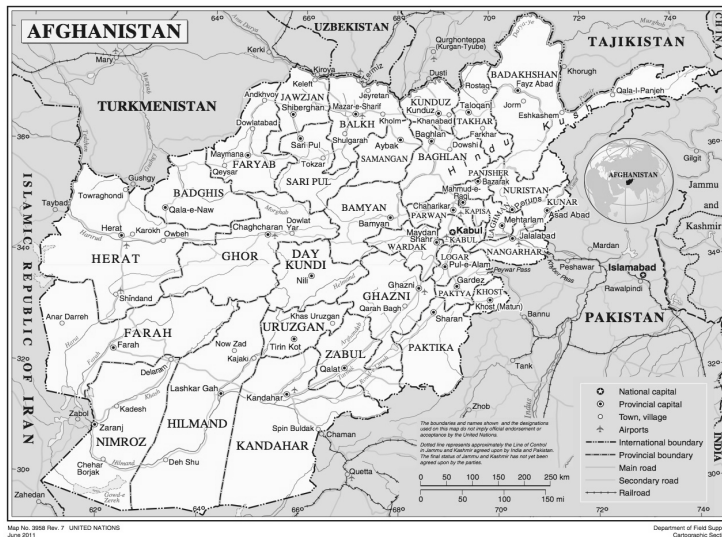
A selected area of mutual interest was, at the time, Afghanistan. The NATO-Russia cooperation in Afghanistan began shortly after the Twin Towers attack of September 11, 2001, when in December 2005 Russia and NATO started an anti-narcotic joint training. Counterterrorism and counternarcotic activities were, for both, top priorities in their political agendas on Afghanistan.

The NATO commitment in Afghanistan started with the Security Council Resolution 1386 of December 2001, the Resolution establishing the International Security Assistance Force (ISAF), the NATO-led Mission to Afghanistan. ISAF role was to give assistance to Afghanistan, affected by terrorism, and facing the Taliban insurgency. Counter-terrorism, counter-narcotics and strengthening economic ties in the region³³⁵ were also Russia's national interests in Afghanistan.

As stated by Sergey Lavrov,

*“The main criteria determining our assistance to the coalition in Afghanistan is [the] national interests of Russia.”*³³⁶

Lavrov's words were also confirmed by President Putin, when he stated *“we are helping NATO ... [because such a policy] corresponds to our own national interests”*.³³⁷



Map of Afghanistan
United Nations, Department of Field Support, Cartographic
Section, June 2011

Because of proximity to the Post-Soviet Space, in fact, being Afghanistan bordered, among the others, by Tajikistan, Turkmenistan and Uzbekistan, countering terrorism and drug trafficking was strategic to Russia, remarking its role as guarantor of stability and security in the Near Abroad. Moreover, Russia would have

³³⁵ A. Tsygankov, “Russia’s Afghanistan Debate: Managing Fear of and in the West”, in “Problems of Post Communism”, Volume 60 n. 6, 2013

³³⁶ *Ibid.*

³³⁷ *Ibid.*

avoided or at least marginalized the risk of the spread of terrorism and narcotics in Central Asia, and in the Russian Federation as well.

As stated by Vladimir Orlov, a Russia's foreign policy expert, in the interview attached to this thesis,

“For Russia, Afghanistan was surely a source of asymmetrical threat, as well as a projection of instability to Central Asia in particular, or a source of injection of terrorism in Central Asia”³³⁸.

Cooperation was then strengthened in April 2008, when Russia opened on its territory a transport corridor for non-lethal cargos to the ISAF. The Agreement on the transit of non-lethal cargos was then suspended after the Five Day War in Georgia. However, it was a formal suspension.

Because of shared interests, Russia started implementing bilateral Agreements with NATO Member States, such as Germany and France, on the transit of cargos for ISAF forces, as a demonstration that Russia *“does not consider hampering the ISAF mission and weakening NATO's position in Afghanistan to be in its interest”³³⁹.*

The NATO-Russia cooperation in Afghanistan officially started again in 2010, thanks to the aforementioned resetting of the relationship³⁴⁰ - resulted in the reopening of the NRC in 2009 -, and culminated in the 2012 Agreement on the NATO use of the Ulyanovsk Airport in Russia as a hub for the transit of supplies and personnel for and from ISAF.

The unprecedented cooperation between the two³⁴¹, thus, was based on mutual and similar interests in the region, as confirmed by Vladimir Orlov, when stating *“this is probably the only case, at least in the recent years, in which both cooperated well because of very similar interests”³⁴².*

³³⁸ Interview with Vladimir A. Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

³³⁹ M. Madej, *“NATO after the Georgian Conflict: A New Course or Business as Usual?”*, in The Polish Institute of International Affairs, *“PISM Strategic Files”*, January 2009

³⁴⁰ A. Tsygankov, *“Russia's Afghanistan Debate: Managing Fear of and in the West”*, in *“Problems of Post Communism”*, Volume 60 n. 6, 2013

³⁴¹ Interview with Vladimir A. Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

³⁴² *Ibid.*

Considering the persistence of all the already mentioned misunderstandings, Russia was still suspicious and critic over some NATO actions, such as the establishment of military bases in Afghanistan³⁴³, as a confirmation of the fact that

“allies for only the brief period of the Second World War and enemies for almost half a century, the two sides could not overcome some of the old perceptions and stereotypes of viewing each other as a potentially dangerous nation”.³⁴⁴

This caused the persistence of mechanisms of mistrust between NATO and Russia that, ultimately, brought to the interruption of cooperation in Afghanistan. A new conflict was about to explode and, as in the Georgian case, the foundations of the NATO-Russia relationship were not strong enough to maintain cooperation in Afghanistan unaffected. As stated by Vladimir Orlov, *“Afghanistan cooperation was stopped not because NATO failed in Afghanistan, but because of Ukraine”*³⁴⁵.

5.1.4. The Crimean Crisis and the end of NATO-Russia relations

With Russia's annexation of Crimea in 2014, relations between Russia and NATO *“reached rock bottom”*³⁴⁶ since the end of the Cold War. It represented a challenge to Russia's near abroad countries and to the European security system as well.³⁴⁷

In order to give a complete understanding of the Crisis in Ukraine, it is necessary to analyze the situation from two different perspectives, namely the NATO and the Russian one, being this time completely unbridgeable. But before going into details with the 2014 events, it is necessary to remark that in 2014 both Russia and NATO, despite cooperation in Afghanistan, were still perceiving each other as a threat.

NATO was feeling threatened by a hegemonic policy of Russia, as proved with Russia's policy of being *primus super pares* in the Commonwealth of Independent States

³⁴³ *Ibid.*

³⁴⁴ A. Tsyganvok, *“The Russia-NATO mistrust: Ethnophobia and the double expansion to contain “the Russian Bear”*, in *“Communist and Post-Communist Studies”* Volume 46, 2013

³⁴⁵ Interview with Vladimir A. Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

³⁴⁶ J. Foreman, *“The Determinants of Recent Russian Behavior: What do these Mean for NATO Decision Makers?”*, NATO Defense College Research Division, NDC Research Report, 2016

³⁴⁷ R. Allison, *“Russian Deniable intervention in Ukraine: How and Why Russia Broke the Rules”*, in *“International Affairs”*, Volume 90 n. 6, 2014

(CIS – the group of former Soviet Republics founded in 1991) and with Russia’s influence policy in Ukraine³⁴⁸.

On the other side of the spectrum, Russia was feeling threatened by NATO and EU enlargement, as already emerged, and by democratization processes in its near abroad, for fears of the spread of Color Revolutions, a series of social uprisings in former Soviet Countries for quests of increased democratization, into its zone of influence.³⁴⁹

If this was the overall situation, with Ukraine it is necessary to add several factors. On the one side of the spectrum, NATO undervalued the risks of approaching to Crimea. NATO’s liberal reasoning, under which “*Countries in Eastern Europe gained their freedom of choice several decades ago*”³⁵⁰, was not enough to understand what Crimea, and Ukraine, meant to Russia.

5.1.5. Ukraine’s fundamental strategic value to Russia



Map of Ukraine
United Nations, Department of Field Support, Cartographic
Section, March 2014

The reasoning Russia adopted was diametrically different. Russia was following its geopolitical understanding of the International Relations, under which Ukraine had a fundamental strategic value to Russia.

Historically, Ukraine had divided Russia from Hungary and Poland, thus from the West. But at the same time Ukraine has also always been considered the

bridge between Russia and Europe³⁵¹. Not having Ukraine in its zone of influence

³⁴⁸ *Ibid*

³⁴⁹ J. Mearsheimer, “*Why the Ukraine Crisis is the West’s Fault: The Liberal Delusions that Provoked Putin*”, in “*Foreign Affairs*”, September/October 2014

³⁵⁰ B. Unal, “*NATO and Russia: Managing the Relationship*”, NATO Defense College Research Division, NDC Conference Report, 2016

³⁵¹ J. Mearsheimer, Special Lecture to the MGIMO Students, October 21, 2016

anymore, Russia “ceases to be a Eurasian empire”.³⁵² Apart from these geopolitical concerns, Russia had also several ties with Ukraine, and Crimea in particular.

In 1954, the Leader of the Soviet Union, Nikita Khrushchev, decided, by personal initiative³⁵³, to transfer Crimea, a Russian region, to Ukraine, as “a symbolic brotherly gesture marking the 300th anniversary of Ukraine joining the Russian Empire”³⁵⁴. This was perceived by Russia as a historical injustice - since there was no reason why Crimea had to be transferred to Ukraine - for which Russia wanted its revenge.³⁵⁵ As stated by President Putin,

*“In people’s hearts and minds, Crimea has always been an inseparable part of Russia.”*³⁵⁶

Crimea, thus, was a Russian-populated region of Ukraine. This made Russia develop, as it was for Georgia, claims of Responsibility to Protect its citizens living abroad, as enhanced by President Putin in his Address to the State Duma in March 2014, when he stated:

*“Millions of Russians and Russian-speaking people live in Ukraine and will continue to do so. Russia will always defend their interests using political, diplomatic and legal means”.*³⁵⁷

This claim was also applicable to Russian soldiers working in Sevastopol, where the naval base of the Russian Black Sea Fleet was located during the Soviet Union, and maintained after its collapse with the signing of the 1997 of the Partition Treaty on the Status and Conditions of the Black Sea Fleet³⁵⁸. The treaty allowed the Russian Black Sea Fleet to remain based in Sevastopol for twenty years since the signing of the Treaty, with a Ukrainian lease of its facilities.

