



**COMITATO LIBERAZIONE NAZIONALE VENETO D'EUROPA**



## **Venetian Republic Council of Ministers Parliament**

Venice, Palazzo Ducale, 25 April 2023

Prot.N. DPL2023042500011

**Senders**

**Veneto National Liberation Committee of Europe**

**Council of Ministers**

**Parliament**

**Legal and Juridical Affairs Office of the Legislative Council of the Veneto People**

**Registry Authority Office of Treaties, Conventions and International Agreements**

**Minister for Foreign Affairs, Security Policy, International Cooperation for Sustainable Development**

**Minister for the peremptory norms of general international law (ius cogens). “The rules reflect and protect the fundamental values of the international community. They are universally applicable and are hierarchically superior to other rules of international law”**

**Ministers of Economic Development, Business, Industry, Commerce, Crafts, Agriculture, Technological Innovation, Digital Transition and Made in Veneto of the Veneto National Liberation Committee of Europe**



## **COMITATO LIBERAZIONE NAZIONALE VENETO D'EUROPA**

**Ministers of the Environment, Transport, Energy, Communications, Cultural Heritage and Activities and Tourism**

**Minister of Defence, Civil Protection, Aeronautics and Marine Policies.**

**Recipients**

**· Secretary General of the United Nations His Excellency Mr. António Guterres - U.N. Office of Legal Affairs - Mr. Miguel de Serpa Soares, 760 United Nations Plaza, New York**

**NY 10017 - USA. United Nations Secretariat - UNS**

**Office of the United Nations High Commissioner for Human Rights**

**Human Rights Council**

**Committee on the Elimination of Racial Discrimination (CERD) Economic Rights Committee,**

**social and cultural (CESCR) Human Rights Committee (CCPR)**

**Committee on the Elimination of Discrimination Against Women (CEDAW)**

**Committee Against Torture (CAT)**

**Committee on the Rights of the Child (CRC)**

**Committee on Migrant Workers (CMW)**

**Subcommittee on the Prevention of Torture (SPT)**

**Committee on the Rights of Persons with Disabilities (CRPD)**

**Committee for Enforced Disappearances (CED)**

**United Nations High Commissioner for Refugees (UNHCR)**

**Office for the Coordination of Humanitarian Affairs (OCHA)**

**United Nations Educational, Scientific and Cultural Organization (UNESCO)**

**Inter-Agency Standing Committee (IASC)**

**DESA (Department of Economic and Social Affairs)**

**Commission on the Status of Women (CSW)**

**Division for the Advancement of Women (DAW)**

**United Nations Population Fund (UNFPA)**

**United Nations Children's Fund (UNICEF)**

**United Nations Entity for Gender Equality and Women's Empowerment (UN-Women)**

**United Nations Development Program (UNDP)**



## COMITATO LIBERAZIONE NAZIONALE VENETO D'EUROPA

To the President of the ICRC General Assembly Mr. Peter Maurer  
International Committee of the Red Cross, 19 Avenue de la Paix, 1202 Genève - SUISSE

U.N. - OHCHR - Ms. Michelle Bachelet Jeria, Palais Wilson-Rue de Paquis, 52 CH  
1201 Genève - SUISSE

· Haut Commissariat des Nations Unies pour les réfugiés (UNHCR) - Rue de Montbrillant 94,  
1201 Genève - SUISSE

Secretary General of the Organization for Economic Co-operation and Development (OECD)

Mr. Mathias Cormann, 2 Rue Andre' Pascal 75775 Paris Cedex 16 - FRANCE.

*“the OECD is bound by the principles and objectives defined by the 1975 Helsinki Act and the  
1990 Charter of Paris”*

· High Representative of the European Union for Foreign Affairs and Security Policy, Mr. Josep  
Borrell c/o European Commission, Rue de la Loi-Weststraat, 200

1049 Brussels - BELGIUM

· Secretary General of the Council of the European Union, Jeppe Tranholm-Mikkelsen c/o  
President of the European Council - Charles Michel, Rue de la Loi - Weststraat, 175

1049 Brussels- BELGIUM.

### Object:

**Official communication: approval of the National Council of the Veneto People with**

**Law No. 37 the status of permanent Neutrality ("eternal", de jure) of the Veneto State.**

Parliament has freely chosen to proclaim itself neutral and can just as freely decide to abandon this status with direct democratic popular consultation. For judicial protection of the right of self-determination, Parliament reaffirms the Treaty: Butterfly effect of the Autochthonous Peoples of Europe. (Vienna Formula: Declaration of Belligerence to the International Organization sui Generis, European Union, binding on all States and international juridical personalities adhering to the organization, Venice 07/11/2020. Declaration of Belligerence approved by the Government of the Council of Ministers and by Parliament. (Document attached). The Veneto State is a neutral country and as such, bases its foreign policy on the principle of neutrality. The Veneto State, as a neutral State, adhered to the Hague Convention of 18 October 1907, concerning the rights and duties of neutral Powers and persons, a legally binding international treaty (public international law).

The Institutions of the Veneto State have the task of taking all the necessary measures to preserve the country's neutrality. It bases its foreign policy on the principle of neutrality. Respect for expressed neutrality is well recognized by international law.



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The neutrality of the Veneto State as a "neutral non-member observer Veneto State" is compatible with the guidelines on the obligations of the UN Statute and contributes to the realization of the principles of the United Nations.

To protect the internal sovereignty of the State, the law establishes the use of the Civil Defense with the adoption of the Swiss Constitution.

Resolution of the Institut de Droit International, Session de La Haye, 1875, and the *Projet de règlement pour la procédure arbitrale International* and the subsequent codification, in the same year, of the *Devoirs internationaux des États neutres*, according to the *Règles de Washington*: "I. L'Etat neutre désireux de demeurer en paix et amitié avec les belligérants et de jouir des droits de la neutralité, a le devoir de s'abstenir de prendre à la guerre une part quelconque, par la performance de secours militaires à l'un des belligerents sous tous les deux, et de veiller à ce que son territoire ne serve pas de centre d'organisation ou de point de départ à des expéditions hostiles contre l'un d'eux ou contre tous les deux".

War smuggling today includes any goods destined for an enemy port or a contiguous port, with the exception of goods indispensable for the survival of the civilian population (Articles 54, 70 and 71 I of the 1977 Protocol to the Geneva Conventions of 1949). The extent of the goods falling smuggling greatly reduces the freedom of the neutral states interested in trading with the belligerents. A different case is "war smuggling in peacetime" which consists in sending weapons or armed forces to a state in which an insurrection or a war for self-determination is underway. For a case in which the rules of international law on the matter have not been applied, see the Italian-French arbitration for the Carthage and Manouba incidents, French postal steamers (of a neutral state) blocked in 1912 by Italy engaged in the war with Turkey for the conquest of Libya, the first as bringing on board an airplane, the second 29 persons of Turkish nationality suspected of belonging to the armed forces, in which France's arguments for restitution were accepted, according to the decision available for consultation in the Historical Archives of the Ministry of Foreign Affairs, envelope 178, file 1/4/32.

Charter of the United Nations, San Francisco June 26, 1945, entered into force October 24, 1945; Italy was admitted in 1955, and the Charter was enforced with retroactive effect by Law No. 848 of 17 August 1957, in the Official Gazette, supplement to number 238 of 25 September 1957.

Judgment of 27 June 1986, "Military and Paramilitary Activities in and against Nicaragua (Nicaragua v. United States of America)", I.C.J. Reports, 1986, p. 14 ff.

Resolution 3314/1974 (XXIX) passed by the General Assembly of the United Nations on 12 December 1974, containing the definition of aggression (A/RES/3314 (XXIX)).

Declaration relating to the principles of international law concerning friendly relations between States in accordance with the Charter of the United Nations, adopted on 24 October 1970 by the UN General Assembly with resolution 2625/1970 (XXV).

