THE CASE OF THE CITY OF SEVASTOPOL: DOMESTIC AND INTERNATIONAL LAW

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This article deals with an issue which went largely unremarked at the time – the role of the city of Sevastopol in Crimea's declaration of independence. The Declaration of Independence of the Republic of Crimea was a joint resolution adopted by the Supreme Council of Crimea and the City Council of Sevastopol. One may state that the city of Sevastopol declared its independence as an entity possessing an international identity.

Initially, only States were treated as recognized subjects of international law. But now other kinds of actors also share this recognition. However, from the point of view of classical international law, cities have no legal identity in international law and they are not granted the status of subjects of international law. The legal activities of cities on the international stage results in the need for a new approach to the treatment of cities under international law.

The author has examined the legality of Sevastopol's action in the light of both domestic and international laws. An analysis of the status of Sevastopol in Ukrainian law, as well in Soviet law is also included in this article. The author presents examples of actions of cities on the international scene which might prove that cities could be treated as non-state actors. However, the conclusion states that it remains questionable whether the city has truly acquired the status of being a subject of public international law. It is doubtful that the case of Sevastopol will contribute to the development of doctrine of non-state actors.

Keywords: Declaration of Independence of the Republic of Crimea; city of Sevastopol; non-state actors; subject of public international law; secession.

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Introduction

March 2014 saw Crimea, previously an integral part of Ukraine, accede to the Russian Federation. This event called into question the validity of certain principles of international law. On 17 March 2014 the Republic of Crimea proclaimed itself an independent and sovereign state, with Sevastopol as a city with a special status.[1] And on 18 March 2014 an Agreement was signed between the Russian Federation and the Republic of Crimea on the accession of the Republic of Crimea and Sevastopol to the Russian Federation.[2] Researchers of international law initially reacted with disbelief and the Crimea case re-opened the debate over several fundamental issues in international law, such as the legal status of entities seeking to secede from a country, the legitimacy of such acts and their legal effects.[3] However, one particular issue has been largely left undiscussed. The Declaration of Independence of the Republic of Crimea was

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[1] Постановление Верховной Рады Автономной Республики Крым от 17 марта 2014 г. № 1745-6/14 «О независимости Крыма», Сборник нормативно-правовых актов Республики Крым, 2014, № 3 (ч. 1), ст. 244 [Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea No. 1745-6/14 of 17 March 2014. On the Independence of Crimea, Collection of Normative Legal Acts of the Republic of Crimea, 2014, No. 3 (part 1), Art. 244].

[2] Договор между Российской Федерацией и Республикой Крым о принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов (подписан в г. Москве 18 марта 2014 г.), Собрание законодательства РФ, 2014, № 14, ст. 1570 [Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Federal Constituent Entities within the Russian Federation (signed in Moscow on 18 March 2014), Legislation Bulletin of the Russian Federation, 2014, No. 14, Art. 1570].

[3] Natalia Cwicinskaja, *Krym w świetle prawa międzynarodowego* in *Rewolucja w imię godności. Ukraiński Euromajdan 2013–2014* 179 (G. Skrukwa & M. Studenna-Skrukwa (eds.), Toruń: Wydawnictwo Adam Marszałek, 2015); Natalia Cwicinskaja, *The Legality and Certain Legal Consequences of the "Accession" of Crimea to the Russian Federation*, 34 Polish Yearbook of International Law 61 (2014); Robin Geiss, *Russia's Annexation of Crimea: The Mills of International Law Grind Slowly but They Do Grind*, 91(1) International Law Studies 425 (2015); Christian Marxsen, *The Crimea Crisis – An International Law Perspective*, 74(2) Heidelberg Journal of International Law 367 (2014).

a joint resolution adopted on 11 March 2014 by the Supreme Council of Crimea and the Sevastopol City Council: "We, the members of the parliament of the Autonomous Republic of Crimea and the Sevastopol City Council, […] make this decision jointly: 1. […] Crimea including the Autonomous Republic of Crimea and the city of Sevastopol will be announced an independent and sovereign state with a republican order. […]."[4] The Declaration was approved by the Resolution of the Supreme Council of the Autonomous Republic of Crimea (hereinafter – ARC) at the extraordinary plenary session on 11 March 2014 and by the Decision of the Sevastopol City Council at the extraordinary plenary session on 11 March 2014 and was signed by both the Chairman of the Supreme Council of the ARC and by the Chairman of the Sevastopol City Council. Thereby, it could be stated that the city of Sevastopol declared its independence as an entity possessing an international legal identity. Modern international law has extended to include an increasing number of non-state actors, e.g. individuals, NGO's, liberation movements. Recent practice suggests that this group could also be joined by cities. Some of legal scholars identified a new phenomenon: the emergence of cities as a new type of actor in international law.[5] Obviously, one should agree with a statement that sovereign nation-states are no longer the sole owners of the rights and obligations laid down by international law. However, it remains questionable whether cities have acquired a legal status in international law that would enable them to establish their legal international status individually. This article will analyze the legality of Sevastopol's action. First, the action of the city in this subject will be presented. Second, the status of Sevastopol under Ukrainian law, as well under Soviet law will be addressed. Third, the article will analyze whether the city is the subject of public international law. Finally, a summary and conclusions will be provided.

1. The City of Sevastopol and the Declaration of Independence of the Autonomous Republic of Crimea

In February and March 2014 profound socio-political changes associated with the general Ukrainian political crisis occurred in Crimea.[6] From 23 February to 27 February 2014 the heads of the executive branches of both Sevastopol and the ARC

[4] Декларация независимости Автономной Республики Крым и города Севастополя, Сборник нормативно-правовых актов Республики Крым, 2014, № 3 (ч. 1), ст. 230 [Declaration of Independence of the Autonomous Republic of Crimea and the City of Sevastopol, Collection of Normative Legal Acts of the Republic of Crimea, 2014, No. 3 (part 1), Art. 230].