³⁵² Z. Brzezinski, “*The Grand Chessboard: American Primacy And Its Geostrategic Imperatives*”, Basic Books, 1997

³⁵³ R. Allison, “*Russian Deniable intervention in Ukraine: How and Why Russia Broke the Rules*”, in “*International Affairs*”, Volume 90 n. 6, 2014

³⁵⁴ A. Bebler, “*Crimea and the Russian-Ukrainian Conflict*”, in “*Romanian Journal of European Affairs*”, Volume 15 n. 1, 2015

³⁵⁵ *Ibid.*

³⁵⁶ President of Russia, Address by President of the Russian Federation, March 18, 2014

³⁵⁷ President of Russia, Address by President of the Russian Federation, March 18, 2014

³⁵⁸ Ministry of the Foreign Affairs of the Russian Federation, “Соглашение между Российской Федерацией и Украиной о статусе и условиях пребывания Черноморского флота Российской Федерации на территории Украины”, available at https://web.archive.org/web/20140321072522/http://www.mid.ru/bdomp/spd_md.nsf/0/BBC88CF0F9DF3F9F44257C9800383F4D

Sevastopol, thus, was to Russia a symbolic city: it was known as the “City of Glory”, being “*the cradle of the Russian Orthodoxy*”³⁵⁹ and “*the symbol of the Russian fleet and Russia’s glorious past*”³⁶⁰ because of one of the main military victories of the Soviet Empire against the Ottomans, who populated the region of Crimea. After the Sevastopol battle in the 18th century, Crimea became a Soviet colony.

For these reasons, Ukraine, and Crimea in particular, meant to Russia much more than simply a State, and a region, on its border. It was for these factors that Russia had always tried to maintain its political influence in Ukraine, as shown by the ties with Ukraine’s first President, Leonid Kuchma³⁶¹, in charge until 2004.

Ukraine’s 2004 Presidential elections brought to power Viktor Yushchenko, a candidate who was not supported by Russia, differently from his predecessor, President Kuchma, and his opponent, Viktor Yanukovych. The results were “*a traumatic defeat for Russia*”³⁶², having, for the first time since the independence of Ukraine, lost its direct political and institutional links with the Ukrainian Government. Yushchenko initiated a series of measures gradually approaching to both the EU and NATO, culminating into the 2008 NATO Membership Action Plan for Ukraine.

5.1.6. The Turning Point: the Yanukovych Presidential Term

The westwards orientation of Ukraine and the removal of special rights for the Russian minority were brought to an interruption with the 2010 Presidential Elections, when Yanukovych, supported by Russia, became President of Ukraine and interrupted dialogues with NATO.³⁶³

In 2013, Yanukovych also detached from the European Union, refusing to sign the Deep and Comprehensive Trade Act, an economic deal with EU. The reason behind this decision is Yanukovych preference in strengthening Ukraine’s economic ties with Russia,

³⁵⁹ J. Foreman, “*The Determinants of Recent Russian Behavior: What do these Mean for NATO Decision Makers?*”, NATO Defense College Research Division, NDC Research Report, 2016

³⁶⁰ S. Plokhyy, “*The City of Glory: Sevastopol in Russian Historical Mythology*” in “*Journal of Contemporary History*”, Volume 35, n. 3, 2000

³⁶¹ T. Kuzio, “*Ukraine under Kuchma: Political Reform, Economic Transformation and Security Policy in Independent Ukraine*”, Macmillan Press, 1997

³⁶² A. Makarychev, “*Russia, NATO and the Color Revolutions*”, in “*Russian Politics and Law*”, Volume 47 n. 5, 2009

³⁶³ R. Allison, “*Russian Deniable intervention in Ukraine: How and Why Russia Broke the Rules*”, in “*International Affairs*”, Volume 90 n. 6, 2014

rather than with the EU, being the volume of trade exchange bigger with Russia, than with the EU.³⁶⁴ Thus, Yanukovych “*decided to accept a \$15 billion Russian counteroffer instead*”³⁶⁵. The fact that Yanukovych accepted the Russian counteroffer, aimed at furtherly proving Russia’s interests and ties in the region, made a series of popular contestations arise. Contestations culminated into the removal of Yanukovych from power and anticipated elections. Because of the presence of Western mediators trying to solve the crisis, Russia had the perception of Yanukovych, the “*Ukraine’s democratically elected and pro-Russian President*”³⁶⁶, being overthrown, and victim of a coup.³⁶⁷

This represented, to Russia, a perfect moment to intervene in Ukraine³⁶⁸. Russia provided political, diplomatic and military (by providing some of the equipment and positioning the Russian Army on the border), assistance to Crimea³⁶⁹ and to the People’s Self-Defence Force, the civilian secessionist Militia³⁷⁰.

On February 28, 2014, five days after Yanukovych fled the country, Russia gradually started seizing the Perekop Isthmus and cutting all connections between Crimea and Ukraine³⁷¹.

On March 11, 2014, Crimea declared its independence and on March 16 a Referendum was held to vote on Crimea’s annexation into Russia. Two days later, on March 18, Putin signed the Accession Treaty, marking Crimea’s annexation into or, in Russia’s view, reunification with the Russian Federation.

Since then, the situation in Crimea froze. The Organization for Security and Cooperation in Europe (OSCE) - already active in Crimea from 1994 to 1999 in order to monitor the region - has deployed a Special Monitoring Mission in order “*to contribute [...] to reducing tensions and fostering peace, stability and security*”³⁷² in Ukraine, but the status of Crimea is still controversial. As of today, Russia considers it as a part of its

³⁶⁴ N. McFarlane & A. Menon, “*The EU and Ukraine*”, in “*Survival*”, Volume 56, n. 3, 2014

³⁶⁵ J. Mearsheimer, “*Why the Ukraine Crisis is the West’s Fault: The Liberal Delusions that Provoked Putin*”, in “*Foreign Affairs*”, September/October 2014

³⁶⁶ J. Mearsheimer, “*Why the Ukraine Crisis is the West’s Fault: The Liberal Delusions that Provoked Putin*”, in “*Foreign Affairs*”, September/October 2014

³⁶⁷ *Ibid.*

³⁶⁸ A. Bebler, “*Crimea and the Russian-Ukrainian Conflict*”, in “*Romanian Journal of European Affairs*”, Volume 15 n. 1, 2015

³⁶⁹ R. Allison, “*Russian Deniable intervention in Ukraine: How and Why Russia Broke the Rules*”, in “*International Affairs*”, Volume 90 n. 6, 2014

³⁷⁰ A. Bebler, “*Crimea and the Russian-Ukrainian Conflict*”, in “*Romanian Journal of European Affairs*”, Volume 15 n. 1, 2015

³⁷¹ *Ibid.*

³⁷² Organization for Security and Cooperation in Europe, Permanent Council, PC.DEC/1117, “Permanent Council Decision No. 1117” of March 21, 2014

territory, while the International Community – with the only exception of Afghanistan, Bolivia, Cuba, Kyrgyzstan, Nicaragua, North Korea, Sudan, Syria, Venezuela and Zimbabwe - considers it as a part of Ukraine.

5.1.7. The condemnation of Russia's annexation of Crimea and the interruption of NATO – Russia relations

The referendum and the Russian conduct in Crimea were deeply contested by States and International Organizations.

On March 27, 2014, the United Nations General Assembly adopted Resolution 68/262, in which the General Assembly, remarking the Territorial Integrity of Ukraine,

“Underscores that the referendum held in the Autonomous Republic of Crimea and the city of Sevastopol on 16 March 2014, having no validity, cannot form the basis for any alteration of the status of the Autonomous Republic of Crimea or of the city of Sevastopol”³⁷³.

Legal concerns on its validity, however, were not the only concerns the referendum made emerge. As stated in a 2014 Report of the Office of the United Nations High Commissioner for Human Rights (OHCHR), during the referendum

“the presence of paramilitary and so-called self-defense groups as well as soldiers without insignia, was not conducive to an environment in which the will of voters could be exercised freely”³⁷⁴.

But limited freedom of choice during the referendum was not the only condemnation to the events that are linked to Russia's annexation of Crimea.

In 2014, Human Rights Watch, a nonprofit nongovernmental human rights International Organization, reported several abuses and violations of human rights to be committed by the Russian authorities in Crimea, including intimidations and tortures to the opponents³⁷⁵.

Accordingly, a 2016 report of Amnesty International on the situation in Crimea emphasized how several elements of repression were carried out by Russia, the occupying

³⁷³ United Nations General Assembly, A/RES/68/262, “*Territorial Integrity of Ukraine*”, adopted on March 27, 2014

³⁷⁴ Office of the United Nations High Commissioner for Human Rights, Report of 15 April 2014, available at http://www.ohchr.org/Documents/Countries/UA/Ukraine_Report_15April2014

³⁷⁵ Human Rights Watch, “*Rights in Retreat, Abuses in Crimea*”, November 17, 2014 available at <https://www.hrw.org/report/2014/11/17/rights-retreat/abuses-crimea> [last accessed September 28, 2017]

power³⁷⁶. More in the specific, Russia was accused of reducing freedom in Crimea, by extinguishing protests, silencing the opposition, both referring to media and activists, and banning the local Tatars³⁷⁷ who, according to the latest OHCHR Report, published in September 2017,

*“were particularly targeted, especially those with links to the Mejlis [a Tatar representative body], which boycotted the March 2014 referendum and initiated public protests in favour of Crimea remaining a part of Ukraine”*³⁷⁸.