Judgment of 19 December 2005, "Armed Activities on the Territory of the Congo (Democratic Republic of the Congo vs Uganda)", I.C.J. Reports, 2005, p. 168 ff.; Advisory Opinion, 8 July 1996, "Legality of the Threat of Use of Nuclear Weapons", I.C.J. Reports, 1996, par. 15; Judgment of 27 June 1986, "Military and Paramilitary Activities", cit., loc. cit.



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Draft Articles on the International Responsibility of States, 10 August 2001, A/56/10, Report of the International Law Commission on the work of its fifty-third session.

Advisory Opinion of 17 June 1971, "Legal consequences for States of the continued presence of South Africa in Namibia (South West Africa) notwithstanding Security Council resolution 276 (1970)", I.C.J. Reports, 1971, p. 16; Advisory Opinion of 9 July 2004, "Legal consequences of the construction of a wall in the occupied palestinian territory", I.C.J. Reports, 2004, p.136 ff.

Resolution number 678 of 1990 with which the Security Council authorizes States «to use all means necessary to enforce the resolution no. 660», with which he had ordered the immediate withdrawal of Iraqi troops from the Kuwaiti territory, illegally annexed, and considered a "breach of the international peace and security as regards the Iraqi invasion of Kuwait". As a result of the persistence of the occupation, the Security Council adopts resolution 661/1990, imposing a series of economic embargo measures against Iraq; Resolutions available at: <http://www.daccessdds.un.org/doc/RESOLUTION/GEN/NR0/575/28/IMG/NR057528.pdf?OpenElement>.

Resolution number 1970/2011 of February 26, 2011

International Court of Justice, order, 2 June 1999, lawfulness of the use of force in Yugoslavia.

Resolution 1244 of 10 June 1999, United Nations Document of Security Council, S/RES/1244. See on this point Ruffert 2001, 626-627; Franzina 2011, 59 ff.

Case of Southern Rhodesia, with resolution number 216 of 12 November 1965, available at the address <http://www.un-documents.net/a20r2131.htm>. the Security Council imposed on the Member States of the United Nations the obligation not to recognize the supposed new state formation, as it was carried out in violation of self-determination.

Qualification of the United States and the United Kingdom as "occupying powers" in the specific case, see § 5 of resolution no. 1483 of 2003 of the United Nations Security Council, available at the address: <http://daccessdds.un.org/doc/UNDOC/GEN/N03/368/53/PDF/N0336853pdf?OpenElement>.

Resolution 1267 (1999), adopted by the United Nations Security Council on October 15, 1999, and resolution 1269 (1999), adopted by the United Nations Security Council on October 19, 1999; both resolutions are available at [www.un.org](http://www.un.org)

Resolution 1970 (2011), adopted by the United Nations Security Council on 26 February 2011, available at [www.un.org](http://www.un.org).

Resolution 1973 (2011), adopted by the United Nations Security Council on 17 March 2011, available at [www.un.org](http://www.un.org).

The First Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in Field, the Second Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked in Armed Forces at Sea, the Third Convention relating to the Treatment of Prisoners of War and the IV Convention relating to the protection of civilians in time of war have been in force internationally since 21 October 1950. They were made executive in the Italian legal system with law 27 October 1951, number 1739, in the Official Gazette of 1 March 1952, number





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53, and in force for Italy since 17 June 1952. They can be consulted at the address: <http://www.icrc.org/ihl.nsf/INTRO?OpenView>.

Protocol I on the protection of victims of international armed conflicts and Protocol II on the protection of victims of non-international armed conflicts have been in force internationally since 7 December 1978. They were made executive in the Italian legal system with law 11 December 1985 number 762, in Official Journal, ordinary supplement of 27 December 1985, number 303 and have been in force for Italy since 27 August 1986. They can be consulted at the address: <http://www.icrc.org/ihl.nsf/INTRO?OpenView>.

Preamble of the Fourth Hague Convention of 1907 relating to the laws and customs of war on land, formulated as follows: "Pending the enunciation of a more complete code of laws relating to war, the High Contracting Parties deem it appropriate to state that, in cases not included in the provisions adopted by them, the populations and belligerents remain under the protection and rule of the principles of international law, as they result from the customs established by civilized nations, from the laws of humanity and from the needs of the public conscience". Subsequently, the clause was inserted in the four Geneva Conventions of 1949, in the First Geneva Protocol of 1977 (art. 1 par. 2), in which the reference to «civilized nations» was omitted and in the preamble of the Convention of New York of 1981 on the prohibition of certain conventional weapons. See Ronzitti 2014, 104; Pustogarov 1999, 125-135; Meron 2000, 78-89.

An interpretation that considers the Martens clause as an element that authorizes the interpreter to give more importance to the *opinio iuris* than to the *usus* in defining a custom, see Cassese 2000, 214.

Resolution number 678 of 1990 with which the Security Council authorizes States «to use all means necessary to enforce the resolution no. 660», with which he had ordered the immediate withdrawal of Iraqi troops from the illegally annexed Kuwaiti territory, available at the address: <http://www.daccessdds.un.org/doc/RESOLUTION/GEN/NR0/575/28/IMG/NR057528.pdf?Open-Element>.

Judgment of 12 September 2012, rec. no. 10593/08, *Nada c. Switzerland*, para. 170. In this case, the Court confirms what was established in the judgment of 7 July 2011, ric. no. 27021/08, *Al-Jedda v. United Kingdom*, par. 102, refraining from pronouncing in the abstract on the hierarchy between the UN Charter and human rights norms, but confirming that the concrete implementation of Security Council resolutions violated the right to respect for private and family life and the right to an effective remedy sanctioned by the articles 8 and 13 of the European Convention on Human Rights. This orientation is finally confirmed in the sentence of 26 November 2013, art. no. 5809/08, *Al Dulimi and Montana Management Inc. v. Switzerland*, para. 120-121, in which the European Court affirmed that, in case of conflict between the Charter of the United Nations and the European Convention, the Charter, or the binding resolutions of the Security Council, contemplating sanctions against alleged terrorists included in nominative lists and the European Convention, prevail only if they envisage "equivalent" protection mechanisms to those required by the Convention.

Judgment of 18 July 2013, in cases C584/10P, C-593/10P and C-595/10P, *Kadi II*,

Judgment of 21 September 2005, case T-315/01, *Kadic. Council and Commission*, and 21 September 2005, case T-306/01, *Yusuf and Al Barakaat International Foundation v. Council and Commission*.

Judgment 3 September 2008, joined cases C-402/05 P and C-415/05 P, *Kadi and Al Barakaat International Foundation v. Council of the European Union*, in Collection, 2008, I - 6351.

Judgment of 18 July 2013, in cases C584/10P, C-593/10P and C-595/10P, *Kadi II*, cit.,



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Resolution 2170 of August 15, 2014, available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/sres2170pdf>.

For the qualification of armed conflict of an international nature and the consequent application of war and humanitarian law rules, as provided for by article 3 common to the Geneva Conventions of 1949 and by the Additional Protocol II to the same of 1977, it is meant, on the basis of the Article 1 of the latter, the confrontation between state armed forces and dissident armed forces or organized armed groups which, under the leadership of a responsible command, exercise control over a part of the territory such as to allow them to carry out concerted military operations, where situations of internal tensions, internal unrest, such as secession, isolated and sporadic acts of violence and other similar acts do not fall within this notion. On this point see in general Schindler 1973, 428 ff.

June 27, 1986, Military and Paramilitary Activities, cit., § 246, whereas the same sentence, confirmed by the sentence of December 19, 2005, Armed Activities on the Territory of the Congo, cit., excludes the legitimacy of intervention in favor of rebel forces.

Judgment June 27, 1986, Military and Paramilitary Activities, cit., § 246.

The International Criminal Tribunal for the former Yugoslavia was established by the Security Council of the United Nations with resolution 827/1993; judgment of 2 October 1995, Prosecutor v. Dusko Tadic, § 98, available at <http://www.icty.org/x/cases/tadic/acdec/en/51002.htm>; sentence 7 May 1997, Prosecutor v. Dusko Tadic, § 611, available at <http://www.icty.org/x/cases/tadic/tjug/en/tad-ts70507JT2-e.pdf>.