[5] Yishai Blank, *The City and the World*, 44(3) Columbia Journal of Transnational Law 875 (2006); Gerald Frug & David Barron, *International Local Government Law*, 38(1) Urban Lawyer 1 (2006).

[6] *See widely*, Бышок С., Кочетков А. Евромайдан имени Степана Бандеры. От демократии к диктатуре [Stanislav Byshok & Aleksej Kochetkov, *Euromaidan of Stepan Bandera. From Democracy to Dictatorship*] (Moscow: Knijnyj mir, FRIGO Narodnaya diplomatiya, 2014); *Documenting Maidan*, Прostory # 8 (December 2013/February 2014) (Jun. 21, 2017), available at http://www.rosalux.de/fileadmin/rls_uploads/pdfs/Ausland/Osteuropa/maidan_RLS2.pdf.

were replaced. The new leaders did not recognize the legitimacy of the incoming Ukrainian government and called on the Government of the Russian Federation for cooperation and assistance.[7] The City Council of Sevastopol decided to create a new executive body for the city – the Coordinating Council for the establishment of the Sevastopol municipal administration. This took place at an extraordinary session of the City Council on 24 February.

On 27 February 2014 the authority of the ARC decided to hold a referendum with questions about improving the status and competence of the region.[8] On 1 March the Sevastopol City Council voted in support of a referendum in the Crimea and gave the relevant powers to the Coordinating Council for the establishment of the Sevastopol municipal administration.

However, the political situation in Ukraine developed so rapidly that on 6 March 2014 the Presidium of the Supreme Council of Crimea adopted Resolution No. 1702-6/14 "On Holding the Crimean Referendum."[9] According to this document, the referendum was to be held on 16 March 2014. This document also stated that ARC decided to become a constituent subject of the Russian Federation. The Sevastopol City Council, in turn, on 6 March 2014 adopted the Decision No. 7151 "On Participation in the Conduct of the Crimean Referendum," in accordance to which the city of Sevastopol also decided to become a constituent subject of the Russian Federation. The city also supported the decision of the Supreme Council of the ARC to hold the Crimean referendum on 16 March 2014 with the same questions, as well as forming a city commission to hold the referendum in Sevastopol.[10] Decision No. 7154 "On Approval of the Provisional Regulations on the Referendum in the City of Sevastopol" was adopted the following

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[7] Обращение Председателя Совета министров АРК Сергея Аксенова, Государственный совет Республики Крым, 1 марта 2014 г. [Handling of the Prime Minister of the ARC Sergei Aksenov, The State Council of the Republic of Crimea, 1 March 2014] (Jun. 21, 2017), available at http://crimea.gov.ru/news/01_03_14.

[8] Постановление Верховной Рады Автономной Республики Крым от 27 февраля 2014 г. № 1630-6/14 «Об организации и проведении республиканского (местного) референдума по вопросам усовершенствования статуса и полномочий Автономной Республики Крым», Сборник нормативно-правовых актов Республики Крым, 2014, № 3 (ч. 1), ст. 203 [Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea No. 1630-6/14 of 27 February 2014. On the Organization and Conduct of the Republican (Local) Referendum on Improving the Status and Powers of the Autonomous Republic of Crimea, Collection of Normative Legal Acts of the Republic of Crimea, 2014, No. 3 (part 1), Art. 203].

[9] Постановление Верховной Рады Автономной Республики Крым от 6 марта 2014 г. № 1702-6/14 «О проведении общекрымского референдума», Сборник нормативно-правовых актов Республики Крым, 2014, № 3 (ч. 1), ст. 208 [Resolution of the Verkhovna Rada of the Autonomous Republic of Crimea No. 1702-6/14 of 6 March 2014. On Holding the Crimean Referendum, Collection of Normative Legal Acts of the Republic of Crimea, 2014, No. 3 (part 1), Art. 208].

[10] Решение внеочередной сессии Севастопольского городского совета от 6 марта 2014 г. № 7151 «Об участии в проведении общекрымского референдума» [Decision of the extraordinary session of the Sevastopol City Council No. 7151 of 6 March 2014. On Participation in the Conduct of the Crimean Referendum] (Jun. 22, 2017), available at http://meridian.in.ua/news/12523.html.

day.[11] The City Commission for holding the referendum was created in Sevastopol. It should be noted, that the preparation and holding of the referendum was funded from the city budget of Sevastopol. Lists of voters were created separately for the ARC and Sevastopol, and separate ballots were printed for the ARC and Sevastopol.[12] The referendum results were announced separately for the ARC and for the city Sevastopol,[13] and the referendum results were approved separately.[14]

Just before the referendum, on 11 March, the Supreme Council of Crimea and the Sevastopol City Council adopted "Declaration of Independence of the Autonomous Republic of Crimea and the City of Sevastopol."[15] In accordance with the provisions of this document, if the referendum supported the decision to become part of Russia on 16 March 2014 Crimea, including the ARC and the city of Sevastopol, would declare itself an independent and sovereign state with a republican order. That Declaration was approved by the Resolution of the Supreme Council of the ARC at the extraordinary plenary session of 11 March 2014 and by the Decree of the Sevastopol City Council at an extraordinary plenary session of 11 March 2014.

The day after the referendum, the Supreme Council of Crimea adopted the Resolution "On the Independence of Crimea."[16] In that document Crimea declared itself an independent sovereign state, the Republic of Crimea, and the city of Sevastopol was granted a special status within it. The same day, the Sevastopol City Council adopted a resolution on the accession of the city of Sevastopol into the Russian Federation as a separate subject – a federal city, which endorsed the Resolution "On the Independence of Crimea".[17] The Chairman of the Coordinating

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11 Горсовет Севастополя принял положение о проведении референдума, Forbes, 7 марта 2014 г. [The Sevastopol City Council Adopted a Regulation to Hold a Referendum, Forbes, 7 March 2014] (Jun. 22, 2017), available at http://www.forbes.ru/news/251812-gorsovet-sevastopolya-prinyal-polozhenie-o-provedenii-referenduma.

