ON THE RIGHT OF THE PEOPLE OF CRIMEA TO SELF-DETERMINATION

Abstract. The article deals with the realization of the right of the people of Crimea to self-determination on the basis of the analysis of international and Russian legal acts, theoretical provisions of the science of international law, scientific approaches and author's understanding.

Key words: implementation, law, people, Crimea, self-determination, analysis, international and Russian legal acts, theoretical provisions, approaches.

In the legal literature and materials of Internet resources on the analysis of various aspects of international law, its universally recognized principles and norms, including the implementation of the universally recognized principle of equal rights and self-determination of peoples [1-3], devoted to many publications. This interest is not accidental, as the generally recognized principles and norms of international law are the basis for international relations to ensure peace and international security, international cooperation and cooperation of subjects of international law.

The main international legal act for the international community, including the issues of interaction and cooperation of States and international organizations is the Charter of The United Nations (1945) [4] (hereinafter – The UN Charter).

The UN Charter defines the General principles and provisions relating to many aspects of the international community, including the principles of international law, the Declaration on principles of international law (1970) [5] specifies them, and the Helsinki Final act of the Conference on security and cooperation in Europe (1975) (hereinafter – The Helsinki act) [6] supplemented their list with new universally recognized principles, which, being General provisions, form norms of fundamental importance for ensuring peace and international security,
define the most General rules of conduct for subjects of international relations, including the definition of international relations between them on the basis of equality and independence of sovereign States, territorial integrity, inviolability of state borders, international cooperation and other universally recognized principles of international law.

The subject of this study will be the implementation of the universally recognized principle and the right to self-determination on the example of the people of Crimea in 2014. Based on the subject of the study, the following questions will be at the center of the author's interest: in what international legal acts the universally recognized principles are defined; how the principle of the right of peoples to self-determination has historically developed; how the people of Crimea realized their right to self-determination; in what normative legal acts of the Russian Federation (hereinafter – Russia, RF) the entry of new subjects of the RF is determined; in what legal acts enshrined the entry of Crimea into Russia?

Legal science offers many scientific concepts of generally recognized principles of international law.

The author shares the scientific approach that the generally recognized principles of international law are generalized rules that reflect the characteristics, as well as the main content of international law and have the highest legal force [7].

Given the characteristics and peculiarities of the content of the above-mentioned international legal acts, the generally recognized principles of international law include ten basic principles – the principle of the non-use of force and the threat of force, the principle of non-interference in the internal Affairs of States, the principle of the sovereign equality of States, the principle of the settlement of international disputes by peaceful means, the principle of equal rights and self-determination of peoples, the principle of the duty of cooperation of States, etc. [7].

The subject of this consideration will be only one principle of international law – the principle of equality and self-determination of peoples on the example of the right of the people of Crimea in 2014 to self-determination.
The process of formation of this principle is associated with the era of decolonization of peoples and their national liberation movements, which in terms of the emergence and development of new state entities (self-proclaimed States) continues to be relevant in modern times. At the same time, in the course of implementation of this principle in practice, there are many difficulties, as we have to face the question of the relationship with other principles of international law, which are established by the UN Charter, the Declaration on principles of international law and the Helsinki act. Among the most difficult issues of application of the people's right to self-determination is its correlation with the principle of territorial integrity of the state, which is based on the preservation of peace on Earth and international security, as well as human rights [8, p. 599].

First of all, let us consider the historical development of the right to self-determination in legal documents (normative legal acts) of States and international organizations. The first legal act, which has the idea of legal consolidation of the right to self-determination is the Declaration of independence of the United States (1776), which enshrined the right of the people to revolt and overthrow the despotic government [9, p. 165]. The next document defining this idea is the first Constitution of France (1791). It provided that people are free and equal in rights from birth; the main goal of the state – "ensuring natural and inalienable human rights" and most importantly for our study – "the source of sovereignty is based essentially in the nation" [9, p. 250]. Thus in the specified legal documents only the idea on the specified principle is formulated.

The term "right of the nation to self-determination" was first defined in the course of the work and proceedings of the Berlin Congress (1878) and then the London Congress (1896), taking into account the current issues of independence of the Balkan peoples from the Ottoman Empire.

After that, a significant place in the formation of this right is occupied by the national liberation processes during and following the First world war, taking place on the European continent, when the participants of the military conflict actively
sent the opportunity for self-determination of the peoples and Nations who lived on the territory of the belligerents and especially on the territory of the enemy.

Among the supporters of the possibility of self-determination of Nations was US President Woodrow Wilson, who interpreted "internal self-determination" as the right of Nations to choose the appropriate form of sovereignty, and therefore the establishment of the boundaries of post-war Europe and other territories should be based on this principle, which must be enshrined in the Statute (Charter) of the League of Nations [8, p. 601].