Institut de Droit International, Annuaire, vol. 56, p. 545.

Resolution number 2165 of 14 July 2014, available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/sres2165pdf>

The Paris Convention was made executive in the Italian legal system with law 18 November 1995, number 496, in the Official Journal s.o. of 25 November 1995, number 276, amended by law of 4 April 1997, number 93, in the Official Gazette of 7 April 1997, number 80; can be consulted at: [http://www.opcw.org/docs/cwc\\_eng.pdf](http://www.opcw.org/docs/cwc_eng.pdf). On it see Kazemi 2005, 137-186; Littlewood 2005; Beard 2007, 271-321.

Resolution 2118 of 27 November 2013, which condemns the use of chemical weapons in the Syrian Arab Republic and prohibits Syria from using, developing, producing and acquiring prohibited chemical weapons, as well as their transfer to other states or non-state actors, imposing an obligation on the Damascus government to cooperate with the Organization for the Prohibition of Chemical Weapons; Resolution available at: <http://www.securitycouncilreport.org/atf/cf/%7B65BF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/sres2118pdf>.

### **The Parliamentary Council of the Veneto People reaffirms,**

We are honored to declare that the Venetian State accepts the obligations established in the United Nations Charter and feels committed to respecting them. On 13 September 2018, the Veneto National Authority (A.N.V.), issued by the Veneto National Liberation Committee, as required by art. 96.3 of the Additional Protocol I of 1977 to the Geneva Conventions of 1949, regarding the Liberation Movements and, as per the Founding Deed, delivered by hand to the OHCHR on July 26, 2016, officially adhered, by unanimous vote, to the admission of the Veneto State to the United Nations Organization; as a "neutral Veneto non-observer member".

With the request of the Veneto National Authority, dated 13 September 2018, in favor of accession to the procedure for accession to the following protocols and conventions, on 25 April 2023, the Parliamentary Council of the Veneto People approves the ratification by law:

International Covenant on Civil and Political Rights



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Additional Protocol relating to the Protection of Victims of International Armed Conflicts  
Agreement on the Privileges and Immunities of the International Criminal Court  
Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982  
Basel Convention on the control of transboundary movements of hazardous wastes and their disposal  
Cartagena Protocol on Biosafety to the Convention on Biological Diversity  
Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment  
Convention on Biological Diversity  
Convention on Cluster Munitions  
Convention on the Elimination of All Forms of Discrimination Against Women  
Convention for the prohibition or restriction of the use of certain conventional weapons which may be considered excessively harmful or have indiscriminate effects (with Protocols I, II and III)  
Convention on the law of non-navigational uses of international waterways  
Convention on the non-applicability of legal limitations to war crimes and crimes against humanity  
Convention on the Political Rights of Women  
Convention on the prevention and punishment of crimes against internationally protected persons, including diplomatic agents  
Convention on the Prevention and Punishment of the Crime of Genocide  
Convention on the Recognition and Enforcement of Foreign Arbitral Awards  
Convention on the Rights of Persons with Disabilities  
Convention on the rights of the child  
Convention on the Security of the United Nations and Associated Personnel  
Declaration 12(3) granting retroactive jurisdiction to the ICC (from 13 June 2014)  
Geneva Convention (I) on the Wounded and Sick in Armed Forces in the Field, 1949  
Geneva Convention (II) on wounded, sick and shipwrecked members of armed forces at sea, 1949  
Geneva Convention (III) on Prisoners of War, 1949  
Geneva Convention (IV) on civilians, 1949  
Additional Protocols to the Geneva Conventions -I-II-III-  
International Convention on the elimination of all forms of racial discrimination  
International Convention for the Suppression and Punishment of the Crime of Apartheid  
International Covenant on Economic, Social and Cultural Rights  
Optional Protocol to the Convention on the Security of the United Nations and Associated Personnel  
Paris Agreement  
Additional Protocol to the Geneva Conventions of 12 August 1949, Concerning the Adoption of an Additional Distinctive Emblem  
Additional Protocol to the Geneva Conventions of 12 August 1949, relating to the protection of victims of non-international armed conflicts  
Protocol on Undetectable Fragments (Protocol I) to the Convention on the Prohibition or Restriction of the Use of Certain Conventional Weapons  
Protocol on the prohibitions or restrictions on the use of incendiary weapons (Protocol III) to the Convention on the prohibitions or restrictions on the use of certain conventional weapons  
Rome Statute of the International Criminal Court  
Hague Convention (IV) Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land  
The Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict  
Treaty on the Non-Proliferation of Nuclear Weapons





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United Nations Convention against Corruption  
United Nations Convention against Transnational Organized Crime  
United Nations Convention on the Law of the Sea  
United Nations Framework Convention on Climate Change  
Vienna Convention on Consular Relations  
Vienna Convention on Diplomatic Relations  
Vienna Convention on the Law of Treaties

The Veneto State is committed with determination in favor of the defense and universal promotion of human rights.

### Charter of the United Nations. San Francisco on June 26, 1945

We, the peoples of the United Nations, determined to save future generations from the scourge of war, which has twice in this generation brought untold tribulations to mankind, to reaffirm faith in fundamental human rights, in the dignity and value of the human person, in the equal rights of men and women and of nations large and small, to create the conditions in which justice and respect for obligations deriving from treaties and other sources of international law can be maintained, to promote social progress and a higher standard of living in wider freedom, and for these ends to practice tolerance and to live at peace with one another on good neighborly terms, to join forces to maintain international peace and security, to ensure, by the acceptance of principles and the establishment of systems, that armed force will not be used, except in the common interest, to employ international instruments to promote the economic and social progress of all peoples, we have resolved to unite our efforts for the attainment of these ends. Accordingly, our respective Governments, through their representatives assembled in the City of San Francisco and vested with full powers recognized in good and due form, have agreed to the present Charter of the United Nations and hereby establish an international organization which shall be designated the United Nations.

#### Chapter I: Purposes and Principles

##### Article 1

The purposes of the United Nations are:

1. To maintain international peace and security, and to this end: to take effective collective measures to prevent and remove threats to the peace and to suppress acts of aggression or other violations of the peace and to achieve by peaceful means and in accordance with the principles of justice and international law, the settlement or settlement of international disputes or situations which could lead to a breach of the peace.
2. Develop friendly relations among nations based on respect for and on the principle of equal rights and self-determination of peoples and take other appropriate measures to strengthen universal peace.
3. To achieve international cooperation in solving international economic, social, cultural or humanitarian problems and in promoting and encouraging respect for human rights and fundamental freedoms for all without distinction as to race, sex, language or religion .
4. Establish a center for coordinating the work of nations to achieve these common ends.

The Veneto State is committed with determination in favor of the universal defense of human rights. Universal defense of human rights.



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### Human rights, Article 28

Everyone is entitled to a social and international order, in which the rights and freedoms set forth in this Declaration can be fully realized. It is the human right to peace: internal peace and international peace, peace in justice (opus iustitiae pax). Justice is that of human rights, that is, it is also social and economic justice.

**The Veneto State must contribute to strengthening human rights by promoting the civil, political, economic, social and cultural rights of persons or groups of persons.**

Within the UN, the Veneto State is actively committed to the promotion, respect and implementation of human rights. Promoting and strengthening the fundamental rights and freedoms of all human beings is a major goal of the United Nations.

The Venetian Republic is convinced that the implementation of human rights is an indispensable condition for sustainable economic and social development for peace and security as well as for the prevention of conflicts and violent extremism.

**Institutional priority for inalienable rights enforceable by direct democracy of self determination**, freedom of expression, assembly and association, abolition of the death penalty, respect for the prohibition of torture and ill-treatment, protection of minorities and vulnerable groups, promotion of rights human rights in business, respect for women's rights, human rights for the promotion of peace and security, especially in conflict prevention, fight against impunity, analysis of the past, protection of human rights defenders, human rights and the environment, human rights situation in specific countries.