12 Справка о проведении на территории Автономной Республики Крым и города Севастополя общекрымского референдума 16 марта 2014 года, Консульский отдел Посольства России в Государстве Израиль [Information about the Conduct of the Territory of the Autonomous Republic of Crimea and the City of Sevastopol the Crimean Referendum on 16 March 2014, The Consular Section of the Embassy of the Russian Federation to the State of Israel] (Jun. 22, 2017), available at http://telaviv.dks.ru/content/doc/referendum160414.pdf.

13 Референдум о статусе Крыма 16 марта 2014 года, Выборы Украины [Referendum on the Status of Crimea on 16 March 2014, Ukraine Elections] (Jun. 22, 2017), available at http://ukraine-elections.com.ua/nodes/novosti-vyborov/referendum-o-statuse-kryma-16-marta-2014-goda.

14 Утверждение результатов референдума, Крымская весна: Хронология событий воссоединения Крыма с Россией [Approval of the Referendum Results, Crimean Spring: Chronology of Accession of Crimea to Russia] (Jun. 22, 2017), available at http://журналкрым.рф/special/russkaya_vesna_2014/page/23/.

15 *Supra* note 4.

16 *Supra* note 1.

17 Решение внеочередной сессии Севастопольского городского совета от 17 марта 2014 г. «О статусе города Севастополя» [Decision of the extraordinary session of the Sevastopol City Council of

Council for the establishment of the Sevastopol municipal administration was unanimously authorized to sign an interstate agreement on Sevastopol's accession to the Russian Federation.

On the same day, 17 March, the President of the Russian Federation signed an executive order on recognition of the Republic of Crimea in which the city of Sevastopol had a special status as a sovereign and independent state.[18] On 18 March 2014 the Agreement between the Russian Federation and the Republic of Crimea on the Accession of the Republic of Crimea to the Russian Federation and on Forming New Constituent Entities within the Russian Federation was signed by the President of the Russian Federation, the Chairman of the State Council of the Republic of Crimea, the Prime Minister of the Republic of Crimea and the Chairman of the Coordinating Council for the establishment of the Sevastopol municipal administration.[19] The Agreement was applied provisionally from the date of its signature and came into force on the date of ratification. The State Duma and the Federation Council of the Russian Federation ratified the Agreement on 20 and 21 March respectively. The Federal constitutional law "On Accession to the Russian Federation the Republic of Crimea and Establishing within the Russian Federation the New Constituent Entities – the Republic of Crimea and the City of Federal Importance Sevastopol" was also adopted.[20] According to Art. 1, p. 3 of this Law, Crimea's and Sevastopol's admission to the Russian Federation was considered retroactive to 18 March.

This analysis of the actions of the Sevastopol City Council indicates that the Council acted as a territorial authority with extensive powers in respect of both domestic and foreign policy. The City Council took the decision to change the status of the city, about accession to another entity, and even accession to another State. Moreover, this new executive body was created without any permission from the Ukrainian authorities. In order to determine limits of the powers of the city authorities, it is necessary to address domestic law. Because Sevastopol has had a special status since its establishment, both Soviet and Ukrainian legislation will be discussed.

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17 March 2014. On the Status of the City of Sevastopol] (Jun. 18, 2017), available at https://www.ridus.ru/news/156633.

18 Указ Президента Российской Федерации от 17 марта 2014 г. № 147 «О признании Республики Крым», Собрание законодательства РФ, 2014, № 12, ст. 1259 [Order of the President of the Russian Federation No. 147 of 17 March 2014. On Recognition of the Republic of Crimea, Legislation Bulletin of the Russian Federation, 2014, No. 12, Art. 1259].

19 *Supra* note 2.

20 Федеральный конституционный закон от 21 марта 2014 г. № 6-ФКЗ «О принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов – Республики Крым и города федерального значения Севастополя», Собрание законодательства РФ, 2014, № 12, ст. 1201 [Federal constitutional law No. 6-FCL of 21 March 2014. On the Accession to the Russian Federation the Republic of Crimea and Establishing within the Russian Federation New Constituent Entities – the Republic of Crimea and the City of Federal Importance Sevastopol, Legislation Bulletin of the Russian Federation, 2014, No. 12, Art. 1201].

2. The Status of Sevastopol in Domestic Law

2.1. Soviet Law

In the beginning it should be noted that the city Sevastopol has had a special status almost since its foundation, specifically from 1787. During the Russian Empire, it was "gradonachalstvo" (a city self-authority), the same as Saint Petersburg, Odessa, Kerch, Nikolaev, and Rostov-on-Don. Those cities formed completely independent territorial and administrative units.[21] However, the history of the city is not the subject of this essay and therefore only the status of Sevastopol under the Soviet law will be considered.

Initially, the city of Sevastopol was a part of the Sevastopol okrug in the Autonomous Crimean Soviet Socialist Republic (hereinafter – ACSSR) of the Russian Soviet Federative Socialist Republic (hereinafter – RSFSR); the ACSSR was established on 18 October 1921 by the Decree of the All-Russian Central Executive Committee and the Council of People's Commissars (Art. 1 of the Decree).[22] The first constitution of Crimean autonomy, as adopted in 10 November 1921[23] and the subsequent constitution adopted in 5 May 1929[24] didn't grant any special status to the city. The first change in the status of Sevastopol in Soviet history occurred in 1930. On 30 October 1930 the Presidium of the All-Russian Central Executive Committee issued the Decree "On

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[21] Грибовский В.М. Государственное устройство и управление Российской Империи (из лекций по русскому государственному и административному праву) [Viacheslav M. Gribovskij, *The State Structure and Governing of the Russian Empire (from Lectures on Russian Public and Administrative Law)*] 132 (Odessa: Tipografia "Tehnik," 1912).