As you know, in article 22 of the Covenant of the League of Nations [10] established the inequality of peoples and Nations (for example, provided for the custody of the peoples of the advanced Nations, etc.) that was one of the factors of the national liberation processes and during the Second world war.

The main provisions of the principle of self-determination of peoples and Nations were formulated by the victorious States in the Second world war during the creation of the UN and ratification of the UN Charter on October 24, 1945. At the same time, during the development of the UN Charter, the question of the correlation and difference of terms and concepts "nation" and "people" was discussed in order to avoid further ambiguity in their interpretation. As a result of the normative consolidation, it was determined that the term "nation" is used to refer to all political entities, States and not States, and the term "people" applies only to groups of people who may or may not constitute a state or nation [11].

Later, at the 45th session (August 1993) of the sub-Commission on prevention of discrimination and protection of minorities of the UN Commission on Human rights, it was noted that, according to the norms of international law, in the interpretation of the principle of self-determination of the people, such means not "ethnos", but "demos", that is, the entire population permanently residing in the territory [12, p. 87].

In accordance with paragraph 2 of article 1 of the UN Charter, one of the most important goals of the UN is "to develop friendly relations between Nations based on respect for the principle of equal rights and self-determination of peoples ..." [4].
It is also worth noting that the UN Charter specifies the self-determination of peoples as a principle, not a right, and only in the future the UN provides for the right.

Thus, at the VII session of the UN General Assembly on December 16, 1952, resolution 637 (VII) "The Right of peoples and Nations to self-determination" was adopted, which States: "1. member States of the Organization to support the principle of self-determination of all peoples and Nations; 2. that the States members of the Organization recognize and promote the exercise of the right to self-determination of the peoples of the non-self-governing and trust territories under their administration and facilitate the exercise of this right by the peoples of such territories, in accordance with the principles and spirit of the Charter of the Organization in relation to each individual territory and with the freely expressed will of the peoples concerned, the will of the peoples to be determined by plebiscite or other recognized democratic means, if possible under the leadership of the United Nations; 3. that the member States of the Organization which are responsible for the administration of the non-self-governing and trust territories – pending and in preparation for the exercise of the right to self-determination – take practical measures to ensure the direct participation of Indigenous peoples in the legislative and Executive administration of those territories and to prepare them for full self-government and independence" [13].

The Helsinki act (section VIII "Equality and the right of peoples to decide their own destiny") States that "the participating States shall respect the equal rights and the right of peoples to decide their own destiny, acting at all times in accordance with the purposes and principles of the UN Charter and the relevant norms of international law, including those relating to the territorial integrity of States; on the basis of the principle of equal rights and the right of peoples to decide their own destiny, all peoples have the right, in full freedom, to determine, when and how they wish, their internal and external political status, without external interference, and to pursue their political, economic, social and cultural development at their own discretion; States parties reaffirm the universal importance of respect for and the
effective enjoyment of equal rights and the right of peoples to decide their own destiny for the development of friendly relations among them, as among all States; they also recall the importance of excluding any form of violation of this principle" [6].

With the end of the colonial system, the issues of self-determination of peoples seemed to have disappeared by themselves, but for many Nations and nationalities they are quite relevant, given the problems arising in the existing sovereign States between the Nations and peoples inhabiting these States.

The scientific literature offers many approaches to the realization of the right of peoples to self-determination.

Thus, D. V. Grushkin characterizes the right of people to self-determination in modern society as follows: it is the right of every people in absolutely any state to decide independently, without any interference from outside, through the peaceful democratic methods available to it, the following issues: to support the social structure of the state in which they live, or to demand its reform; to transform their status within the country or to withdraw from its composition. In this case, the latter is possible only with the help of free will (plebiscite or referendum) [14, c. 27].

However, it is worth remembering that the right to self-determination is an opportunity for the people to realize it, not a necessity. Therefore, the desire of the people to take advantage of it should not violate the rights of other Nations and peoples living in the territory and undermine the integrity and unity of a sovereign state.

We should also not forget that a UN member state should not prevent in any way the exercise of the right to self-determination and the people living on its territory who wish to exercise this right. Ideally, the state should fully cooperate in this procedure and facilitate the transfer of power to the people, regardless of the wishes of other Nations and nationalities living on its territory, but in modern times there are various motives for the realization of the right to self-determination, including separatist and nationalist motives. This is due to the fact that the motives of the people and Nations are based on nationalist, criminal motives and other
abuses of part of the people or the intervention of foreign States, which lead to a threat to the territorial integrity of a sovereign state.

It was therefore necessary to strike a balance between the possibility of exercising the right to self-determination and the consequences that it might have.