**The Veneto Parliament has ratified the most important UN conventions relating to the protection of human rights with law No. 37.**

The development of a new conception of 'peoples' evolved with the development of the idea of internal self-determination. In this context, the definition of 'peoples' is not limited only to the population of a fixed territorial entity, but also includes indigenous groups and potentially some minorities. While there is no fully accepted definition of a people, reference is often made to a definition proposed by the United Nations Special Rapporteur, Martínez Cobo in his study on discrimination against indigenous peoples: "Indigenous communities, peoples and nations are those , having historical continuity with the pre-invasion and pre-colonial societies that developed on their territories, see themselves as distinct from other sectors of the societies now prevalent in those territories or parts thereof. They currently form non-dominant sectors of society and are determined to preserve, develop and pass on to future generations their ancestral territories and ethnic identity as the basis of their continued existence as peoples, according to their own cultural patterns, social institutions and legal systems".

### Tools to protect the right to self-determination

#### International instruments:

Article 1(2), Charter of the United Nations

Articles 1 and 12, International Covenant on Civil and Political Rights

Article 1(1), International Covenant on Economic, Social and Cultural Rights

Convention on the Elimination of All Forms of Racial Discrimination



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General recommendation no. 21 on the right to self-determination, Committee for the Elimination of Racial Discrimination

Article 29, Convention on the Rights of the Child

Convention for the Prevention and Punishment of the Crime of Genocide General Comment No. 12 on self-determination, Human Rights Committee

Article II, Resolution 260A(III) on the Convention on the Prevention and Punishment of the Crime of Genocide, General Assembly

ILO Convention relating to Indigenous and Tribal Peoples in Independent Countries, No. 169

Declaration on the principles of international law relating to friendly relations and cooperation between States

Declaration on the granting of independence to colonial countries and peoples

Declaration on the rights of persons belonging to national or ethnic, religious and linguistic minorities

Resolution 1803 (XVII) of 14 December 1962, "Permanent sovereignty over natural resources", United Nations General Assembly

### Regional tools:

Article 20, paragraph 1, African Charter on Human and Peoples' Rights

### Relevant jurisprudence

#### International cases:

Kalevi Paadar et al. v. Finland, Human Rights Committee, 2011

Poma Poma v Peru, Human Rights Committee, 2006

Gillot v France, Human Rights Committee, 2002

Lansman (Jouni) et al. (2) v. Finland, Human Rights Committee, 2001

Diergaardt et al v Namibia, Human Rights Committee, 2000

Howard v Canada, Human Rights Committee, 1999

Ää relä and Näkkäläjärvi v. Finland, Human Rights Committee, 1997

Portugal v Australia (East Timor case), International Court of Justice, 1995

Mahukia et al v New Zealand, Human Rights Committee, 1993

Lubicon Lake Band v Canada (Ominayak case), Human Rights Committee, 1990

B. et al. against Italy, Human Rights Committee, 1990

P. et al. against Colombia, Human Rights Committee, 1988

L. et al. v. Canada, Human Rights Committee, 1989

Western Sahara case, International Court of Justice, 1975

Legal Consequences for States of South Africa's Continued Presence in Namibia (South West Africa) Despite Security Council Resolution 276 (Namibia Case), International Court of Justice, 1970.

#### Regional cases:

Gunme and others v Cameron, African Commission on Human and Peoples' Rights, 2009.

#### Legal source of parliamentary law "Jus cogens"

Resolution 61/178 of December 20, 2006 -



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Resolution 61/295 of September 13, 2007 -

Apr. 14, 1952 - Commission on Human Rights, United Nations, New York. Resolution of the General Assembly of Nations 1803 (XVII) on "Permanent sovereignty over natural resources"

Declaration on the right to development

General Assembly Resolution 421(V) of 4 December 1950 (Draft International Covenant on Human Rights and Implementing Measures: Future Work of the Commission on Human Rights)

Resolution 523 (VI) of the General Assembly of January 12, 1952 (Integrated Economic Development and Trade Agreements)

Resolution 545 (VI) of the General Assembly of 5 February 1952 (Inclusion in the International Covenant or Covenants on Human Rights of an article relating to the right of peoples to self-determination)

Economic and Social Council, Report of the Human Rights Commission on the proceedings of its eighth session, April 14 - June 14, 1952 (E/2256)

Human Rights Commission, draft resolution presented by Chile (E/CN.4/L.24, April 16, 1952)

Resolution 637 C (VII) of the General Assembly of 16 December 1952 (The right of peoples and nations to self-determination)

Resolution 626 (VII) of the General Assembly of December 21, 1952 (Right to freely exploit natural wealth and resources)

Resolution 738 (VIII) of the General Assembly of November 28, 1953 (The right of peoples and nations to self-determination)

Commission on Human Rights, joint draft resolution presented by Chile, China, Egypt, India Pakistan and the Philippines (E/CN.4/L/381, 1954)

Economic and Social Council, Report of the Commission on Human Rights on the proceedings of its 10th session, February 23 - April 16, 1954 (E/2573)

Economic and Social Council, Report of the Social Committee to the Economic and Social Council, July 26, 1954 (E/2638)

Resolution 545 G (XVIII) of the Economic and Social Council of 29 July 1954 (Recommendations on international respect for the rights of peoples and nations to self-determination)

Third Committee of the General Assembly, joint draft resolution tabled by Bolivia, Chile, Costa Rica, Egypt, Greece, Haiti, Indonesia, Iraq, Lebanon, Liberia, Mexico, Pakistan, Philippines, Saudi Arabia, Syria and Yemen (Report of the Third Committee, A/2829, 4 December 1954)

Report of the Third Committee to the General Assembly (A/2829, 4 December 1954).

General Assembly resolution 837 (IX) of 14 December 1954 (Recommendations on international respect for the right of peoples and nations to self-determination)

Economic and Social Council, Report of the Commission on Human Rights on the proceedings of its eleventh session, April 5 - April 29, 1954 (E / 2731)

Resolution 586 D (XX) of the Economic and Social Council of 29 July 1955 (Recommendations relating to international respect for the right of peoples and nations to self-determination)

Resolution 1188 (XII) of the General Assembly of 11 December 1957 (Recommendations relating to international respect for the right of peoples and nations to self-determination)

Report of the Third Committee to the General Assembly (A/4019, December 3, 1958)

General Assembly, Verbatim of the 788th Plenary Meeting of the Thirteenth Ordinary Session, held December 12, 1958 (A/PV.788)

General Assembly resolution 1314 (XIII) of 12 December 1958 (Recommendations concerning international respect for the rights of peoples and nations to self-determination)

Commission on Permanent Sovereignty Over Natural Resources, Secretary-General's Note, "Historical Summary of Discussions Related to the Question of the Permanent Sovereignty of Peoples and Nations Over Their Natural Wealth and Resources" (A/AC.97/1, May 12, 1959)



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Economic and Social Council, Report of the United Nations Commission on Permanent Sovereignty over Natural Resources on the proceedings of its first and second sessions, May 18-22, 1960 (E/3334)

Commission on Permanent Sovereignty over Natural Resources, United Nations Secretariat, Preliminary Study, "The Status of Permanent Sovereignty over Natural Wealth and Resources," Dec. 15, 1959 (A/AC.97/5 & Corr. 1 & Add. 1)

Commission on Permanent Sovereignty over Natural Wealth, United Nations Secretariat, Revised Study, "The Status of Permanent Sovereignty over Natural Wealth and Resources," Dec. 27, 1960 (A/AC.97/5/Rev.1 & Corr. 1 & Add. 1)

Economic and Social Council, Report of the United Nations Commission on Permanent Sovereignty over Natural Resources on the proceedings of its third session, May 1961 (E/3511)

United Nations Commission on Permanent Sovereignty Over Natural Resources, draft resolution presented by Chile (A/AC.97/L.3, May 10, 1961)

United Nations Commission on the Permanent Sovereignty of Natural Resources, Revised Draft Resolution presented by Chile (A/AC.97/L.3/Rev.2, May 18, 1961)

United Nations Commission on Permanent Sovereignty over Natural Resources, Draft Resolution I of 22 May 1961, (A/AC.97/10 reproduced in Commission Report, E/3511, annex)

Resolution 847 (XXXII) of the Economic and Social Council of August 3, 1961

Report of the Second Committee to the General Assembly (A/5060, December 15, 1961).