[22] Декрет Всероссийского Центрального Исполнительного Комитета и Совета Народных Комиссаров от 18 октября 1921 г. «Об Автономной Крымской Советской Социалистической Республике» [Decree of the All-Russian Central Executive Committee and Council of People's Commissars of 18 October 1921. On the Crimean Autonomous Soviet Socialist Republic] in Собрание узаконений и распоряжений правительства за 1921 год [Collection of Decrees and Decisions of the Provisional Government of 1921] (Moscow: Uprav. Del. Sovnark. SSSR, 1944).

[23] Конституция Крымской Социалистической Советской Республики (принята 1-м Всекрымским Учредительным Съездом Советов 10 ноября 1921 г.) [Constitution of the Crimean Soviet Socialist Republic (adopted by the 1st Crimean Constituent Congress of Soviets of 10 November 1921)] (Jun. 18, 2017), available at http://sevkrimrus.narod.ru/ZAKON/1921.htm; Пащеня В.Н. Этнонациональный вопрос в государственном строительстве Крыма в первой половине XX в. (1900–1945 гг.), 90 Культура народов Причерноморья 8, 61–70 (2006) [Vladislav N. Pashchenia, *The Ethnonational Issue in the State Construction of the Crimea in the First Half of the Twentieth Century (1900–1945)*, 90 Culture of People of the Black Sea Region 8, 61–70 (2006)].

[24] Конституция Крымской Автономной Советской Социалистической Республики (принята VI Всекрымским Съездом Советов 5 мая 1929 г.) [Constitution of the Crimean Autonomous Soviet Socialist Republic (adopted by the 6th Constituent Congress of Soviets on 5 May 1929)] (Jun. 18, 2017), available at http://sevkrimrus.narod.ru/ZAKON/1929.htm; Конституция КрымАССР и положения, постановления и инструкции о строении органов власти КрымАССР, объеме их прав и круге деятельности. Выпуск I [*The Constitution of the Crimean ASSR and the Provisions, Regulations and Instructions Concerning the Structure of Authorities of the Crimean ASSR, the Extent of Their Rights and a Range of Activities. Issue I*] 10–29 (Simferopol: 2 Gostipografia "Krympoligraftresta," 1930).

the Reorganization of the Network of Okrugs of the Crimean Autonomous Soviet Socialist Republic," which withdrew five Crimean cities (Simferopol, Kerch, Sevastopol, Yalta and Feodosia) from the existing Crimean okrugs. This document constituted those cities as a separate independent administrative unit, directly subordinate to the Central Executive Committee of the Crimean Autonomous Soviet Socialist Republic (hereinafter – CASSR).[25] The constitutional status of Sevastopol was changed only in 1937. On 4 June 1937 Sevastopol became a city of republican subordination to the CASSR (Art. 14 of the Constitution of the CASSR).[26] It meant that the city was directly subordinate to the supreme bodies of state power of the autonomous republic. At this moment, we shall note that Crimean Autonomy was determined as an integral part of the RSFSR by all three of the above-mentioned Constitutions. Foreign affairs and foreign trade of the CASSR were entirely the responsibility of the RSFSR.[27] Neither the republic, nor the okrugs or cities of republican subordination of this republic could represent this entity in foreign affairs. So, Sevastopol's special status as a city of republican subordination, which the city acquired in 1937, only affected the status of the city under domestic law.

According to the Decree of the Presidium of the USSR Supreme Council of 40 June 1945 and the Law of the RSFSR Supreme Soviet of 25 June 1946, the CASSR was downgraded to the status of an oblast (province). Accordingly, the status of Sevastopol was downgraded too. It was transferred from the category of cities of republican subordination to the category of cities with provincial subordination.[28]

Later, the status of the city was changed once again on 29 October 1948. On that day, the Order of the Presidium of the RSFSR "On the Allocation of Sevastopol as an Independent Administrative and Economic Center" was adopted.[29] According to this

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[25] Постановление ВЦИК от 30 октября 1930 г. «О реорганизации сети районов Крымской АССР», Собрание узаконений РСФСР, 1930, № 60, ст. 717 [Resolution of the Central Executive Committee of 30 October 1930. On the Reorganization of the Network of the Crimean Autonomous Soviet Socialist Republic, Collection of Laws of the RSFSR, 1930, No. 60, Art. 717].

[26] Конституция (Основной закон) Крымской Автономной Советской Социалистической Республики [*The Constitution (Fundamental Law) of the Crimean Autonomous Soviet Socialist Republic*] (Simferopol: Gosudarstvennoe izdatelstvo Krymskoj ASSR, 1 tipografiaja Krympolgraftresta, 1937).

[27] Воронцов С.А. Спецслужбы России: Учебник для студентов высших учебных заведений, обучающихся по специальности «Юриспруденция» [Sergej A. Vorontsov, *The Security Services of Russia: A Textbook for University Students Enrolled in the Specialty "Jurisprudence"*] 276–310 (Rostov-on-Don: Feniks, 2006).

[28] Шевчук А.Г. и др. Административно-территориальное устройство Крыма в документах и картографических образах XVIII–XXI вв. [Aleksandr G. Shevchuk et al. *The Administrative-Territorial Unit of the Crimea in the Documents and Cartographic Images of XVIII–XXI Centuries*] 37, 63 (A.V. Ishin (ed.), Simferopol: Tavrija, 2006).