Additionally, Russia has also been accused of violating the right to physical and mental integrity; the right to liberty; the right to private and family life; the freedom of opinion, as mentioned; and the freedom of movement, by means of exiles and deportations.³⁷⁹ All these violations are violations of international human rights law.

What Russia perceived as a peaceful take-over, not causing victims, was thus deeply condemned by the International Community.

On March 17, 2014, the European Union imposed a first wave of sanctions against Russia, issuing a decision that, *inter alia*, called for Member States to

*“prevent the entry into, or transit through, their territories of the natural persons responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine”*³⁸⁰.

Further restrictive measures were then taken in July 2014, when the European Union adopted the Council Decision 2014/512/CESP. The Decision posed a limit to financial transactions and to the sale, supply and export to Russia of military materiel and of sensitive goods technologies related to the oil industry.³⁸¹

³⁷⁶ Amnesty International, *“Crimea in the Dark: The Silencing of Dissident”*, 2016

³⁷⁷ *Ibid*

³⁷⁸ Office of the United Nations High Commissioner for Human Rights, Report of 25 September 2017, available at http://www.ohchr.org/Documents/Countries/UA/Crimea2014_2017_EN.pdf

³⁷⁹ *Ibid*.

³⁸⁰ Official Journal of the European Union, Council Decision 2014/145/CESP of 17 March 2014, available at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2014:078:0016:0021:EN:PDF>

³⁸¹ Official Journal of the European Union, Council Decision 2014/512/CESP of 31 July 2014, available at http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.L_.2014.229.01.0013.01.ENG

Russia responded with a ban on food imports directed at those countries that had adopted sanctions against Russia³⁸², thus not only against EU Countries but to other States as well, including, among the others, Japan, Canada and the United States.

The position of the United States on Russia's intervention in Crimea had been clear since the very beginning of the crisis. On March 06, 2014, the President of the United States of America, Barack Obama, issued an Executive Order blocking properties of persons contributing to the Russian Intervention³⁸³ and adding selected people and companies in the Specially Designated Nationals and Blocked Persons List³⁸⁴, a list of the of the Office of Foreign Assets Control of the US Department of Treasury, blocking assets of those individuals and companies.

The sanctions regime against Russia, and the Russian response, initiated a vicious cycle and made tensions with Russia gradually increase.

NATO Countries, more in details, felt disrespected by Russia's *illegal military intervention*³⁸⁵ in Crimea, having Russia violated the Territorial Integrity of Ukraine. In NATO's perception, by violating the territorial integrity of Ukraine, "*Russia [had] breached the values, principles and commitments which underpin the NATO-Russia relationship*".³⁸⁶ As a result, the Crimean Crisis increased mistrust between Russia and NATO Countries, freezing, once again, the NATO-Russia relationship, bringing it "*at its lowest point since the Cold War*"³⁸⁷.

³⁸² President of the Russian Federation, Decree n. 560, Указ Президента РФ от 6 августа 2014 г. N 560 "О применении отдельных специальных экономических мер в целях обеспечения безопасности Российской Федерации" available at <http://www.garant.ru/hotlaw/federal/558039/#ixzz4u4DAMwPu>

³⁸³ The White House, Office of the Press Secretary, Executive Order - Blocking Property of Certain Persons Contributing to the Situation in Ukraine, available at <https://obamawhitehouse.archives.gov/the-press-office/2014/03/06/executive-order-blocking-property-certain-persons-contributing-situation>

³⁸⁴ United States of America Department of Treasury, Office of Foreign Assets Control, Specially Designated Nationals List Update, April 28, 2014, available at <https://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140428.aspx>

³⁸⁵ J. Mearsheimer, "*Why the Ukraine Crisis is the West's Fault: The Liberal Delusions that Provoked Putin*", in "*Foreign Affairs*", September/October 2014

³⁸⁶ NATO, "*Warsaw Summit Communiqué*", July 9, 2016

³⁸⁷ Ministry of Defence of the Russian Federation, Statement by the Army General, in "*Начальник Генерального штаба Вооруженных Сил России генерал армии Валерий Герасимов оценил перспективы европейской безопасности*", April 26, 2017

5.2. The Aftermath of the Crimean Crisis: Current Situation and Future Scenarios

“We can live with Crimea with this kind, unfortunately, of limbo. However, this makes some questions arise. How long would this freeze Russia-NATO Relations?”³⁸⁸

Vladimir Orlov

When analyzing NATO-Russia relations today, the situation resembles the relationship the two actors had in the already analyzed aftermath of the Georgian War.

After the Crimean conflict, NATO suspended practical cooperation in the NRC, but maintained some sporadic diplomatic exchanges with Russia within the Institutional framework of the NATO Russia Council.

As stated by the Italian Minister Tommasi, at the Debate with the Italian students in Moscow, which text is attached in Annex II of this dissertation,

“Dialogue between NATO and Russia has started again on a very simple base: let’s try cooperating, as you said [talking to the Candidate], on dossiers or sectors on which we can cooperate, on which we have converging interests”.³⁸⁹

This confirms the fact that, despite mistrust and misunderstandings, the two sides are conscious of the importance of their cooperation and have started approaching once again.

As stated by Simone Ievolella, Political Officer for the Italian Embassy in Moscow,

“In this precise historical moment, the news that there is an agreement on restarting a dialogue – and this is a minimum result, we are perfectly aware of it, compared to when, at the beginning of the 2000s, under an Italian initiative, the NRC was created – is an

³⁸⁸ Interview with Vladimir A. Orlov, international security and Russia’s foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

³⁸⁹ Minister Tommasi, Debate on Italy-Russia relations, Embassy of the Italian Republic to the Russian Federation, Moscow, May 12, 2017

*ongoing process that, once again, takes place within a complex international framework. Thus, results will be gradual”.*³⁹⁰

The acknowledgment of the need for cooperation, however, is based on the assumption that cooperation has to be sectoral, as successfully proved by the Afghanistan examined case. This means that there is the need to find a mutual interest once again and the stabilization of Afghanistan can be where to start.

As stated by Vladimir Orlov,

*“I actually think we will come back to the issue like Afghanistan with NATO, although NATO is not very interested in Afghanistan, for obvious reasons. But for Russia, that part of the world is still on the agenda. Afghanistan, as post-soviet Central Asia, is something important to be addressed. Post-soviet Central Asia is in a significant part member of the Russian block of the alliance of the CSTO [the Collective Security Treaty Organization]. Here is where cooperation with NATO may also mean cooperation between NATO and CSTO and not necessarily between NATO and Russia”.*³⁹¹

Afghanistan, however, is not the only area where cooperation is achievable. As stated by Minister Tommasi, accordingly, some of the areas can regard *“Cybersecurity, for sure. In particular, I would add counter-terrorism, stabilization of the Afghanistan and Migration control”*.³⁹²

Ukraine, moreover, is not the only military action Russia conducted in order to show the United States that it was back in the international arena³⁹³. In 2015, Russia intervened in Syria, directly challenging *“the US monopoly on global military intervention”*³⁹⁴. By intervening in Syria, Putin imposed his own way to international negotiation, officially adopting a new strategy in foreign policy³⁹⁵. The Syrian conflict,

³⁹⁰ Minister Ievolella, Debate on Italy-Russia relations, Embassy of the Italian Republic to the Russian Federation, Moscow, May 12, 2017

³⁹¹ Interview with Vladimir A. Orlov, international security and Russia’s foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

³⁹² Minister Tommasi, Debate on Italy-Russia relations, Embassy of the Italian Republic to the Russian Federation, Moscow, May 12, 2017

³⁹³ Dmitri Trenin. *“Should We Fear Russia?”* Polity Press, 2016.

³⁹⁴ *Ibid*

³⁹⁵ *Ibid*

thus, is one of the areas in which sectorial cooperation between NATO and Russia could be put in existence.

As stated by the Italian Minister Michele Tommasi in Annex II of this dissertation, *“NATO deals with Syria as well. This is another sector where a dialogue exists and has to continue. I think there is, for instance, on the Syrian question, consciousness of the fact that Russia will be part of the Syrian future. This is to say, and it is something that one or two years ago would have been unthinkable, that there will be no solution to the Syrian Conflict without the fundamental Russian contribution, [as there will not be a solution] without the fundamental American contribution, without the Turkish fundamental contribution, or without the Iranian fundamental contribution”*.³⁹⁶

NATO and Russia, thus, by maintaining some ambassadorial exchanges within the NATO-Russia Council have also maintained the possibility for sectorial cooperation, since it proved to be the most effective solution to give adequate responses to global security issues, also in the case in which NATO-Russia relations are frozen because of major disagreements.

The crises in Kosovo, Georgia and Ukraine, resulted in a profound undermining of the NATO-Russia relationship, but mechanisms of sectorial cooperation have always proved to be effective.

The current rapprochement between NATO and Russia keeps going in this direction. Because of the current status, being the one of a frozen relationship because of the Ukraine crisis, the just started rapprochement will bring its results in the next future.

As stated by Orlov,

“[Ukraine] is, of course, a significant obstacle and it will be that for some time. But when both sides will go back to realizing that we need minimalist cooperation on the prevention of major accidents, Crimea won't be a problem for discussion”.³⁹⁷

³⁹⁶ Minister Tommasi, Debate on Italy-Russia relations, Embassy of the Italian Republic to the Russian Federation, Moscow, May 12, 2017

³⁹⁷ Interview with Vladimir A. Orlov, international security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

As of today, since the first rapprochement in April 2016, Russia and NATO have met five times in total. The five meetings have shared their agendas. The two actors discussed of Crimea, Afghanistan and transparency and risk reduction.