General Assembly Resolution 1720 (XVI) of December 19, 1961 (Permanent Sovereignty over Natural Resources)

General Assembly, Summary Reports of Meetings nos. 798-821, 834 -835, 841, 842, 845-846, 848, 850, 861, 864 & 876-877 held on Second Committee Oct. 3-Dec. 14, 1962 (A/C.2/17/SR.798 -821, 834 -835, 841, 842, 845-846, 848, 850, 861, 864 and 876-877)

General Assembly, Second Committee, Draft Resolution Approved by Second Committee December 3, 1962 (A/C.2/L.705)

Report of the Second Committee to the General Assembly (A/5344/Add.1, December 1962)

General Assembly, Verbatim of plenary meetings nos. 1193-1194, held December 14, 1962 (A/PV.1193 - 1194)

Resolution 1803 (XVII) of the General Assembly of December 14, 1962 (Permanent sovereignty over natural resources).

United Nations General Assembly Resolution 41/128 of 4 December 1986.

United Nations General Assembly Resolution A/64/L.63/Rev.1

Right of National and Ethnic groups to freely decide their own destiny: Art. 2 of the Treaty of Tartu of 02 February 1920 (USSR-Estonia).

Atlantic Charter Agreed Declaration of Principles of International Policy (1941)

Charter of the United Nations: article 1, paragraph 2, and article 55

Declaration of Human Rights of 1948.

Resolution 217 A (III) - Universal Declaration of Human Rights - 10.12.1948

Resolution 1514(L)XV/1960 - Declaration on the granting of Independence to Colonial peoples

Resolution 2200/A of 1966 - International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights

Resolution 2625(XXV)/1970 - the principle that States shall refrain, in their international relations, from resorting to the threat or use of force against the territorial integrity or political independence of a State or in any other incompatible manner with the purposes of the United Nations.

Resolution 3314(XXIX)/1974 - Definition of aggression with reference to 2625(XXV)/1970





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Resolution 55/2 - United Nations Millennium Declaration - 20.09.2000  
Resolution 41/128 - Declaration on the right to development - U.N. 04.12.1986  
Resolution CDS 276 - Condemnation of use of force by the Libyan regime against demonstrators 1970 issued unanimously on 26.11.2011 and referred for the first time a State to the International Criminal Court.  
COM (2012) 748: Proposal for a COUNCIL EU DECISION  
Declaration of acceptance of the jurisdiction of the International Criminal Court Article 94 of the Charter of the United Nations  
Judgments of the International Criminal Court - I.C.C.  
Judgments and binding advisory opinions of the International Court of Justice, ICJ  
Codification of 2001 by the CDI  
UNCTAD/GDS/APP/2013/1 - Report on "Leaks of Palestinian tax revenues to Israel under the Paris Protocol on Economic Relations."  
United Nations Guiding Principles on Business and Human Rights (UNGPs).  
The UN "Protect, Respect and Remedy" Framework for Business and Human Rights  
A. Human Rights Council, "Resolution 8/7  
Resolution 18/6 United Nations Human Rights Council: Promotion of a democratic and equitable international order.  
Resolution adopted by the General Assembly on June 22, 2017 (A / 71 / L.73 and Add.1)] 71/292.  
General Assembly: Reaffirming that all peoples have an inalienable right to exercise their sovereignty and the integrity of their national territory.  
Resolution 65/118 of 10 December 2010.  
Resolution 65/119 of 10 December 2010.  
Resolution 71/122 of 6 December 2016  
Conference for Security and Co-operation in Europe (1975)  
African Charter on the rights of men and peoples (so-called Banjul Charter adopted in 1981)  
Jurisprudence of the Canadian Supreme Court 25506 of 20.8.1998 - 2 SCR 217 - 112 (b)  
Court of Justice: community directive 85/577 - 89/665  
Art. 19 of the Charter of Nice - Treaty on European Union and art. 47 of the Charter of Fundamental Rights.  
Statement by the High Representative of the European Union for Foreign Affairs and Security Policy, Catherine Ashton, who reiterated on 20 November 2012 that the EU has recognized the National Coalition of Syrian Revolution and Opposition Forces as the legitimate representative of the aspirations of the Syrian people.  
The content of the principle of self-determination of peoples consists in obligations for the states of the international community not to impede or even hinder the self-determination of peoples, understood as their freedom to self-determine their own constitutional order. The self-determination of peoples is a fundamental principle of contemporary international law, by virtue of which all peoples have the right to autonomously decide their own political, economic and social order. The International Court of Justice has characterized it as a principle from which so-called obligations derive. erga omnes, to whose respect they have an interest legally recognized by all States, in the name and on behalf of the international community (C.I.J., 30.6.1995, Case Concerning East Timor, Portugal v. Australia; C.I.J., 9.7.2004, Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, advisory opinion). According to part of the doctrine, the principle has become part of the ius cogens, i.e. of that nucleus of mandatory rules for the protection of fundamental values of the international community (see Brownlie, I., Principles of Public International Law, VII ed., Oxford, 2008, 511; Cassese, A., Self-Determination of Peoples. A Legal Reappraisal, Cambridge, 1995, 140). Under international human rights law, the holder of the



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right to self-determination is the people as an entity distinct from the state. The content of the principle of self-determination of peoples consists in obligations for the states of the international community not to impede or even hinder the self-determination of peoples, understood as their freedom to self-determine their own constitutional order. Affirmed in the Atlantic Charter (August 14, 1941) and in the United Nations Charter (June 26, 1945; art. 1, para. 2 and 55), the principle of self-determination of peoples is reaffirmed in the Declaration of the General Assembly on the independence of peoples colonial (1960); in the Covenants on Civil and Political Rights and on Economic, Social and Cultural Rights (1966); in the Declaration of Principles on Friendly Relations between States, adopted by the General Assembly in 1970, which recommends that the Member States of the United Nations refrain from acts of force aimed at countering the realization of the principle of self-determination and recognizes the right of peoples to resist, also with the support of other states and the United Nations, to acts of violence that may preclude their implementation. The International Court of Justice has admitted that the principle of self-determination of peoples has a customary nature. In 1969, with the Vienna Convention, the States accepted the concept of *jus cogens*, but on the condition that the State which invoked the imperative nature of this international law was ready to accept the compulsory jurisdiction of the International Court of Justice (ICJ) in this matter. , recalling the resolutions of the General Assembly 523 (VI) of January 12, 1952 and 626 (VII) of December 21, 1952. Taking into account its resolution 1314 (XIII) of December 12, 1958, by which it established the Commission on permanent sovereignty over natural resources, where it instructed to conduct a full investigation into the state of permanent sovereignty, wealth and natural resources, as a basic constituent of the right to self-determination, with recommendations, where necessary, for its strengthening and further deciding that, in conducting comprehensive investigation into the state of the permanent sovereignty of all peoples and nations with respect to their natural wealth and resources, due attention was paid to the rights and duties of states under international law and to the importance of encouraging international cooperation in the economic development of developing countries. Taking into account its resolution 1515 (XV) of December 15, 1960. The right of peoples and nations to permanent sovereignty over their natural wealth and resources must be exercised in the interest of their national development and the well-being of the people of the State concerned. The violation of the rights of peoples and nations to sovereignty over their natural wealth and resources is contrary to the spirit and principles of the United Nations Charter and hinders the development of international cooperation and the maintenance of peace.