[29] Указ Президиума Верховного Совета РСФСР от 29 октября 1948 г. № 761/2 «О выделении города Севастополя в самостоятельный административно-хозяйственный центр» [Order of the Presidium of the Supreme Soviet of the RSFSR No. 761/2 of 29 October 1948. On the Allocation of Sevastopol as an Independent Administrative and Economic Center] in Сборник законов РСФСР и указов

document, Sevastopol became an independent administrative and economic unit with his own budget and was directly subordinate to the RSFSR. This decision was caused by Sevastopol's need for rapid restoration after the war.[30] The Council of Ministers of the RSFSR decided to "allocate the city of Sevastopol as a separate line in the state plan and the budget," and ordered the Ministry of Finance of the RSFSR, in conjunction with the Crimean Regional Executive Committee, to separate the budget and plans for the construction and supply of the city of Sevastopol from the Crimean regional budget and transfer it to the state budget.[31] It should be noted that under the Soviet Constitution of 1936 and the Constitution of the RSFSR in 1937, cities of republican subordination were not, from the constitutional-legal point of view, removed from the oblast to which they were allocated from an economic and administrative point of view.[32] De facto, Sevastopol stayed in the Crimean oblast. All Sevastopol's state services continued to report to the oblast (e.g. the police to the Department of Internal Affairs of the Crimean oblast, the system of education to the province's Department of Education, health services to the province's Department of Health).

In February 1954, the Presidium of the Supreme Council of the RSFSR decided to transfer the Crimean oblast to the Ukrainian SSR.[33] That was confirmed by the Order of the Presidium of the Supreme Council of the USSR of 19 February 1954[34]

Президиума Верховного Совета РСФСР 1946–1954 гг. [Collection of Laws of the RSFSR and Decrees of the Presidium of the Supreme Soviet of the RSFSR. 1946–1954] 99 (Moscow: Izvestija Sovetov deputativ trudiashchihsa SSSR, 1955).

30 Постановление Совета Министров СССР от 25 октября 1948 г. № 403 «О мероприятиях по ускорению восстановления Севастополя» [Resolution of the Council of Ministers of the USSR No. 403 of October 25, 1948. On Measures to Accelerate Recovery of Sevastopol] in Россия, Крым и город русской славы Севастополь. Документы и материалы 1783–1996 [Russia, Crimea and City of Russian Glory Sevastopol. Documents and Materials 1783–1996] 55 (Moscow: Olimp, 1996).

31 Постановление Совета Министров РСФСР от 29 октября 1948 г. № 1082 «Вопросы города Севастополя» [Resolution of the Council of Ministers of the RSFSR No. 1082 of October 29, 1948. Issues of the City of Sevastopol]; Бабурин С. Крым навеки с Россией. Историко-правовое обоснование воссоединения Республики Крым и города Севастополь с Российской Федерацией [Sergei Baburin, *Crimea with Russia Forever. Historical and Legal Justification for the Reunification of the Republic of Crimea and the City of Sevastopol and the Russian Federation*] (Jun. 20, 2017), available at http://iknigi.net/avtor-sergey-baburin/105208-krym-naveki-s-rossiey-istoriko-pravovoe-obosnovanie-vossoedineniya-respubliki-krym-i-goroda-sevastopol-s-rossiyskoy-federaciey-sergey-baburin.html.

32 Балытников В.В. О некоторых аспектах юридической дискуссии, касающейся оценки содержания Договора о принятии в Российскую Федерацию Республики Крым и образовании в составе Российской Федерации новых субъектов, 4(46) Журнал конституционного правосудия 7 (2015) [Vadim V. Balytnikov, *Some Aspects of the Legal Debate Concerning the Evaluation of the Content of the Treaty on the Accession of the Republic of Crimea into the Russian Federation and the Formation of New Subjects in the Russian Federation*, 4(46) Journal of Constitutional Justice 7 (2015)].

33 *See widely*, Как это делалось, Российская газета, 19 февраля 2004 г. [*How It Was Done*, Rossiyskaya Gazeta, 19 February 2004] (Jun. 20, 2017), available at http://rg.ru/2004/02/19/sssr.html.

34 Указ Президиума Верховного Совета СССР от 19 февраля 1954 г. «О передаче Крымской области из состава РСФСР в состав УССР», Ведомости Верховного Совета СССР, 1954, № 4, с. 64 [Order of the Presidium of the Supreme Soviet of the USSR of 19 February 1954. On the Transfer of the Crimean Region of the RSFSR in the Ukrainian SSR, Bulletin of the Supreme Council of the USSR, 1954, No. 4, p. 64].

and by the Law of the USSR of 26 April 1954.[35] Those documents make no mention of Sevastopol, but after the transition of the Crimean province to the Ukrainian SSR in 1954, Sevastopol was financed directly from the budget of the Ukrainian SSR, and was allocated a separate line as a city of republican subordination to the Ukrainian SSR from 1955.[36] And already in Art. 77 of the Constitution of the Ukrainian SSR of 1978 it was stated that Sevastopol, along with Kiev, is one of two cities of republican subordination to the Ukrainian SSR.[37] The city held that status until 1991, prior to the announcement of Ukraine's independence.

It is clear that Sevastopol had the status of a city of republican subordination. Initially, it was the city of republican subordination to the CASSR, then the city of republican subordination to the RSFSR and finally to the Ukrainian SSR. In Soviet legislation, cities of republican subordination were considered integral parts of the area in which they were located. The status concerned only the sourcing of budgetary funds allocated to the city. Cities of republican subordination were funded directly from the republican budget, alongside the area of which it was a part. Those cities didn't have permission to take any action in the sphere of foreign policy. Even international contacts of cities of the USSR were part of the external policy of the central government and were in the purview of the central bodies of the USSR.[38]

2.2. Ukrainian Law

After Ukraine proclaimed its independence on 24 August 1991 the situation of Crimea became very uncertain. A number of social organizations were formed in Crimea, beginning a struggle for self-determination on the peninsula. This issue has been examined by a number of authors, literature on the subject is extensive and, therefore, this thread will not be discussed in this article.[39] Moreover, the principle

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[35] Закон СССР от 26 апреля 1954 г. «Об утверждении Указов Президиума Верховного Совета СССР» [Law of the USSR of 26 April 1954. On Approval of Decrees of the Presidium of the Supreme Council of the USSR], Заседания Верховного Совета СССР четвертого созыва. Первая сессия (20–2 апреля 1954 г.) [*The Meetings of the Supreme Council of the USSR of the Fourth Convocation. The First Session (20–2 April 1954)*] 554–550 (Moscow: Izdanie Verhovnogo Soveta SSSR, 1954).