With regards to the situation in Crimea, as declared by the NATO Secretary General, Jens Stoltenberg, at the last NATO-Russia meeting, on July 2017, *“the Crimean issue and the conflict in Eastern Ukraine remain clear points of contention, and heavy weapons have not been withdrawn from the conflict zone”*.³⁹⁸

As emerged, Afghanistan can be a topic for which NATO-Russia relations can improve with fewer misunderstandings, because of a shared and common interest: the stabilization of Afghanistan. The NATO Secretary General confirmed this, when stating that *“NATO Allies and Russia share a common interest to support the National Unity government and to work towards a free, safe and democratic Afghanistan”*.³⁹⁹

The third point on the current agenda of NATO-Russia relations is transparency and risk reduction. This relates to military exercises and force postures, aimed at limiting *“the risk of misunderstanding, miscalculation and unintended escalation”*.⁴⁰⁰

As of today, the presence of these three points on the political agenda of the NATO-Russia relationship is a confirmation of the theory for which both NATO and Russia are prepared to marginalize their irreconcilabilities, if preliminary for reaching a goal that cannot be achieved without their cooperation.

The resume of exchanges between Russia and NATO seems to follow this path. As enhanced by the Russian Chief of the Russian Armed Forces, General Valery Gerasimov, at the 6th Moscow International Security Conference of April 2017, *“The West and Russia are beginning to understand the interests and concerns of each other. A dialogue between them gradually builds confidence, and creates an open and pragmatic attitude”*.⁴⁰¹

³⁹⁸ NATO, “Press point by the NATO Secretary General Jens Stoltenberg following the meeting of the NATO-Russia Council”, July 13, 2017, available at: http://www.nato.int/cps/en/natohq/opinions_146220.htm?selectedLocale=en

³⁹⁹ NATO, “Press point by the NATO Secretary General Jens Stoltenberg following the meeting of the NATO-Russia Council”, July 13, 2017, available at: http://www.nato.int/cps/en/natohq/opinions_146220.htm?selectedLocale=en

⁴⁰⁰ *Ibid*

⁴⁰¹ Ministry of Defence of the Russian Federation, Statement by the Army General, in “Начальник Генерального штаба Вооруженных Сил России генерал армии Валерий Герасимов оценил перспективы европейской безопасности”, April 26, 2017

However, this positive approach to a renewed dialogue between NATO and Russia should not outweigh their irreconcilabilities. Recalling the words of the former NATO Secretary General, Anders Fogh Rasmussen, those irreconcilabilities exist and will not disappear overnight⁴⁰², but a new beginning in this relationship has been set.

Conclusions

The aftermath of the Georgian Crisis, namely the frozen NATO-Russia relationship, together with the analysis of the NATO-Russia cooperation in Afghanistan before and after the Georgian war, confirmed the fact that the two actors are able to outweigh their misunderstandings in order to cooperate, in selected areas of mutual interests.

The analysis of the Crimean crisis, the reason behind the interruption of cooperation in Afghanistan, has demonstrated how mistrust and misperception of the actions of each other, despite the possibility of sidelining differences, still remain as key components of the relationship between NATO and Russia.

Despite constant mistrust and different interpretations, however, the analysis of the current scenario has proven how the two actors are currently initiating a renewed dialogue, aiming at identifying the selected areas of mutual interest that will require, and allow, a new beginning for a sectorial cooperation between NATO and Russia.

Both the actors seem conscious of the need of this sectorial cooperation, as proven in this chapter.

A new beginning of this renewed relationship has already been set. A dialogue on the agenda of such cooperation began within the framework of the NATO-Russia Council, at the Ambassadorial level. As a result, in the perspective of this renewed dialogue, NATO and Russia had, as of today, five meetings, where the two actors had the possibility to compare their perceptions of the security environment and to keep communications open in areas in which both agree might be useful: Ukraine, Afghanistan and transparency and risk reduction.

Differences and difficulties in the interpretation of the agenda are still a reality, but the fact that both actors are willing to start a new dialogue on selected issues, as

⁴⁰² Carnegie Europe, “*NATO and Russia, a new beginning*”, Event Transcript, September 18, 2009

emerged, is a proof of the fact that *“Allies and Russia may hold different views but we are committed to continuing our dialogue as part of our commitment to preserving peace and security”*.⁴⁰³

⁴⁰³ NATO, *“Press point by the NATO Secretary General Jens Stoltenberg following the meeting of the NATO-Russia Council”*, July 13, 2017, available at: http://www.nato.int/cps/en/natohq/opinions_146220.htm?selectedLocale=en

CONCLUSION

The analysis of the NATO – Russia relations in the Peacekeeping Operations, with the deep analysis of the Case studies of Bosnia and Herzegovina, Kosovo and Georgia, gave a multifaceted background to the analysis of the current scenario.

Studying the current relations of NATO and Russia, as resulting from the Crimean Crisis, having already studied their relations during and after the previously analyzed crisis, creates the possibility for developing forecasts.

This research project started because of one question: The Crimean Crisis of March 2014 froze the NATO – Russia relationship, changing the Global security equilibrium. But will the NATO – Russia relationship remain frozen?

The *fil rouge* of this dissertation has been the constant demonstration of the possibility for NATO and Russia to cooperate, despite unresolved misunderstandings between the two. This explains how it is possible to give a negative answer to the aforementioned question, meaning that NATO and Russia are likely to start cooperating again, on a sectoral basis.

This finds its application in the last developments of the relationship between NATO and Russia. The rapprochement between NATO and Russia after the Crimean Crisis started in 2016. Since their first meeting in April 2016, they have met other four times, as of today.

The agenda of their meetings was uniform in all of their meetings: Ukraine, Afghanistan, and transparency and risk reduction.

This rapprochement is the result of the acknowledgment, by both, that cooperation, even if sectoral, is preliminary to give adequate responses to global security concerns. The current International Community, with its changing security environment and increasing security threats, needs NATO and Russia to constructively start cooperating, and both actors are conscious of its importance.

Despite being very little, NATO and Russia currently have an agenda to discuss.

Discussion could allow NATO and Russia create a dialogue aiming at newly understanding each other's perspectives. As this dissertation aims at enhancing, it was possible, despite the differences, in Bosnia and Herzegovina, as it was possible with Kosovo, and as it was possible in Georgia. Today, the renewed dialogue between NATO and Russia proves that it will likely be possible for Ukraine as well.

ANNEX I: INTERVIEW WITH VLADIMIR A. ORLOV

International security and Russia's foreign policy expert and Director of the Center for Global Trends and International Organizations at the Diplomatic Academy of the Russian Ministry of Foreign Affairs.

Candidate: *When first approaching to the Russian literature on peacekeeping operations, it seemed to me that there is a substantial difference between the Western conception of peacekeeping and the Russian definition of conflict management and crisis reaction. What is, from your point of view, the real difference, if there is one?*

Interviewed: I think it's more a question of words rather than substance. Sometimes, in Russia, it happens that one definition is preferable to another. Just think about cyber security, that according to the Russian language and the Russian interpretation is "Международная информационная безопасность" (Mezhdunarodnaya informatsionnaya bezopasnost'), that is international information security. So for some people here, there is a huge difference. So, [when dealing with definitions] there might be a particular debate.

C: *In my dissertation, I put some case studies. There is a logic why I put one before another. I'm following an escalation of things. It starts with a case when cooperation was good, ending when cooperation was very bad. So, I decided to put Bosnia, then Kosovo (as the reason why cooperation started deteriorating) and, finally, Georgia. Could you give me your interpretation of this escalation?*

I: I think you put it in the right order, both for chronological and interpretational reasons. It went from high expectations that "yes we can cooperate" to the realization that we have very different interests and different visions, so that cooperation was no longer possible, with the exception of Afghanistan.

With Bosnia, unfortunately, I don't have that much experience.

With Kosovo, in my view it was a huge failure of Europe and NATO, to address the issue to collective security. It was a very narrow-minded view. The pretext of protection of Kosovars, because of humanitarian-related issues, was to Russia no more than just a pretext to intervene.

Partly, it was very sensitive for Russia because we are talking about a very close Russian partner, that is former Yugoslavia. But partly, it was because of the President.

For Russia, separation of Kosovo through bombardments of Serbia and Belgrade was completely unacceptable, so there would have been reached no compromise over there. For the West, there was an illusion that a compromise with Russia would have been possible because Russia was quite weak at that moment and could not respond strongly.

So, Russian protest was taken not very seriously: the West thought that “ok Russia is protesting verbally, but then we can engage Russia and everything will be fine”. But this was a huge mistake because starting from the Kosovo campaign, those who were involved in the Russian decision-making process, as well as in the military community, and in the public opinion as well, started to have a concept of NATO as a real rival to Russia.

Before, it was both skepticism about NATO, but, at the same time, there was a perception that cooperation was possible, as well as an idea that Russia could become part of NATO. It was a mix of pragmatism, romanticism, expectations. But after Kosovo, it all was gone with the wind.

This was something very painful. Russia could not respond adequately. All the Russian marches to Prishtina were not signs of strength, but were signs of weakness, because that was more a demonstration rather than practical involvement. Russia was not ready for a clash with NATO at that moment, but a clash was closer than cooperation.

The worst thing here is that many people in Russia learned the lesson that international law was not existing any longer, and Russian behavior in other parts of the world, as in Georgia and Crimea, was already based on this approach. Russia thought “why should we be more Saint than a Pope? Why should we nicely behave, and why should we abide by international law, when the Western partners completely ignored that in Kosovo?”. So with Kosovo, many many problems arose.

That’s for sure a not resolved issue for Russia, although Kosovo is recognized by a quite considerable number of countries. For Russia, it still remains a question very very sensitive. It’s an issue, both when discussing bilaterally with the European States, but also

at the international level. Even if Serbia can live without Kosovo, Russia would not be able to do it. Russia certainly, clearly, does not, nor will, recognize Kosovo as independent State. There's a full stop here.

Regarding Georgia, it was more or less obvious. We had a different President at that time, President Medvedev, who was a very soft and peace-loving person. He wanted to engage with the West. He proposed a very interesting draft on a European security treaty, in order to rebuild the security architecture of Europe. But nobody was that much interested. Again, the situation at that time was very different from Kosovo. His engagement with the West was viewed as Russian weakness, which was used by both opponents and people in Washington, as a test. They wanted to make sure that Russia will only verbally protest, because [in their minds] Russia was still very weak to use its military power.