Obligations *Jus cogens*- *Erga Omnes* and mandatory norms.

Draft Articles on State Accountability of the International Law Commission (2001)

the Draft Articles on the International Responsibility of States of the International Law Commission of 2001, in art. 26, States that "no provision of this chapter excludes the illegality of any act of a State which does not comply with an obligation deriving from a peremptory norm of general international law". Furthermore, the articles 40 and 41 of the Project impose on States, in the event of serious violations of obligations deriving from mandatory rules, the obligation to cooperate to put an end to the violation by lawful means, as well as the obligation not to recognize the factual situation as legitimate. Codification of 2001 by the CDI. The two constituent elements of the tort: a) the violation of an international law binding on the State and b) the attribution of the conduct to the State. The tort (violation + attribution) involves a new juridical relationship, called international responsibility. Types of policy violations. The DTC distinguishes three types of violations of rules according to a temporal classification: 1) Violations determined by a behavior defined over time, but whose effects can last. (e.g. illegitimate expropriation). 2) Continuous violations (e.g. holding hostages). 3) Violations consisting of a plurality of acts (e.g. Metaclad).



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Attribution of unlawful conduct. 1) the unlawful conduct is carried out by an organ of the State (art. 4 CDI). 2) The unlawful behavior is carried out by one or more individuals authorized by the State to exercise government authority (art. 5 CDI). 3) The illicit behavior is carried out by subjects acting under the control of the State (art. 8): judgments CIG Nicaragua and Bosnia/Serbia. The content of the liability report: the legal consequences. Obligation of reparation on the part of the responsible State. The reparation can be divided into: a) restitution; b) an apology and non-repeat guarantees; c) compensation. Repair in the broadest sense. Protest as a remedial strategy for violated legal norms. In judicial disputes, the ascertainment of the offense has a remedial effect (see Cameroon/Nigeria, Gabcikovo Nagymaros and OMC). It also detects the primary obligation to cease the illicit Jus cogens and the mandatory rules. the Draft Articles on the International Responsibility of States of the International Law Commission of 2001, in art. 26, affirms that «no provision of this chapter excludes the illegality of any act of a State which does not comply with an obligation deriving from a peremptory norm of general international law». Furthermore, the articles 40 and 41 of the Project impose on the States, in the event of serious violations of obligations deriving from mandatory rules, the obligation to cooperate to put an end to the violation by lawful means.

The qualification of the obligations relating to self-determination as erga omnes obligations is also found in the preamble to the resolution adopted by the Institut de Droit International, at the Krakow session in 2005, on "Obligations erga omnes in International Law": *Annuaire de l'Institut de Droit International*, vol. 71-II (2005), 2006, p. 287.

The art. 73 of the Charter of the United Nations reads: "Members of the United Nations which have or assume responsibility for the administration of territories whose population has not yet achieved full autonomy, recognize the principle that the interests of the inhabitants of such territories are pre-eminent and accept as a sacred mission the obligation to promote to the maximum, within the framework of the system of international peace and security established by the present Statute, the well-being of the inhabitants of these territories, and, to this end, the obligation: a) to ensure, with due respect for the culture of the populations concerned, their political, economic, social and educational progress, their just treatment and their protection against abuses; b) to develop the self-government of the populations, to take due consideration the political aspirations and to assist them in the progressive development of their free political institutions, in harmony with the particular circumstances of each territory and its populations and their different degrees of development ; c) to strengthen international peace and security; d) to promote constructive development measures, to encourage research and to collaborate among themselves, and, when and where appropriate, with specialized international institutes, for the practical achievement of the social, economic and scientific ends set forth in this article; e) to regularly transmit to the Secretary General, for information purposes and with the limitations that may be required by security and constitutional considerations, statistical data and other information of a technical nature, concerning the economic, social and educational conditions in the territories referred to are respectively responsible, with the exception of those territories to which Chapters XII and XIII apply».

The right to self-determination of peoples is in fact a sufficient principle to justify the relevance of international rules on territorial occupation. V., ex multis, R. Ago, *The requirement of the effectiveness of the occupation in international law*, Rome, 1934; F. Capotorti, *The occupation in the law of war*, Naples, 1949; A. Migliazza, *The war occupation*, Milan, 1949; G. Ballardore Pallieri, *War Law*, Padua, 1954, p. 300 ff.; C. Curti Gialdino, *Occupation of war*, in the *Encyclopaedia of Law*, 1979, p. 720 ff.; A. Bernardini, *Iraq: illicit occupation, popular resistance, Iraqi self determination*, in *International Legal Cooperation Review*, 2003, p. 29 ff.; S. Silingardi, *War*



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occupation and obligations of the occupying powers in the economic field, in *International Law Review*, n. 4/2006, p. 978 ff.; M. Arcari, Authorization of the Security Council, protection of human rights and military occupation in Iraq: the Al-Jedda case before the British judges, in *International Law Review*, n. 4/2006, p. 1083 ff.; A. Gattini, Occupation of war, in S. Cassese (edited by), *Dictionary of public law*, Milan, 2006, p. 3889 ff.; A. Carcano, *The occupation of Iraq in international law*, Milan, 2009; Y. Arai-Takahashi, *The Law of Occupation. Continuity and Change of International Humanitarian Law, and its Interaction with International Human Rights Law*, Boston/Leiden, 2009; I. Di Bernardini, The protection of human rights under belligerent occupation in the case of Iraq, in *Human rights*, n. 3/2009, p. 27 ff.; A. Gioia, *The Belligerent Occupation of Territory*, in A. De Guttry, H. Post, G. Venturini (ed.), *The 1998-2000 War between Eritrea and Ethiopia: An International Legal Perspective*, The Hague, 2009, p. 351 ff.; S. Vezzani, On the prior exhaustion of internal remedies in situations of illegitimate territorial occupation, in *International Law Review*, n. 3/2011, p. 799 ff.; N. Corso, Military occupation and protection of private property, in *Human rights and international law*, n. 1/2012, p. 5 ff.; M. Pace, Exploitation of natural resources and military occupation in a recent sentence of the Supreme Court of Israel, in *Human rights and international law*, n. 3/2012, p. 679 ff.; A. Annoni, *The "hostile" occupation in contemporary international law*, Turin, 2012; E. Benvenisti, *The international Law of Occupation*, Oxford, 2012. The third paragraph of the art. 30 of the Vienna Convention in fact provides that, in the interpretation of the treaties, "the following will be taken into account, in addition to the context: a) any further agreement reached between the parties regarding the interpretation of the treaty or the implementation of the provisions contained therein ; (b) any further practice followed in the application of the treaty which establishes the agreement of the parties as to the interpretation of the treaty; c) any relevant rule of international law applicable to the relations between the parties. V., for all, S. Sur, *L'interprétation en droit international public*, Paris, 1974; M.K. Yass en, *Interpretation des traités d'après la Convention de Vienne*, in *Recueil des cours de l'Académie de droit international*, vol. 116, 1976, p. 44 ff.; M. Bos, *Theory and Practice of Treaty Interpretation*, in *Netherlands International Law Review*, 1980, p. 3 ff.; S. Bariatti, *The interpretation of international conventions of uniform law*, cit.; R. Kolb, *Interpretation et création du droit international*, Brussels, 2006; R. Gardiner, *Treaty Interpretation*, Oxford, 2008; L. Gradoni, *Rules of interpretation difficult to interpret and fragmentation of the principle of systemic integration*, in *International Law Review*, 2010, p. 809 ff.; E. Feola, *The principles on the interpretation of treaties in the recent jurisprudence of the International Court of Justice in the case Dispute Regarding Navigational and Related Rights (Costa Rica v. Nicaragua)*, in *La Comunità Internazionale*, 2011, p. 473 ff.; C. Ragni, *Interpretation of treaties and "standard of review" in the jurisprudence of the International Court of Justice: reflections on the "Antarctic Whaling" affair*, in *International Law Review*, 2014, p. 725 ff.. More recently see also S. Bariatti, *The agreement in the system of sources and the law of treaties*, in S.M. Carbone, R. Luzzatto, A. Santamaria (edited by), *Institutions of international law*, cit., p. 104 ff. The articles 1 and 55 of the Charter of the United Nations, takes on a particular direct bearing with reference to non-autonomous territories. In particular, the principle of self-determination takes the form of a right of peoples, the application of which constitutes an indispensable requirement in the decolonization process. The competence of the States to conclude agreements relating to occupied territories has been the subject of at least one precedent. This is the case of Namibia, the subject of the advisory opinion of the International Court of Justice of 21 June 1971, available at <http://www.icj-cij.org/docket/files/53/5594.pdf>, relating to the *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) Notwithstanding Security Council Resolution 276 (1970)*. In this opinion, the Court, emphasizing the illegitimacy of the South African presence in the territory of Namibia, sanctioned the invalidity of the acts performed by South Africa relating to this