[36] Закон УССР о государственном бюджете УССР на 1955 год, Ведомости Верховного Совета УССР, 1954, № 4 [Law of the Ukrainian SSR on the State Budget of the Ukrainian SSR for the Year 1955, Bulletin of the Supreme Council of the Ukrainian SSR, 1954, No. 4].

[37] Конституция (Основной закон) Украинской Советской Социалистической Республики (принята 20 апреля 1978 г.) [Constitution (Fundamental Law) of the Ukrainian Soviet Socialist Republic (adopted on 20 April 1978)] (Jun. 23, 2017), available at http://gska2.rada.gov.ua/site/const/istoriya/1978.html.

[38] Максимов В.Б. Международные контакты городов СССР как часть внешней политики правительства, 2(22) Вестник Волгоградского государственного университета, Серия 4. История. Регионоведение. Международные отношения 96 (2012) [Vladimir B. Maksimov, *International Contacts of Cities of the USSR as Part of the Government's Foreign Policy*, 2(22) Bulletin of the Volgograd State University, Series 4. History. Regional Studies. International Relationships 96 (2012)].

[39] *See widely*, Natalya Belitser, *The Constitutional Process in the Autonomous Republic of Crimea in the Context of Interethnic Relations and Conflict Settlement, International Committee for Crimea*, International Committee for Crimea (ICC), 20 February 2000 (Jun. 20, 2017), available at http://www.iccrimea.org/

of *uti possidetis* was applied to the emergence of independent states in place of the former Soviet republics, according to which the new states were formed within the borders of the former units.[40] So, from the point of view of international law at the moment of Ukraine's declaration of independence, Crimea constituted an integral part thereof. It is also obvious that Ukraine also considered Crimea an integral part. In 1992, Ukraine passed a Law "On the Status of the Autonomous Republic of Crimea."[41] That Law defined the division of powers between the state authorities of Ukraine and the Autonomous Republic of Crimea and declared that this republic is an integral part of Ukraine. As for Sevastopol, its status was defined in Ukrainian law as well. The Decree of the President of Ukraine of 11 March 1992 "On the State Executive Authorities of the City of Sevastopol" reaffirmed the status of Sevastopol as a city of republican subordination, directly subordinated to the central authorities of Ukraine.[42] Also, it was allocated a separate line in the state budget, in the same way as Kiev.[43] It should be noted that before adopting the Constitution of Ukraine in 1996, the main legal document that regulated the issues of administrative-territorial structure of Ukraine was the "Provision on the Order of Decision of the Administrative-Territorial Structure of the Ukrainian Soviet Socialist Republic," approved on 12 March 1981.[44] According to this document the city of republican subordination was a territorial-administrative unit within the State.

The Constitution of Ukraine was adopted on 28 June 1996, defining Ukraine as a unitary state.[45] It is composed of administrative-territorial formations without the legal status of state entities. According to Art. 133 of the Constitution, "1. The

scholarly/nbelitser.html; Maria Drohobycky, *Crimea: Dynamics, Challenges and Prospects* (Lanham, Md.: Rowman & Littlefield, 1995).

40 *See widely* for principle of *uti possidetis*, Malcolm N. Shaw, *The Heritage of States: The Principle of Uti Possidetis Juris Today*, 67 British Yearbook of International Law 75 (1996).

41 Закон Украины от 29 апреля 1992 г. № 2299-XII «О статусе Автономной Республики Крым», Ведомости Верховной Рады Украины, 1992, № 30, ст. 419 [Law of Ukraine No. 2299-XII of 29 April 1992. On the Status of the Autonomous Republic of Crimea, Bulletin of the Verkhovna Rada of Ukraine, 1992, No. 30, Art. 419].

42 Указ Президента Украины от 11 марта 1992 г. № 153/92 «Об органах государственной исполнительной власти города Севастополя», Сборник указов Президента, 1992, № 1 [Order of the President of Ukraine No. 153/92 of 11 March 1992. On the Executive Authorities of the City of Sevastopol, Collection of Decrees of the President, 1992, No. 1].

43 Закон Украины от 9 апреля 1993 г. № 3091-XII «О Государственном бюджете Украины на 1993 год», Ведомости Верховной Рады Украины, 1993, № 20, ст. 212 [Law of Ukraine No. 3091-XII of 9 April 1993 «On State Budget of Ukraine for Year 1993», Bulletin of the Verkhovna Rada of Ukraine, 1993, No. 20, Art. 212].

44 Указ Президиума Верховного Совета УССР от 12 марта 1981 г. № 1654-X «О порядке решения вопросов административно-территориального устройства Украинской ССР» [Order of the Presidium of the Supreme Council of the Ukrainian SSR No. 1654-X of 12 March 1981. On the Issue of Administrative-Territorial Structure of the Ukrainian SSR] (Jun. 20, 2017), available at http://search.ligazakon.ua/l_doc2.nsf/link1/UP811654.html.

45 Конституция Украины, Ведомости Верховной Рады Украины, 1993, № 20, ст. 212 [Constitution of Ukraine, Bulletin of the Verkhovna Rada of Ukraine, 1993, No. 20, Art. 212].

system of the administrative and territorial structure of Ukraine shall include: the Autonomous Republic of Crimea, oblasts, rayons, cities, city districts, settlements and villages. 2. Ukraine shall be composed of the Autonomous Republic of Crimea, Vinnytsia Oblast, Volyn Oblast, Dnipropetrovsk Oblast, Donetsk Oblast, Zhytomyr Oblast, Zakarpattia Oblast, Zaporizhia Oblast, Ivano-Frankivsk Oblast, Kyiv Oblast, Kirovohrad Oblast, Luhansk Oblast, Lviv Oblast, Mykolayiv Oblast, Odessa Oblast, Poltava Oblast, Rivne Oblast, Sumy Oblast, Ternopil Oblast, Kharkiv Oblast, Kherson Oblast, Khmelnytskyi Oblast, Cherkasy Oblast, Chernivtsi Oblast and Chernihiv Oblast, the City of Kiev, and the City of Sevastopol. 3. The cities of Kiev and Sevastopol shall have special status determined by the law of Ukraine." As one can see, the Ukrainian Constitution granted a special status to the city of Sevastopol, but there is no clear statement of what that status entails.[46] That status has had to be determined by a special law. The Law "On the Capital of Ukraine – City-Hero of Kiev" was adopted on 15 January 1999. Unfortunately, the status of Sevastopol was never determined by any law prior to 2014.

