

Stefania Kolarz

Summary of the doctoral dissertation entitled

The International Legal Status of a de facto State

The aim of this dissertation is to investigate how the de facto states of Abkhazia, South Ossetia, Nagorno-Karabakh, and Transnistria fit into the framework of international law. Formally, they are not counted among the subjects of international law, but their presence in the international plain - albeit contested, irregular, and mostly unofficial - remains visible. At the same time, the international community has failed over the past three decades to develop a constructive response to the challenges posed by the proclamation of independence by these separatist regions, supported by their patrons (Russia and, in the case of Karabakh, Armenia), and their gradual separation from their so-called mother states: Georgia, Azerbaijan, and Moldova. Indeed, the mere acknowledgment that de facto states have been established in violation of the principles of international law does not in itself remove the consequences of these actions, nor does it lead to the resolution of the disputes and problems that have arisen, both for regional stability and security, as well as for their communities and other actors directly affected by the existence of these self-proclaimed republics. Since the presence of de facto states in the international space cannot be ignored, it is necessary to examine their international legal status.

A preliminary analysis of the situation of de facto states allows for the hypothesis that international law in its current shape enables the creation of de facto states, but hinders their functioning and development into the form of a de jure state - a fully-fledged subject of international law. Nonetheless, de facto states in fact already possess some rudiments of international legal personality; its scope remains, however, limited in relation to that possessed by states, and its boundaries are undefined.

The research method proposed to verify this hypothesis goes beyond the classical framework of the study of the relationship between the obligation under international law to respect the territorial integrity of a state and the right to self-determination, the question of the existence of the right to secession and the issue of an illegal interference of the patron in the internal affairs of the mother states. The aim of this research is to explore in depth what de facto states are from a legal perspective, without reducing their status to separatist regions of the mother state or puppets of the patron. In addition to the legal analysis carried out on the basis of dogmatic, historical, and comparative methods, the work therefore also contains

numerous references to the findings made on de facto states by representatives of political science and international relations. Thus, the dissertation fills a gap in research, which is that the (few) analyses of the situation of de facto states carried out by lawyers miss the role played by the local communities of these separatist regions and the actual level of their separateness both from the mother state and the patron, while the assessments of the situation of de facto states by representatives of other sciences miss certain nuances resulting from the law and its interpretation.

The dissertation is divided into five chapters. It begins by presenting the conceptual grid (issues related to international legal subjectivity, statehood, and sovereignty), defining the concept of the de facto state itself and distinguishing it from other geopolitical entities and collectivities (Chapter 1). Chapter 2 focuses on the legal challenges of establishing the reality of power exercised by self-proclaimed authorities of de facto states, their legitimacy, effectiveness, the role of recognition, and the distinction of the actions of separatists from their patrons. Chapter 3 discusses the controversies surrounding the ways in which territorial sovereignty is exercised, including the possibilities for its limitation in accordance with international law, the possession of title to territory, issues of border control, and the exercise of jurisdiction. Chapter 4 is devoted to the exercise of personal sovereignty and the difficulties of establishing the legal status of communities living in de facto states and their rights, including the disputable grounds for establishing their own state. The final Chapter 5 focuses on the participation of de facto states in international relations, which includes not only representation but also, among others, the creation of international law and accountability for its violations.

Key words: Abkhazia, South Ossetia, Nagorno-Karabakh, Transnistria, self-determination, secession, territorial integrity, citizenship, representation, international relations

Stephanie
Kalen