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territory. On the effects of treaties on third countries see p. E. Jimenez De Arechaga, Treaty Stipulations in Favor of Third States, in *American Journal of International Law*, 1956, p. 338 ff.; P. - F. Smets, *Les effets des traités internationaux à l'égard des Etats tiers*, Paris, 1966; F. Cahier, *Le problème des effets des traités à l'égard des Etats tiers*, in *Recueil des cours de l'Académie de droit international*, vol. 143, 1974, p. 589 ff.; C. Rozakis, *Treaties and Third States: a Study in the Reinforcement of the Consensual Standards in International Law*, in *Österreichische Zeitschrift für öffentliches Recht und Völkerrecht*, 1975, p. 1ff.; M. Fitzmaurice, *Third Parties and the Law of Treaties*, in *Max Planck Yearbook of United Nations Law*, 2002, p. 37 ff. The principle of self determination of peoples has also been invoked in the context of the Nagorno Karabakh issue relating to the adversarial relationship between Azerbaijan and the Armenian ethnic majority of Nagorno Karabakh, supported by Armenia. On the conflict see S. Forlati, *The ECHR and the Nagorno-Karabakh Conflict - Applications Concerning "Historical Situations" and the Difficult Quest for Legal Certainty*, in *Human rights and international law*, 2012, p. 402 ff.; N. Ronzitti, *Nagorno-Karabakh conflict and international law*, Turin, 2014. Vienna Convention on the law of treaties, art. 53: «Any treaty is null and void which, at the time of its conclusion, conflicts with a peremptory norm of general international law. For the purposes of this Convention, a peremptory norm of general international law means a norm which has been accepted and recognized by the international community of States as a whole as a norm from which no derogation is permitted and which can be modified only by a new norm of general international law having the same character". Similarly, the art. 64 of the Convention attributes particular importance to the jus cogens, providing that "should a new peremptory norm of general international law arise, any existing treaty which conflicts with this norm becomes null and void". The consequences of the nullity of the treaty are governed by art. 71, which provides, on the one hand, that if the treaty is void on the basis of article 53, "the parties are required: a) to eliminate, as far as possible, the consequences of any act performed on the basis of a provision which is contrary to the peremptory norm of general international law; and (b) to ensure that their mutual relations conform to the mandatory rule of general international law". On the other hand, «in the case of a treaty which becomes null and void under Article 64, the cessation of the validity of a treaty: a) releases the parties from the obligation to continue to implement the treaty; b) does not affect any right, obligation or legal situation of the parties which arose as a result of the performance of the treaty before the termination of its validity; however, said rights, obligations or situations can only be preserved subsequently to the extent that their conservation does not conflict with the new peremptory norm of general international law". For a general analysis of the causes of invalidity of the treaties see, for all, F. Capotorti, *L'extinction et la suspension des traités*, in *Recueil des cours de l'Académie de droit international*, vol. 134, 1971, p. 415 ff.; J. Verhoeven, *Invalidity of Treaties: Anything New in/under the Vienna Conventions?*, in E. Cannizzaro (ed.), *The Law of Treaties Beyond the Vienna Convention*, Oxford, 2011, p. 297 ff; T.O. EliLias, *Problems concerning the Validity of Treaties*, in *Recueil des cours de l'Académie de droit international*, vol. 134, 1971, p. 134 ff. On the scope of art. 103 of the Charter see P. De Sena, *Individual sanctions of the Security Council*, art. 103 of the Charter of the United Nations and relations between regulatory systems, in F. Salerno (edited by), *"Individual" sanctions of the Security Council and fundamental procedural guarantees*, Padua, 2010, p. 46 ff., who, analyzing the cases *Yusuf and Al Barakaat International Foundation v. Council*, (Court, T-306/01, judgment 21 September 2005) and *Kadi v. Council and Commission* (Court, T-315/01), excluded that the jurisprudence of the Court of Justice has brought back the art. 103 to a customary rule of jus cogens, by virtue of which the obligations deriving from the Charter would be capable of binding the Union as well regardless of its accession to the Charter. In any case, with the aforementioned sentences, as well as with the sentence *Ayadi v. Council* (Court, T-253/02, sentence 12 July 2006), the Court also explicitly recognized the existence of the jus





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cogens, as a nucleus of precepts from which it is not possible to derogate and which are imposed on everyone, including the Union. On the subject cf. E. Rebasti, Beyond the policy of conditionality: the external action of the European Union and compliance with the mandatory rules of international law, in A. Caligi uri, G. Cataldi, N. Napoletano (ed.), The protection of human rights in Europe. Between state sovereignty and supranational legal systems, Padua, 2010, p. 173 ff., S. Koury, L'obligation de non-reconnaissance de la Communauté européenne et de ses États membres au regard de l'accord d'association CE-Maroc: responsabilité étatique et droit international coutumier, in K. Arts, V Chapaux, P. Pinto Leite (edited by), Le droit international et la question du Sahara occidental, Leiden, 2009, p. 165 ff.; M. Dawi dowi cz, Trading Fish or Human Rights in Western Sahara- Self-Determination, Non-Recognition and the EC-Morocco Fisheries Agreement, in D. French (ed.), Statehood, Self-Determination and Minorities: Reconciling Tradition and Modernity in International Law, Cambridge, 2013, p. 250 ff. Accordance with International Law of the Unilateral Declaration of Independence in Respect of Kosovo, opinion of 22 July 2010, in I.C.J. Reports, 2010, p. 403 ff., p. 438, para. 82). On the jurisprudence of the International Court of Justice on the self-determination of peoples, see CASSESE, The International Court of Justice and the Right of Peoples to Self-Determination, in LOWE, FITZMAURICE (eds.), Fifty Years of the International Court of Justice: Essays in Honor of Sir Robert Jennings, Cambridge, 1996, p. 351 ff., and ZYBERI, Self-Determination through the Lens of the International Court of Justice, in Netherlands International Law Review, 2009, p. 429 ff. L'actio popularis ou la défense de l'intérêt collectif devant les juridictions internationales, Paris, 2004, pp. 298-299. See CRAWFORD, Third report on State responsibility, UN Doc. A/CN.4/507, 15 March 2000, para. 94. South West Africa (Ethiopia v. South Africa; Liberia v. South Africa), Second Phase, sent. July 18, 1966, in the I.C.J. Reports, 1966, p. 6 ff., p. 47, par. 88: «the argument amounts to a plea that the Court should allow the equivalent of an “actio popularis”, or right resident in any member of a community to take legal action in vindication of a public interest. But although a right of this kind may be known to certain municipal systems of law, it is not known to international law as it stands at present». For a comment see Pope, The Reports, cit., p. 633 ff. in relation to the East Timor affair, the question had not been addressed by the Court, which had limited itself to excluding its jurisdiction in application of the so-called principle of Monetary Gold (see, for a summary of these aspects of the sentence, PICONE, PAPA, Jurisdiction of the International Court of Justice and obligations erga omnes, in PICONE, Community international, cit., p. 693 ff.). Instead, it had been extensively discussed by the parties and deepened, with differing results, by some judges in the opinions attached to the sentence: see, also for the necessary references, TAMS, Enforcing Obligations Erga Omnes in International Law, Cambridge, 2005, pp. 185-186. Questions relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal), sent. July 20, 2012, in I.C.J. Reports, 2012, p. 422 ff., p. 448 et seq., par. 64 ff., on which see PAPA, Interest in taking action before the International Court of Justice and protection of collective values in the sentence on the case Belgium c. Senegal, in Human rights and international law, 2013, p. 79 ff. The par. 6 of the comment to the art. 54 of the article on liability, UN Doc. A/56/10, p. 355. But see, for an interpretation of the practice favorable to the legitimacy of such countermeasures (limited, however, to cases of serious torts erga omnes), TAMS, Enforcing, cit., p. 198 ff.; DAWIDOWICZ, Public Law Enforcement without Public Law Safeguards? An Analysis of State Practice on Third-party Countermeasures and Their Relationship to the UN Security Council, in British Yearbook of International Law, 2007, p. 333 ff.; KATSELLI PROUKAKI, The Problem of Enforcement in International Law. Countermeasures, the Non-injured State and the Idea of International Community, London/New York, 2010, p. 90 ff.; SICILIANOS, Countermeasures in Response to Grave Violations of Obligations Owed to the International Community, in CRAWFORD, PELLET, OLLESON (eds.) The Law of International Responsibility, Oxford, 2010, p. 1137 ff. The resolution of the Institut de droit