However, the special legal status of the cities of Kiev and Sevastopol led to a special procedure for the exercise of executive power and local self-government in those cities. According to Ukrainian legislation, the City Council acted in Sevastopol as legislature, while the executive authority was the Sevastopol city state administration, which was headed by a Chairman, appointed by decree of the President of Ukraine. The exclusive competence of the City Council was determined in the Art. 26 of the Law of 21 May 1997 "On the Local Government in Ukraine."[47] The territorial structure of Ukraine was not applied to them. It was determined exclusively by the laws of Ukraine. The Constitution of Ukraine also proclaimed that any changes with regard to the territory of Ukraine should be made exclusively on the basis of a national referendum (Art. 73 of the Constitution of Ukraine). In addition, the Law of Ukraine "On the National Referendum in Ukraine" states that any territorial changes affecting Ukraine are subject to a national referendum (Art. 3.3(2)).[48] So, the City Council of Sevastopol, when taking the decision to declare independence and to hold a referendum had exceeded its powers. This was confirmed by the judgment of the Constitutional Court of Ukraine of 14 March 2014, with reference to a local referendum in the Autonomous Republic

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[46] *See widely*, Anatolii Tkachuk et al., *Reforms in the Administrative and Territorial Structure of Ukraine: Lessons of History 1907–2009* 46–48 (Kyiv: Legal Status, 2012); Will Bartlett & Vesna Popovski, *Local Governance and Social Cohesion in Ukraine*, Search Working Paper WP5/22 (September 2013), at 9 (Jun. 20, 2017), available at http://docplayer.net/24260745-Local-governance-and-social-cohesion-in-ukraine.html.

[47] Закон Украины от 21 мая 1997 г. № 280-97-ВР «О местном самоуправлении в Украине», Ведомости Верховной Рады Украины, 1997, № 24, ст. 170 [Law of Ukraine No. 280/97-VR of 21 May 1997. On Local Government in Ukraine, Bulletin of the Verkhovna Rada of Ukraine, 1997, No. 24, Art. 170].

[48] Закон Украины от 6 ноября 2012 г. № 5475-VI «О всеукраинском референдуме», Ведомости Верховной Рады Украины, 2013, № 44–45, ст. 634 [Law of Ukraine No. 5475-VI of 6 November 2012. On National Referendum, Bulletin of the Verkhovna Rada of Ukraine, 2013, No. 44–45, Art. 634].

of Crimea.[49] According to the Court: "[…], withdrawal of any subject of administrative and territorial structure of Ukraine from its structure, change the constitutionally enshrined status of administrative-territorial unit, such as […] Sevastopol, as an integral part of Ukraine […] is contrary to […] constitutional principles." Moreover, the Sevastopol City Council had no authority to sign any international agreement. According to provisions of the Law "On Local Government in Ukraine" it only has limited powers in the field of foreign economic activity, such as e.g. choosing to join or withdraw from voluntary associations of local governments.

It could be stated that special status of the City Sevastopol in Ukraine, as well as its historical status in the USSR did not entitle the City Council to take decisions about the status of the city. Hence, the actions of the authorities of Sevastopol were illegal in the light of Ukrainian law.

3. Sevastopol and International Law

The actions taken by the authorities of Sevastopol, as well as authorities of the ARC, undoubtedly violated the domestic law of Ukraine. The authorities of the ARC have explained their actions by affirming that they were relying on international law. In this context they refer particularly to the right of people to self-determination, as well as the example of secession and unilateral declaration of independence by Kosovo. The case of the ARC is considered by the most international lawyers as a case of unilateral secession by a part of the State.[50] The question arises: what status does the city of Sevastopol hold under international law?

Initially, States were the only recognized subjects of international law. But now other kinds of actors also are recognized as subjects of international law.[51] According to A. Kaczorowska-Ireland, "These are: entities which can potentially become States […]; entities with State-like qualities such as the Holy See and the Order of Malta,

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[49] Решение Конституционного Суда Украины от 14 марта 2014 г. № 2-рп/2014 по делу по конституционному представлению Председателя Верховной Рады Украины и Уполномоченного Верховной Рады Украины по правам человека относительно соответствия Конституции Украины (конституционности) Постановления Верховного Совета Автономной Республики Крым «О проведении общекрымского референдума» (дело о проведении местного референдума в Автономной Республике Крым), Официальный вестник Украины, 2014, № 26, ст. 766 [Decision of the Constitutional Court of Ukraine No. 2-rp/2014 of 14 March 2014 in Relation to the Case Arising from the Constitutional Petition of the Acting President of Ukraine, Chairman of the Verkhovna Rada of Ukraine and the Ukrainian Parliament Commissioner for Human Rights on Compliance with the Constitution of Ukraine (Constitutionality) of the Resolution of the Supreme Council of the Autonomous Republic of Crimea "On Holding the Crimean Referendum" (the Case of Local Referendum in the Autonomous Republic of Crimea), Official Journal of Ukraine, 2014, No. 26, Art. 766].

[50] *Supra* note 3.