That was probably the very first lesson for the West that Russia not only talks about, but also defends, its interests as happened in South Ossetia and the Georgian conflict. Very practically, we were in a very dangerous situation, Russian armed forces were still in a very weak shape. For Russia to fight, even against a very small nation as Georgia, was a military challenge. We lost a lot of soldiers in that small war, our army was not yet very well equipped nor reformed.

Politically as well as militarily, it was important to defend our allies in the region, South Ossetians and Abkhazians. By this, it means to defend them not only verbally, so not just protesting at the UN Security Council, but defending them, unfortunately, with wars. And that was a moment that brought us very close to a clash with NATO, as well as with American forces in particular (the American Navy was in the Black Sea). So that was a very very dangerous and sensitive moment in August 2008. Plus, it followed the satisfactory decision made by NATO in Brussels, that made us find out that NATO is just another bureaucracy, so that it takes a lot of time and difficulties in order to react.

C: However, Afghanistan was an exception...

I: On Afghanistan, there was the idea that “yes we can and we should cooperate more - between Russia and NATO - on Afghanistan” because there are and were very few areas

where the interests of Russia and NATO coincide. It doesn't fully coincide of course, but they are close.

For Russia, Afghanistan was surely a source of asymmetrical threat, as well as a projection of instability to Central Asia, in particular, or source of injection of terrorism in Central Asia. For our military as well as law enforcement sources, they were significant issues.

While not solving our problems with NATO, the problem was that NATO was not very efficient in Afghanistan, we definitely were ready to include the issue of NATO transit. So that's why Russia unprecedentedly closely cooperated with, and not against, NATO. So this is probably the only case, at least in the recent years, in which both cooperated well because of very similar interests. Afghanistan cooperation was stopped not because NATO failed in Afghanistan, but because of Ukraine.

On Ukraine, we certainly have very different readings of the situation. Here is when all Russia-NATO contacts were frozen, the Russia-NATO Founding Act became basically paralyzed, which is very unfortunate, because we do need cooperation between Russia and NATO, at least on the issue of avoidance of escalation of accidents, something that mutual exchanges would allow. It's nothing too ambitious, but that's something very important.

It will be important for us, that somewhere in the Baltics there will be no clash between our submarines and our airplanes. That's something that can very unfortunately happen... remember that case in Turkey, when a Russian military plane was shot? This froze Russo-Turkish relations for a year. We don't want, nor need, the same situation with NATO Countries, because then unpredictable consequences, because of misreadings, might arise.

So we need at least some mutual exchanges, especially at the military-to-military level, for sure. And we're talking about modest and not too broad things.

With Ukraine, we lost even that kind of cooperation. I believe the crisis in Ukraine was provoked by American efforts in Kiev. Russia certainly did a huge mistake in investing on Yanukovich, who was completely inefficient, completely corrupt. And

definitely brought a lot of oligarchs from Eastern Ukraine, who didn't help for the development of Ukraine. And this was a big mistake for the Russian foreign policy.

Another big mistake was that Russia tried to persuade Ukraine not to have any close relationship with the European Union. In my view this was wrong, with all the economic problem of the EU, the EU itself was not very happy with having Ukraine, but for the Ukrainian people, that was very emotional.

They wanted to be closer to the EU and it was not correct for Russia to try to prevent Ukrainians from going. So Russia made significant mistakes on its own side, but at the same time, Americans tried to use these mistakes to intervene and to provoke a major crisis in Ukraine, mostly unhelpful because it's a big nation, traditionally with very strong ties with Western and Central Europe, as well as very strong ties with Russia.

So, trying to put Ukraine in one of the two sides, Russian or European, by itself, by definition, was wrong. Only engagement and bilateral cooperation on Ukraine, with Ukraine, on the revitalization of Ukraine, could have been a solution. So, it was just a series of mistakes both on the Russian side, on the American side, and also on the European side.

Germany could play a very helpful role here, because finally Germans were responsible in the 20th century for establishing Ukraine as a separate political entity. But Ms. Merkel probably hates Putin just with all her heart. She's very antipathic to him, and instead of going to Sochi Olympic games in February 2014 and solving the problem, she refused, and that ignited the thing. Russia had to act, reluctantly, but had to act very strongly in Ukraine, both in the East, but also in Crimea.

On my personal view, that was a very big success of Russia, because nobody died. The fact that there was no blood, for me, it's the most important fact which happened there. People didn't suffer there. It could have suffered a lot, if Russia had done it in a less professional and efficient manner. No doubt that a huge majority of people in Crimea supported reunification with Russia.

Legally, it's very shaky. I do not defend the Russian position on a legal basis, but I told you I cannot defend the position of Kosovo either, so this is a series of legal issues, regardless of which Russia does not expect Crimea to be recognized as part of Russia for a very long time. We can live with Crimea with this kind, unfortunately, of limbo. However, this makes some questions arise.

How long would this freeze Russia-NATO Relations? In my view, this is not a big obstacle. This is, of course, a significant obstacle and it will be that for some time.

But when both sides will go back to realizing that we need minimalist cooperation on that issue (prevention of accidents), Crimea won't be a problem for discussion.

Finally, we live in a world where there is a number of unrecognized, not fully recognized, entities (Cyprus is happily part of the EU, although part of Cyprus is occupied by Turkey). There are other examples here... Russia lived without a Peace treaty with Japan for many decades. So, that's not that big issue. The most important issue is to find a solution for the Ukrainian people.

C: So, you partly confirmed to me that both sides are starting to think about a rapprochement, in terms of a strategic rapprochement, referring to strategic areas. You mentioned the avoidance of accidents and I thought of Cybersecurity. NATO is very interested in it, considering that there is a center in Estonia. Russia, on the other side, is both very interested and very skilled. So, apart from Cybersecurity, what other strategic areas can be mentioned for a rapprochement?

I: Well, between Russia and NATO there are not many areas, frankly speaking, at the moment. Apart avoidance of accidents and exchange of information, or exercises. Ideally, you're right, cyber security may be part of the Russia-NATO package, but, in practical terms, I don't see at the moment any practical discussion on cyber, because there is a lot of irritation, rumors and fake news of cyber attacks, on changes of governments and influences on the elections. It's not a good moment for Russia and NATO to discuss on Cyber-things.

I agree that it should be done at some point, more realistically Russia will discuss cyber issues with the EU rather than with NATO, but we are not there yet.

I actually think we will come back to the issue like Afghanistan with NATO, although NATO is not very interested in Afghanistan, for obvious reasons. But for Russia, that part of the world is still on the agenda.

Afghanistan, as post-soviet Central Asia, is something important to be addressed. Post-soviet Central Asia is in a significant part member of the Russian block of the alliance of the CSTO. Here is where cooperation with NATO may also mean cooperation

between NATO and CSTO and not necessarily between NATO and Russia. But CSTO is not yet in Brussels, as an important or legitimate partner, so here also some work I think it's needed.

Finally, There's missile defense and outer space. It's a hard question, whether Russia should continue discussing with NATO on this, or whether it's completely irrelevant, or that the discussion with the USA would be enough, so that NATO has no weight on it. The previous experience showed that we should discuss things with Washington, and NATO will act on missile defense issues, following whatever Washington will tell. Is it right or wrong?

I fully realize that NATO is larger than the United States, and there are other countries, with different views and positions, but when we come to outer space and missile defense-related issues, the thing is that NATO doesn't have its own voice. It's more a repetition of what Washington says. So this is a reality.

So, the agenda is very small, but at least there is some agenda.

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In 1994, he founded the PIR Center, a global security think-tank, where he's currently a Special Advisor. He's also part of the Russian Council of Foreign and Defense Policy at the Presidential Office. Since 2015, he's member of the United Nations Secretary General Advisory Board on Disarmament Matters.

He edited and co-authored the Nuclear Nonproliferation Textbook; authored more than a dozen books and has nearly 300 publications.

**ANNEX II : DEBATE ON ITALY-RUSSIA RELATIONS, EMBASSY OF THE
ITALIAN REPUBLIC TO THE RUSSIAN FEDERATION,**

Moscow, May 12, 2017

***Candidate:** Concerning the NATO-Russia Relationship, you have previously mentioned the possibility for a rapprochement between the two. What, in your opinion, can be the sectoral areas for which a rapprochement can be possible?*

I'm thinking, for instance, about cyber security, where NATO could need the Russian skills. Moreover, can, in this rapprochement, Italy play a role?

Minister Tommasi: “Dialogue between NATO and Russia has started again on a very simple base: let's try cooperating, as you said [talking to the Candidate], on dossiers or sectors on which we can cooperate, on which we have converging interests.

In every new meeting at the NATO Russia Council, NATO wants to discuss about Ukraine, and they cannot avoid including it in the political agenda.

Russia would prefer avoiding it, since it appears clear how the two won't find an agreement, but there are some sectors where cooperation can be useful and where there already is cooperation. Cybersecurity, for sure.

In particular, I would add counter-terrorism, stabilization of the Afghanistan and Migration control, even if NATO does not directly deal with it”. These are converging sectors.

Maybe the areas where NATO and Russia can find an agreement are more than those where an agreement cannot be found.

Thus: this is the path. Let's talk, discuss, let's try to find agreements on cooperating on what joins us and not on what it's clear we have divergent perspectives.

About Syria, as well: the Americans want to discuss with the Russians about the stabilization of Syria, that is a global interest. NATO deals with Syria as well.

This is another sector where a dialogue exists and has to continue. I think there is, for instance, on the Syrian question, consciousness of the fact that Russia will be part of the Syrian future. This is to say, and it is something that one or two years ago would have been unthinkable, that there will be no solution to the Syrian Conflict without the fundamental Russian contribution, [as there will not be a solution] without the

fundamental American contribution, without the Turkish fundamental contribution, or without the Iranian fundamental contribution”

Let me anticipate that Europe, contrarily, is far, and completely out, once again [from giving its contribution]. Hence, Russia conquered on the field this political position and it cannot avoid to be taken into consideration.

So, I think the areas of possible collaboration are more than those of divergence.