According to the author, the UN, represented by its Secretary-General and structural units, the UN member States, including the United States, its allies and Pro-American countries consider each application and expression of the will of the new state entity individually without observing the algorithm in terms of which people should be allowed to exercise the right to self-determination, and which is not, based only on the fact that it does not fit under some criteria and signs that are often determined by the United States. Moreover, much depends on the political interests of the United States and Pro-American countries, and therefore there are "double standards" in the interpretation of the same provisions of international legal acts and specific examples of the right of the people to self-determination, when the United States and Pro-American countries some state entities recognize and others do not recognize.

Attention should be paid to the implementation of this principle in modern conditions based on the recognition of new state entities as subjects of international law. In practice, in terms of new state formations is not easy to obtain recognition by member States of the UN, his other "brother" and international organizations. If this does not happen, the new state entity falls into international isolation, which does not allow for political or economic negotiations and affects the population of that country directly.

Given the subject of this study, consider the implementation of the principle and the right of peoples to self-determination on the example of the people of Crimea.

After the well-known events in February 2014 in the city of Kiev, which led to the illegal change (armed seizure) of power in Ukraine, as well as subsequent armed provocations, killings and other actions of nationalist and extremist groups in Ukraine, including in Crimea, on March 11, 2014, the Supreme Council of the

The Declaration of independence was based on the right of the people of Crimea to self-determination, and part of its implementation provided for a referendum, which will raise questions about the Declaration of Crimea as an independent and sovereign Republic, as well as an appeal in this status to Russia with a proposal to accept it as new subjects of the RF.

On March 16, 2014, the all-Crimean referendum on the status and entry of Crimea into Russia was held. As a result of the people's will for the sovereignty of the Crimea and the reunification of the Crimea with Russia voted 1 million 495 thousand people, that is 96.57% who came to the polls, which is 81.3% of the adult population of the Peninsula and having Ukrainian citizenship. Thus, the overwhelming majority voted for the sovereignty and annexation of Crimea to Russia.

For Russia on the basis of the international legal acts to number of domestic normative legal acts concerning acceptance of the Crimea in structure of Russia are: the Constitution of the Russian Federation, the Federal constitutional law (further – FKZ) of 17.12.2001 N 6-FKZ "About the order of acceptance in the Russian Federation and education in its structure of the new subject of the Russian Federation" and the Federal law of 15.07.1995 N 101-FZ "About the international treaties of the Russian Federation".

On March 18, 2014, an international agreement was signed on the admission of the Republic of Crimea to Russia with the subsequent formation of new subjects – the Republic of Crimea and the city of Federal significance Sevastopol. The agreement also defined a transitional period until January 1, 2015, providing for the settlement of issues on the integration of Crimea into the economic, financial, credit and legal systems of the Russian Federation, the system of public authorities of Russia and other issues [15, p. 145].
At the request of the President of the Russian Federation, the constitutional Court checked the constitutionality of a not entered into force international Treaty between Russia and Republic of Crimea on the adoption in Russia of the Republic of Crimea and education in the composition of Russia's new constituent entities of the Russian Federation. The constitutional Court of the Russian Federation unanimously passed the resolution of March 19, 2014 N 6-P and confirmed compliance to the basic law of the country of the international agreement with the Republic of Crimea on accession to Russia [16].

21 Mar 2014 Russian President signed the Federal constitutional law No. 6-FKZ "On adoption to the Russian Federation the Republic of Crimea and the formation within the Russian Federation new subjects – Republic of Crimea and city of Federal importance Sevastopol" [17], which were ratified international agreement on the accession to Russia of Crimea and education in the Russia of the specified subjects of the Russian Federation.

April 11, 2014 on the basis of the law on amendments to the Constitution of the Russian Federation were amended to include the Republic of Crimea and the Federal city of Sevastopol as subjects of the Russian Federation.

According to the authors, international and Russian legal norms in the implementation of the right of the people of Crimea to self-determination were fully respected. At the same time, the United States, great Britain and other Pro-American countries do not recognize the fact of Crimea's joining Russia, and the self-Declaration of Kosovo on the basis of the decision of the Kosovo Parliament in 2008, the United States and its "servants" recognized as a "sovereign independent state".

It should also be noted that the right to self-determination has clearly taken its rightful place in international law for more than two hundred years and has made a significant contribution to the development of international relations. At the same time, there are questions and problems in the interpretation of the principle of equal rights and self-determination of peoples and in its implementation in practice, there are many examples, one of which is the Declaration of independence and the entry
of Crimea into Russia, or rather the reunification of Russia and Crimea. Moreover, much depends on the position of the UN and the world community in terms of the possibility of recognizing the right of peoples to self-determination, which should not depend on political interests and "double standards", when the United States and the Pro-American States recognize some state entities (self-proclaimed countries), and others do not recognize.

Thus, this study can be understood as an analysis of international and Russian legal acts, theoretical provisions of international legal science and scientific approaches, and the author's understanding of the realization of the right of the people of Crimea to self-determination.

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