[51] *See widely*, Janne E. Nijman, *The Concept of International Legal Personality: An Inquiry into the History and Theory of International Law* (The Hague: T.M.C. Asser Press, 2004); Malcolm N. Shaw, *International Law* 223–225 (5th ed., Cambridge: Cambridge University Press, 2003).

intergovernmental organisations […]; and individuals."[52] A further list of entities whose status as subjects of international law is unclear includes nongovernmental organizations and multinational corporations. Those entities have already been widely described.[53] Unfortunately the status of a city from the point of view of international law is not well discussed. As mentioned by H.F. Aust, "Global cities have become a fashionable topic of research, at least in disciplines outside of law."[54] There are only a few works which relate to this topic in a certain sense.[55]

From the legal perspective, a city functions within the national legal order. From the point of view of classical international law, cities also have no legal identity in international law and they are not granted the status of subjects of international law. Sources of international law enumerated in the Statute of the ICJ. Art. 38 do not recognize cities as entities possessing a legal identity. Cities are treated as subdivisions of states. Classical international law has dealt with the international status of parts of a federal state and autonomous regions, but never dealt with the status of cities. However, recent legal activities of cities on the international stage begin to indicate the need for a different treatment of cities in a different way.

One may undoubtedly observe an increasing number of examples of actions by cities in areas traditionally governed by international law. Cities have established so-called International Relations Offices to develop international relations and initiatives.[56] Cities have signed bilateral agreements, very often called Memoranda of Understanding (e.g. the City of Milpitas and the City of Huizhou; the City of Miami Beach and the Canton of Basel-Stadt). Quite often, these memoranda are the basis for signing further agreements on the establishment of mutual relationships or are signed on the basis of such agreements (e.g. Memorandum of Understanding on Friendship and Cooperation between Shanghai and the City of Gothenburg). There are many international conferences organized by city authorities, e.g. the First World Conference on City Diplomacy in The Hague, 2008. Furthermore, the term "city diplomacy" deserves attention. The term is relatively new and it is not widely known. It could be applied to different international actions of the cities' authorities, but mainly to the involvement of local authorities in peace-building.[57] There are

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52 Alina Kaczorowska-Ireland, *Public International Law* 182 (4th ed., London: Routledge, 2010).

53 *See*, Shaw 2003, *supra* note 51.

54 Helmut P. Aust, *Shining Cities on the Hill? The Global City, Climate Change and International Law*, 26(1) European Journal of International Law 255, 256 (2015).

55 *Supra* note 5.

56 Janne E. Nijman, *Renaissance of the City as Global Actor. The Role of Foreign Policy and International Law Practices in the Construction of Cities as Global Actors*, T.M.C. Asser Institute for International & European Law 2016-02 (Jun. 20, 2017), available at www.asser.nl.

57 *City Diplomacy: The Role of Local Governments in Conflict Prevention, Peace-Building, Post-Conflict Reconstruction* (A. Musch et al. (eds.), The Hague: VNG International, 2008).

numerous global and regional networks in which cities cooperate, e.g. EUROCITIES, ICLEI – local governments for sustainability. And of course, one ought to point out the World Association of Cities and Local Authorities Coordination (WACLAC), which "was established in 1996 to provide a coordination mechanism for international local government associations in their work with the United Nations."[58] There are also examples of cooperation of international organizations with cities, e.g. UNICEF's Child Friendly Initiative, UNESCO's European Coalition of Cities against Racism. Hence, we could state that the new role of a city is recognized by the international community, especially by international organizations. But as I.M. Porras stressed, the succession of such a cooperation "can be attributed primarily to a recent coincidence of values and interests between cities and international organizations."[59]

The case of the City of Sevastopol once again showed us that a contemporary city may be an actor on the international stage. It seems that cities can be understood as a particular form of non-state actor in international law. Bearing that in mind, as J. Klabbers noted, traditional international law is far from exhaustive of the variety of today's global legal practices.[60] Initially only States were subjects of international law, while now the list of entities has expanded. In future it could be possible that international law will embrace actors that transcend the traditional framework.

But at this stage the official doctrine of international law doesn't recognize a city as a subject of international law. Furthermore, a case hinging on a city declaring its independence from a state is hardly conducive to changing the position of states – the main actors of international law – in this area. The respect for territorial integrity is essential for States.[61] It is doubtful that the case of Sevastopol will contribute to the development of doctrine of non-state actors (in particular, cities). No states would risk considering a city as a full entity of international law, fearing negative consequences.

Conclusion

The City of Sevastopol, a city with special status in Ukraine, declared independence from this state and became the federal city of the Russian Federation, after signing the agreement with the Russian Federation in 2014. The article examined issues

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58 Felipe de Jesus Cantu, *World Association of Cities and Local Authorities Coordination (WACLAC)*, International Conference on Financing for Development, 18–22 March 2002 (Jun. 20, 2017), available at http://www.un.org/ffd/statements/waclacE.htm.

59 Ileana M. Porras, *The City and International Law: In Pursuit of Sustainable Development*, 36(3) Fordham Urban Law Journal 537, 548 (2008).

60 Jan Klabbers, *Law-Making and Constitutionalization* in Jan Klabbers et al., *The Constitutionalization of International Law* 81, 87 (Oxford: Oxford University Press, 2009).

61 William R. Slomanson, *Legitimacy of the Kosovo, South Ossetia and Abkhazia Secessions: Violations in Search of a Rule*, 6(2) Miskolc Journal of International Law 1, 15 (2009).

of Sevastopol's legal status in Ukraine, as well in the former USSR. From the very beginning the city had a special status. In the USSR, it was the city of republican subordination, first to the RSFSR, later to the Ukrainian SSR. In Ukraine, the city had a special status, granted in the Constitution. However, regardless of its special status, the city does not have the power in domestic law to declare independence, and its actions were illegal. As for international law, cities have no legal identity in international law and they are not granted the status of subjects of international law. Sevastopol's actions confirmed the thesis that cities may be recognized as actors on the international stage, but are treated by international law as subdivisions of states rather than subjects of international law.

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