Minister Ievolella: “I’d like to add that in this precise historical moment, the news that there is an agreement on restarting a dialogue – and this is a minimum result, we are perfectly aware of it, compared to when, at the beginning of the 2000s, under an Italian initiative, the NRC was created – is an ongoing process that, once again, takes place within a complex international framework. Thus, results will be gradual.

The first meetings in this field are done in order to agree on the agenda for the next meetings.

And it is anyway fundamentally important that this channel of dialogue has been reactivated, and it is something that Italy has always supported and to which today it participates with confidence.

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ABSTRACT

The Crimean crisis of March 2014 froze the NATO – Russia relationship, changing the Global security equilibrium. But will the NATO – Russia relationship remain frozen?

This question was the *leitmotif* of this research and resulted in the decision on studying the NATO – Russia relations in the Peacekeeping Operations. Umberto Eco stated that studying means re-elaborating an experience. That's why, when studying the NATO – Russia relations in the Peacekeeping Operations, I decided to re-elaborate the experience I had during my year at MGIMO, in Moscow, where I had the opportunity to focus on understanding the Russian perspective.

1. Peacekeeping Operations: Overview and Perspectives

In order to better grasp the NATO – Russia relations in the Peacekeeping Operations, it will be necessary to give a theoretical framework. The First Chapter of this thesis, thus, is focused on the analysis of the United Nations Peacekeeping Operations and on the different approach of NATO and Russia to these Operations.

1.1. Peacekeeping Operations: Overview

We can start by defining Peacekeeping as an Instrument of the United Nations that “*helps countries torn by conflict create conditions for lasting peace*”⁴⁰⁴.

The practice of peacekeeping operations began in 1948, when the United Nations deployed the United Nations Truce Supervision Organization (UNTSO) in the Middle East. Since that year, the Security Council has authorized 71 operations⁴⁰⁵, 15 of which are currently in action⁴⁰⁶.

⁴⁰⁴ The United Nations, “What is peacekeeping?”, United Nations Website, <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>

⁴⁰⁵ The United Nations, Department of Peacekeeping Operations, Peacekeeping Brochure, available here: http://www.un.org/en/peacekeeping/documents/UN_peacekeeping_brochure.pdf

⁴⁰⁶ The United Nations, “What is peacekeeping?”, United Nations Website, <http://www.un.org/en/peacekeeping/operations/peacekeeping.shtml>

In order to deploy a peacekeeping operation, there is the need to respect three fundamental principles. (1) consent of the parties (the parties express their commitment to a peace-oriented process); (2) impartiality (the actions cannot favor any of the parties) (3) prohibition on the use of force (with the only exception of self-defense).

Peacekeeping Operations are forces under the responsibility of the Security Council, in line with its «*primary responsibility for the maintenance of international peace and security*». ⁴⁰⁷

1.2. The United Nations Security Council Functions on the Maintenance of International Peace and Security

In order to understand the Security Council functions on the Maintenance of International Peace and Security, the Chapter proceeds with an analysis of Chapters VI, VII and VIII of the Charter of the United Nations.

Under Chapter VI of the Charter of the United Nations, the Security Council is entitled to facilitate the parties in reaching a peaceful settlement of a dispute or situation the continuation of which could only potentially endanger the stability of peace. This peaceful settlement function is directed at the production of recommendations to the States that are part of the dispute, or situation, inviting them to reach an agreement. The Security Council, in making an invitation to the States, has no binding authority, given the legal nature of the recommendations.

A stronger action of the Security Council is considered to be the one carried out under Chapter VII. If measures under Chapter VI proved to be inadequate, the Security Council can adopt measures under Chapter VII, directed at maintaining the peace after the confirmation of the existence of a threat to the peace, breach of the peace or Act of Aggression. Measures include provisional measures (Article 40); measures not involving the use of force (Article 41); and measures involving the use of force (Article 42).

Chapter VIII of the Charter of the United Nations regulates Regional Arrangements. This Chapter gives Regional Arrangements competences on the

⁴⁰⁷ United Nations, Charter of the United Nations, Article 24, par. 1, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 3 June 2017]: «In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf».

maintenance of international peace and security, when directed to Member States⁴⁰⁸, and when used by the Security Council for its purposes.

This brings to the analysis of NATO and its engagement in, and interpretation of, Peacekeeping.

1.3. North Atlantic Treaty Organization: Co-operation in Peacekeeping

When established, in 1949, The North Atlantic Treaty Organization was committed to the safeguard of peace in the Euro-Atlantic geographical area. In its Founding Act, Article 5 gave formality to a system of collective defense, requiring the Parties to give assistance to the attacked member, by providing the aid they retain to be appropriate. However, the North Atlantic Treaty Organization evolved its mission to a Regional Organization committed to the general maintenance of international peace and security. The June 1992 Decision gave official status to the above mentioned evolution declaring NATO's preparedness "*to support, [...] peacekeeping*".⁴⁰⁹

The increasing importance given to peacekeeping operations NATO to define its understanding of peacekeeping, being *«the containment, moderation and/or termination of hostilities between or within States, through the medium of an impartial third party intervention, organised and directed internationally; using military forces, and civilians to complement the political process of conflict resolution and to restore and maintain peace»*.⁴¹⁰

The analysis of the Strategic Concepts by which this evolution was made possible will be given. This will bring us to the analysis of NATO's opening to Russia, in the form of gradually increasing cooperation, until the 2014 suspension of cooperation, resulting from the perception of Russia's challenge to the peaceful Europe after the, in NATO's

⁴⁰⁸ United Nations, Charter of the United Nations, Article 52, par. 2, 24 October 1945, 1 UNTS XVI, <http://www.refworld.org/docid/3ae6b3930.html> [last accessed 4 June 2017]: « The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council».

⁴⁰⁹ North Atlantic Treaty Organization, Final Communiqué of the Ministerial Meeting of the North Atlantic Council, 04 June 1992, Part. 1, Par. 11, available at http://www.nato.int/cps/eu/natohq/official_texts_23983.htm

⁴¹⁰ North Atlantic Treaty Organization Report to the Ministers by the NACC Ad Hoc Group on Cooperation in Peacekeeping, 11 June 1993, Part. 1, Par. 1, available at <http://www.nato.int/docu/comm/49-95/c930611b.htm>

view, 2014 *illegal military intervention*⁴¹¹ in Ukraine. However, in order to better grasp the reasons behind this suspension, an analysis of the Russian interpretation of Peace Operations will be given.

1.4. Миротворчество (Mirotvorchestvo): The Russian approach to peacekeeping

A very fast and intuitive way to understand the Russian approach to peacekeeping is to start from the Russian word for peacekeeping: миротворчество (“Mirotvorchestvo”). Literally, it means peace creation. For this reason, scholars have interpreted the Russian approach to peacekeeping to be closer to peace enforcement, being the Russian interpretation a coercive interpretation of peacekeeping.⁴¹²

In order to be admissible, Peace Operations have to demonstrate, under the Russian perspective, a strict compliance with the Charter of the United Nations and, most of all, have to possess a clear mandate of the Security Council, where Russia is a permanent member. The role of Russia in the Security Council is considered to be of fundamental importance, for both securing the image of Russia as a Great power and for exercising a sort of control on the decision-making process.

The exclusivity of some fora, especially if they play a key role as NATO plays, creates concerns of partiality. Russian fears of disparity in decision-making power, integrated with the admittance of the existence of different understandings of the matter, resulted in the globally recognized strategic rivalry between Russia and NATO.

Examples of cooperation and collaboration with NATO, however, showed the possibility for Russia to bridge the gap with the other side, when the two have common interests.

A practical application of this theory will be given, with the analysis of three case studies. Each case will be structured in a three-levels analysis: Historical and political

⁴¹¹ North Atlantic Treaty Organization, Statement by NATO Foreign Ministers, 01 April 2014, Par. 1, available at http://www.nato.int/cps/en/natolive/news_108501.htm

⁴¹² Abilova, Olga: “Country Profile: Russian Federation”, 27 October 2016, available at <http://www.providingforpeacekeeping.org/2016/10/31/peacekeeping-contribution-profile-russia/> [last accessed June 3, 2017] «Russia’s concept of “peacekeeping” relies on a tradition of “muscular peacekeeping” and is as such closer to “peace enforcement” than “peacekeeping”. This is evident in the Russian word for “peacekeeping” – “mirotvorchestvo,” which is directly translated as “peace creation”. This nuance in Russian thus tends to lend itself to a more coercive interpretation of peacekeeping. As such, Russian peacekeeping operations in the “near abroad” take on a much proactive role, often taking sides in favor of separatists, as in the cases of Moldova and Georgia».

background; Legal framework (with the analysis of relevant Resolutions); Relations between NATO and Russia.

2. Bosnia and Herzegovina: The importance of Cooperation

The first case study is the 1992 War in Bosnia and Herzegovina. The reason behind the analysis of the Bosnian conflict is the existence of mechanisms of cooperation between NATO and Russia, because of a common interest, despite differences in notions and despite mistrust.

2.1. Historical Analysis

Started in 1991 as a peacekeeping mission in Croatia, facing the disintegration of Yugoslavia, the United Nations Protection Force (UNPROFOR) saw a first evolution of its mandate in 1992, when it became entitled of delivering aids to Bosnia. The very strong ethnic divide in Bosnia, in fact, made tensions escalate quickly when it decided to depart from Yugoslavia. Bosnian Serbs started fighting against the Muslim Bosnians, committing several atrocities. The United Nations, thus, decided to expand the mandate of the UNPROFOR, in order to start dealing also with the Bosnian Conflict.

The mandate of the UNPROFOR remained active in Bosnia and Herzegovina until 1995, but the escalation of tensions made the Security Council decide to call for Regional Arrangements to intervene *with all measures necessary*. As a result, NATO intervened in its first out-of-area operation. The NATO air strikes had a significant impact on the Serbs, and brought the parties to the conflict to reach an Agreement in Dayton, Ohio. As a result of these negotiations, the NATO-led Implementation Force (IFOR) was deployed⁴¹³.

2.2. Legal Framework

With the Security Council Resolution 758/1992, as anticipated, the UNPROFOR mandate was expanded to Bosnia. UNPROFOR, being a peacekeeping operation, at the beginning of its mandate was deployed in order to provide humanitarian assistance.

⁴¹³ United Nations Security Council, S/RES/1031/1995, 15 December 1995, available here: [http://undocs.org/S/RES/1031\(1995\)](http://undocs.org/S/RES/1031(1995))

In order to face violence, then, the United Nations Security Council adopted Resolution 770/1992, calling for Regional Arrangements to intervene with “*all measures necessary*”. As a result, NATO intervened to ensure the enforcement of the No-Fly-Zone (NFZ), a tridimensional space in which flights are prohibited, established with the United Nations Security Council Resolution 781/1992⁴¹⁴.

NATO's role was also the one of protecting UNPROFOR, enforcing the break of the siege of Sarajevo, protecting safe areas (established with the Security Council Resolution 819/1993⁴¹⁵) and supporting the delivery of humanitarian aids.

After the Dayton Agreements - the Security Council Resolution 1031/1995⁴¹⁶ authorized the deployment of an Implementation Force (IFOR)⁴¹⁷, evolving the mission into peace enforcement. IFOR was integrated, with the Security Council Resolution 1035/1995, with the United Nations Mission to Bosnia and Herzegovina (UNMIBH), entitled of the training of a police force and the providing of institutional assistance.⁴¹⁸

NATO's involvement raised up several concerns, mainly from Russia, because of increasing hostility to the growing influence of NATO in the Eastern Europe.

2.3. NATO – Russia relations

The Bosnian conflict exploded in a time in which NATO and Russia were gradually approaching after the Cold War. Bosnia and Herzegovina, thus, was the very first test of the new NATO-Russia Relationship.

⁴¹⁴ United Nations Security Council, S/RES/781/1992, 9 October 1992, Par. 1, available here: <http://www.nato.int/ifor/un/u920813a.htm>; «Decides to establish a ban on military flights in the airspace of Bosnia and Herzegovina, this ban not to apply to United Nations Protection Force flights or to other flights in support of United Nations operations, including humanitarian assistance».

⁴¹⁵ United Nations Security Council, S/RES/819/1993, 16 April 1993, available here: <http://www.nato.int/ifor/un/u930416a.htm>

⁴¹⁶ United Nations Security Council, S/RES/1031/1995, 15 December 1995, available here: <http://www.nato.int/ifor/un/u951215a.htm>

⁴¹⁷ *Ibid*, par 14: «Authorizes the Member States acting through or in cooperation with the organization referred to in Annex 1-A of the Peace Agreement to establish a multinational implementation force (IFOR) under unified command and control in order to fulfil the role specified in Annex 1-A and Annex 2 of the Peace Agreement»

⁴¹⁸ United Nations Security Council, S/RES/1035/1995, 20 December 1995, Par. 2 available here: [http://undocs.org/S/RES/1035\(1995\)](http://undocs.org/S/RES/1035(1995)), «Decides to establish, for a period of one year from the transfer of authority from the United Nations Protection Force to the multinational implementation force (IFOR), a United Nations civilian police force to be known as the International Police Task Force (IPTF) to be entrusted with the tasks set out in Annex 11 of the Peace Agreement and a United Nations civilian office with the responsibilities set out in the report of the Secretary-General, and to that end endorses the arrangements set out in the report of the Secretary-General».

Russia had several concerns on the NATO out-of-area first mission, especially after the 1995 NATO air strikes, done as a response to the Srebrenica massacre. Russia had clear ties and strategic interests in the area affected by the conflict, in political and economic terms. But Russia decided to help the Serbians in a different way than expected, deciding not to attack the West, but to act as a mediator, cooperating with IFOR, as a demonstration of the Russian faith and compliance with the PfP.

This behavior of the Russian Federation showed the prevalence of National interests as the main driver of the Foreign Agenda. Russia wanted to maintain its ties with Serbia and wanted to create a solid relationship with the West, while NATO feared that waves of migration could have brought to the extension of ethnic tensions all over Europe, and knew that Russians were fundamental for the resolution of the conflict. Cooperation, was successful because of the existence of a common interest.

3. Kosovo and the undermining of the NATO – Russia relations

The Crisis in Kosovo is presented as second Case study, being considered the reason why cooperation started deteriorating. Chapter three, thus, aims at answering to an additional question: if NATO and Russia have different perceptions of a crisis, and on the desirable outcome, and if relations between the two are not positive, can they cooperate?

3.1. Historical Analysis

Historically, Kosovo had for centuries been shared between Albanians and Serbs, its two main ethnicities, with changing proportions during the years. However, both developed claims of belonging to the region.

Albanian Kosovars started obtaining rights specific to their group, and increased autonomy made them develop further claims. When they demanded Kosovo being recognized as the 7th Republic of Yugoslavia in the 1980s, Serbs objected, sustaining they already had given enough autonomy to the Albanian Kosovars. It all culminated in the 1981 bloody riots in Pristina. The state of emergency was declared and a wave of political repression started.

When Albanian Kosovars realized the already analyzed Dayton Negotiations were taking into considerations only areas affected by violence, they decided to support the Kosovo Liberation Army (KLA), responsible for attacks to the Serbs. In 1996⁴¹⁹, Serbs started responding to the KLA attacks, initiating a vicious cycle.

The Security Council started adopting Resolutions on Kosovo and NATO, already active in the area because of the already analyzed IFOR, decided to threaten the use of force in order to deter further attacks.

Being a solution to be found through dialogue, it required international mediation. In 1999 at the Rambouillet Peace Conference, a Draft Peace Agreement was proposed by an international working group. Only the Albanians signed the Agreement. NATO, concerned about the likelihood of a humanitarian emergency⁴²⁰, and aiming at putting pressure on Serbia in order to sign the Agreement, started bombing on Belgrade.

NATO bombings on Belgrade were not sanctioned by the Security Council, despite not being authorized. This caused a very strong resentment in Russia and the subsequent undermining of the relations between the two actors.

Nevertheless, Russia showed it was not ready to completely detach from NATO, because of both economic and political unpreparedness. Therefore, Russia decided to consolidate its role as a mediator power.

3.2. Legal Framework

The first Resolution on Kosovo the Security Council issued was Resolution 1160 of March 31, 1998. With this Resolution, the Security Council condemned the violence of both sides and invited them to find a solution through dialogue.

The Security Council Council Resolution 1160 was then recalled in Resolution 1199 of September 1998, but this time the Security Council acknowledged the existence of a threat to the peace; demanded a ceasefire to be implemented and maintained; demanded the withdrawal of security units; the establishment of international continuous monitoring in Kosovo; demanded the FRY to cooperate with the ICTY investigations; and called upon Member States and others to provide humanitarian assistance.

⁴¹⁹ A. Schnabel and R. Thakur, "Kosovo, the changing contours of world politics, and the challenge of world order" in "Kosovo and the challenge of humanitarian intervention: Selective indignation, collective action, and international citizenship", A. Schnabel and R. Thakur, United Nations University Press, 2000

⁴²⁰ *Ibid.*

This provision was interpreted by NATO as implying the authorization “of all necessary means”, and decided to issue an ultimatum to the Serbs and then to start its air operation.

On June 10, 1999, the Security Council adopted Resolution 1244, deploying the United Nations Mission to Kosovo (UNMIK) and integrating it with the NATO-led Kosovo Force (KFOR). Both were tasked of implementing the G-8 general principles resulting from the effort of the European Union envoy, the President of Finland Mr. Ahtisaari, and the Russian envoy, Mr. Chernomyrdin.

3.3. NATO – Russia Relations

If NATO decided to use force in Kosovo for humanitarian reasons, aiming at preventing a catastrophe, it should be remarked that Russia does not consider the humanitarian argument as a valid reason for intervention. With this in mind, it is clear how the two sides, namely NATO and Russia, had irreconcilable perspectives.

Moreover, Russia had strong ties with the Balkans, both economically, both socially. But, as emerged, Russia’s concerns about the wars in the Balkans were political – referring to its role in the international community –. This made Russia put a big emphasis on the role it had to play in finding a solution to the issue, meaning it had to assume the role of the mediator again.

If NATO was conscious of the importance of the Russians for the solution of the crisis, Russia was conscious that a strong confrontation with NATO would have meant a new age of isolation, and it was not prepared to face such outcome. Therefore, once again, Russia decided to give privilege to its international recognition, by mediating, rather than privileging its distrust to NATO. This proved how the two sides can sideline their resentments in order to pursue what each retains it’s better for its own ambitions.

4. Georgia: when confrontation replaces cooperation

The Kosovo crisis confirmed the theory for which, despite the irreconcilabilities, NATO and Russia can cooperate because of a mutual interest, but this makes a further question arise: what if Russia has a stronger bargaining power? The analysis of the Crisis

in Georgia, in the regions of Abkhazia and South Ossetia, represents the ideal scenario to answer this question.

4.1. Historical Analysis

After the collapse of the Soviet Union, Georgia was focused on the establishment of a newly independent State. This mission was pursued by President Gamsakhurdias, whose political agenda neglected policies on the existing ethnic minorities in Georgia⁴²¹, Abkhazians and South Ossetians, initiating the early 1990s conflicts. The two resulting cease-fire Agreements established a framework for a peacekeeping mission in Georgia, the Joint Peacekeeping Force, JPKF, guided by Russia.

Georgia was concerned about the presence of Russians on its soil and started searching for NATO support⁴²². This coincided with the election of Eduard Shevardnadze, a pro-Western politician, as President of Georgia. The Shevardnadze Presidential term was characterized by the freezing of the conflicts, making popular disenchantment arise. Disenchantment culminated in the so-called Rose Revolution, that brought Mikheil Saakashvili to power.

Saakashvili adopted as top priority of his agenda the territorial integrity, sending troops to Abkhazia and South Ossetia and reopening tensions. The Russian support for the two regions made tensions increase. The Separatist militias started attacking the Georgian troops and in August 2008 Georgia responded with an attack to Tskhinvali. Russia counterattacked and forced Georgia to withdraw. Five Days later, Nicolas Sarkozy acted as the mediator, allowing the parties to reach an Agreement: The Six-Points Plan.

4.2. Legal Framework

The first Agreement Georgia and the Russian Federation signed on the undergoing territorial disputes was the Sochi Agreement of June 24, 1992, establishing the Joint Control Commission and deploying the JPKF.

⁴²¹ T. Gordadze, "Georgian-Russian Relations in the 1990s", in Cornell, E. Svante, and Starr, S. Friedrich: *"The guns of August 2008"*, ME Sharpe, 2009

⁴²² *Ibid*

On September 3, 1992, President Yeltsin and President Shevardnadze signed the Moscow Agreement on Abkhazia. It was then recalled in the United Nations Security Council Resolution 849, adopted on July 9, 1993, suggesting the investigation on conditions for the deployment of United Nations Observers⁴²³, then approved with the Security Council Resolution 854 (1993), deploying the United Nations Observer Mission in Georgia (UNOMIG)⁴²⁴. Before its deployment, the ceasefire was broken. As a result, a new ceasefire Agreement was signed in Moscow, on May 14, 1994, establishing the deployment of the Peacekeeping Force of the Commonwealth of Independent States (CISPKF). Since then, the conflict froze.

Tensions reopened ten years later, and culminated in the Five-Day War of August 2008, ended with the signing of the Six Points Plan Agreement of August 12, 2008. The parties committed to renounce to the use of force⁴²⁵ and to ensure the cessation of the hostilities⁴²⁶. Georgia and Russia committed also to ensure the free movement of people, goods and services⁴²⁷; to participate in an international discussion on Abkhazia and South Ossetia⁴²⁸; and to withdraw troops. Russia was also allowed to temporarily implement additional security measures.⁴²⁹

4.3. NATO – Russia relations

The Five-Day war interrupted cooperation between NATO and Russia⁴³⁰, both in the NATO-Russia Council and in the Partnership for Peace. This rupture was originating from a different interpretation of the conflict.

NATO had the impression Russia wanted to reshape the Post-Soviet space according to its newly affirmed hegemonic approach to the International Relations. Russia thought Georgia was already responsible for committing genocide, and then that

⁴²³ United Nations Security Council, Security Council Resolution 849 (1993) [Abkhazia, Georgia], 9 July 1993, S/RES/849 (1993), Article 3

⁴²⁴ *Ibid.* Article 2

⁴²⁵ Council of the European Union, Press Release, Extraordinary Meeting General Affairs and External Relations, Brussels, 13 August 2008, Art. 2 Par. 1

⁴²⁶ *Ibid.* Par. 2

⁴²⁷ *Ibid.* Par. 3

⁴²⁸ *Ibid.* Par. 6

⁴²⁹ *Ibid.*

⁴³⁰ *Ibid.*

in August 2008 attacked Russian citizens. Russia, thus, declared it had to intervene in order to protect its citizens and to accomplish its peacekeeping mandate in Georgia⁴³¹.

Russia's intervention was based on the legal principles of Self-Defense and Responsibility to Protect. However, the thesis explains how since the Russian Federation intervention had no Security Council authorization, nor the protection of its own citizens abroad could be considered as part of the Responsibility to protect principle⁴³², nor of the principle of Self-Defense⁴³³, the Russian explanations seem to have no legal basis.

This understanding of the Russian conduct reflected the NATO condemnation of Russia's military action, culminated in the already mentioned interruption of cooperation.

But was cooperation unachievable anymore? Chapter four gives a negative answer to this question, explaining that NATO and Russia did not cooperate in Georgia because they had no mutual interest, contrarily to the situation in Afghanistan. The theory for which cooperation is achievable to respond to a mutual interest is still valid.

5. The Current Status: The Apparent Mistrust

The Analysis of the Aftermath of the Georgian Crisis, with the analysis of the cooperation in Afghanistan, proves that NATO and Russia can create mechanisms of sectoral cooperation, cooperating in the selected areas of mutual interest.

5.1. The Aftermath of the Georgian Conflict

As analyzed, the Five Day war in Georgia had, among its consequences, the interruption of the NATO-Russia cooperation. This formally applied to cooperation in Afghanistan as well.

NATO activities in Afghanistan started in 2001, when the Security Council deployed the International Security Assistance Force (ISAF), in order to provide assistance to Afghanistan in countering terrorism and the Taliban insurgency. NATO received Russia's collaboration when Russia opened on its territory a transport corridor

⁴³¹ I. Kotlyarov "The Logic of South Ossetia Conflict" in "Russia in Global Affairs" Vol. 6 No. 4 October – December 2008

⁴³² G. Evans, "Russia, Georgia and the Responsibility to Protect", Amsterdam Law Forum, Volume 1 No. 2

⁴³³ Conforti, Benedetto: "*Le Nazioni Unite*", CEDAM, 2010

for non-lethal cargos to the ISAF. Russia cooperated to remark its role as guarantor of stability and security in the Near Abroad, and to avoid the spread of terrorism and narcotics in Central Asia and in the Russian Federation.

The Agreement on the transit of non-lethal cargos was then suspended after the Five Day War in Georgia. However, it was a formal suspension, since Russia started implementing similar bilateral Agreements with the NATO Member States. The NATO-Russia cooperation in Afghanistan officially started again in 2010 -, and culminated in the 2012 Agreement on the NATO use of the Ulyanovsk Airport in Russia as a hub for the transit of supplies and personnel for and from ISAF.

The cooperation between the two, despite the unresolved situation in Georgia, was based on mutual and similar interests in the region, as a confirmation of the fact that sectoral and strategic cooperation is achievable.

5.2. The Crimean Crisis and the end of NATO-Russia relations

With Russia's annexation of Crimea in 2014, the Afghanistan cooperation was suspended and relations between Russia and NATO "reached rock bottom"⁴³⁴ since the end of the Cold War.

NATO was feeling threatened by a hegemonic policy of Russia, and Russia was feeling threatened by NATO and EU enlargement, and had fears of the spread of Color Revolutions (a series of social uprisings in former Soviet Countries for quests of increased democratization), into its zone of influence, that comprised Ukraine.

Crimea, moreover, was a Russian-populated region of Ukraine transferred by Khrushchev, by personal initiative, to Ukraine. This was perceived by Russia as a historical injustice. For these reasons, Ukraine, and Crimea in particular, meant to Russia much more than simply a State, and a region, on its border.

Ukraine's 2004 Presidential elections brought to power Viktor Yushchenko, a candidate who was not supported by Russia, differently from his predecessor, President Kuchma, and his opponent, Viktor Yanukovich. The results were "*a traumatic defeat for Russia*"⁴³⁵, not being able of exercising its influence on Ukraine anymore. Yushchenko

⁴³⁴ J. Foreman, "*The Determinants of Recent Russian Behavior: What do these Mean for NATO Decision Makers?*", NATO Defense College Research Division, NDC Research Report, 2016

⁴³⁵ A. Makarychev, "*Russia, NATO and the Color Revolutions*", in "*Russian Politics and Law*", Volume 47 n. 5, 2009

initiated a series of measures gradually approaching to both the EU and NATO, culminating in the 2008 NATO Membership Action Plan for Ukraine.

The westwards orientation of Ukraine interrupted with the 2010 Presidential Elections, when Yanukovych, supported by Russia, became President of Ukraine. He interrupted dialogues with NATO and with the European Union, refusing to sign the Deep and Comprehensive Trade Act, an economic deal with EU. Yanukovych accepted the Russian counteroffer, aimed at furtherly increasing Russia's ties in the region, and made a series of popular contestations arise. Contestations culminated into the removal of Yanukovych from power and anticipated elections.

On February 28, 2014, five days after Yanukovych fled the country, Russia gradually started seizing the Perekop Isthmus and cut all connections between Crimea and Ukraine. What Russia perceived as a peaceful take-over, not causing victims, was however perceived by NATO Countries and International Organizations as an illegal military intervention⁴³⁶, having Russia, in their views, violated the Territorial Integrity of Ukraine, violating the International Law. Moreover, it has been reported that Russia, in its conduct in Crimea, has also violated International Human Rights Law.

On March 11, 2014, Crimea declared its independence and on March 16 a Referendum was held to vote on Crimea's annexation into Russia. Two days later, on March 18, Putin signed the Accession Treaty, marking Crimea's annexation into or, in Russia's view, reunification with the Russian Federation.

5.3. The Aftermath of the Crimean Crisis: Current Situation and Forecasts

Since then, the situation in Crimea froze. As of today, Russia considers it as a part of its territory, while the majority of States still consider it as Ukraine. The Crimean Crisis, furthermore, froze, once again, the NATO-Russia relationship, bringing it "at its lowest point since the Cold War". But will the NATO – Russia relationship remain frozen?

⁴³⁶ J. Mearsheimer, "Why the Ukraine Crisis is the West's Fault: The Liberal Delusions that Provoked Putin", in "Foreign Affairs", September/October 2014

Conclusion

The *fil rouge* of this dissertation has been the constant demonstration of the possibility for NATO and Russia to cooperate, despite unresolved misunderstandings. This explains how it is possible to give a negative answer to the aforementioned question, forecasting that NATO and Russia are likely to start cooperating again, on a sectoral basis.

This forecast finds its application in the last developments of the relationship between NATO and Russia.

The rapprochement between NATO and Russia after the Crimean Crisis started in 2016. Since their first meeting in April 2016, they have met other four times, as of today. The agenda of their meetings was uniform in all of their meetings: Ukraine, Afghanistan, and transparency and risk reduction.

Despite being very little, NATO and Russia currently have an agenda to discuss, and this is a remarkable achievement: discussion could allow NATO and Russia create a dialogue aiming at newly understanding each other's perspectives.

As this dissertation aims at enhancing, it was possible, despite the differences, in Bosnia and Herzegovina, as it was possible with Kosovo, and as it was possible in Georgia. Today, the renewed dialogue between NATO and Russia proves that it will likely be possible for Ukraine as well.