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international (cited above, note 5) which, in art. 5 lett. c), provides for the faculty for all States, in response to the serious violation of an erga omnes obligation, to take countermeasures not involving the use of force. V. PICONE, Obligations erga omnes and codification of the responsibility of States, in Rivista. The par. 3 of the commentary of the International Law Commission on art. 54 of the draft (in particular the measures taken against South Africa for its segregationist policy: see UN Doc. of international law, 2005, p. 893 ff., p. 940 ff. A/56/10, p. 352 ), inter alia, the trade sanctions recommended by the Organization of African Unity against Portugal in 1963, 1964 and 1973 for the latter's refusal to allow the exercise, by the subject colonial populations to its administration, of the right to self-determination (see FOCARELLI, Le contromisure in international law, Milan, 1994, pp. 39-40, 68; DAWIDOWICZ, Public Law Enforcement, cit., pp. 399-400); the oil embargo decided in 1973 by the oil-producing Arab states against Israel and its allies to obtain the liberation of the occupied Arab territories (KATSELLI PROUKAKI, op. cit., p. 122 ff.); the measures adopted by Western States against the Soviet Union in response to the invasion of Afghanistan (SICILIANOS, Les réactions décentralisées à l'illicite, Paris, 1990, p. 157 ss.), and so on. In the context of the practice of collective countermeasures in response to violations of the principle of self-determination of peoples, many authors also consider the suspension of the prohibition of interference which takes the form of the admissibility of the premature recognition of national liberation movements and of various forms of assistance to arising in the context of civil conflicts against colonial or racist regimes (hypotheses that will be analyzed as autonomous guarantees of the principle infra, in par. 6): v. for example CARELLA, State responsibility for international crimes, Naples, 1985, p. 198. Others, on the other hand, also qualify as a countermeasure the disavowal of situations created by the violation of self-determination: thus CASSESE, Self-Determination, cit., p. 158. Separate opinion of Judge Kooijmans, in I.C.J. Reports 2004, p. 219 ff., p. 231, par. 40; and, in doctrine, PICONE, Obblighi erga omnes, cit., p. 931; VILLALPANDO, The codificateur et le juge face à la responsabilité internationale de l'État: interaction between the CDI and the CIJ dans la détermination des règles secondaires, in Annuaire français de droit international, 2009, p. 39 ff., p. 56; CRAWFORD, Responsibilities for Breaches of Communitarian Norms: An Appraisal of Article 48 of the ILC Articles on Responsibility of States for Wrongful Acts Responsibility, in FASTENRATH et al. (eds.), From Bilateralism to Community Interest. Essays in Honor of Judge Bruno Simma, Oxford, 2011, p. 224 ff., pp. 231, 234; PICONE, POPE, op. cit., pp. 689-690. Prohibition to recognize the situation resulting from the grave violation of the right to self-determination and to assist in its maintenance: CHRISTAKIS, L'obligation de non-reconnaissance des situations créées par le recours illicite à la force ou d'autres actes enfreignant des règles fondamentales, in TOMUSCHAT, THOUVENIN (eds.), The Fundamental Rules of the International Legal Order: Jus Cogens and Obligations Erga Omnes, Leiden/Boston, 2006, p. 127 ff.; TALMON, The Duty not to «Recognize as Lawful» a Situation Created by the Illegal Use of Force or Other Serious Breaches of a Jus Cogens Obligation: An Obligation without Real Substance?, ibid., p. 99 ff.; DAWIDOWICZ, The Obligation of Non-Recognition of an Unlawful Situation, in The Law of International Responsibility, cit., p. 677 ff. On the prohibition of assistance cf. instead JØRGENSEN, The Obligation of Non-Assistance to the Responsible State, ibid., p. 687 ff. TALMON, The Duty, cit., pp. 103, 117 ff.; DAWIDOWICZ, The Obligation of Non-Recognition, cit., pp. 683- 684; PICONE, The role, cit., p. 968. para. 8 of the comment to the art. 41, UN Doc. A/56/10, p. 289. Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), opinion of 21 June 1971, in I.C.J. Reports, 1971, p. 16 ff., pp. 55-56, para. 122 ff. Ibid., p. 56, par. 125: «the non recognition of South Africa's administration of the Territory should not result in depriving the people of Namibia of any advantages derived from international co-operation. In particular, while official acts performed by the Government of South Africa on behalf of or concerning Namibia after the



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termination of the Mandate are illegal and invalid, this invalidity cannot be extended to those acts, such as, for instance, the registration of births, deaths and marriages, the effects of which can be ignored only to the detriment of the inhabitants of the Territory». On the interpretative problems raised by this passage see CRAWFORD, *Third Party Obligations*, cit., para. 49 ff. CHRISTAKIS, op. cit., p. 144 ff.; TALMON, *The Duty*, cit., p. 112; DE BRABANDERE, VAN DEN HERIK, *Les obligations des États tiers et des acteurs non étatiques relatives au commerce des produits en provenance du Territoire palestinien occupé*, in *Revue belge de droit international*, 2012, p. 147 ff., p. 150 ff. This broad meaning is also obtained from par. 5 of the comment to the art. 41: for the Commission, the obligation of non-recognition entails the duty for the States to refrain from any act which may imply, even implicitly, the recognition of the legitimacy of the situation created by the offense (UN Doc. A/56/10, p. 287 ). Decision 2000/384/EC, ECSC of the Council and of the Commission of 19 April 2000 concerning the conclusion of a Euro-Mediterranean Agreement establishing an association between the European Communities and their Member States, of the one part, and the State of Israel, on the other, in G.U.C.E. Law 147 of 21 June 2000, p. 1 et seq. The agreement, in defining its territorial scope, limits itself to referring generically to the territory of the State of Israel. On the subject cf. HAUSWALDT, *Problems under the EC-Israel Association Agreement: The Export of Goods Produced in the West Bank and the Gaza Strip under the EC-Israel Association Agreement*, in *European Journal of International Law*, 2003, p. 591 ss., as well as the considerations of CRAWFORD, *Third Party Obligations*, cit., par. 50-51 and DE BRABANDERE, VAN DEN HERIK, op. cit., pp. 156-157. REBASTI, *Beyond the policy of conditionality: the external action of the European Union and the respect for the mandatory norms of international law*, in CALIGIURI, CATALDI, NAPOLETANO (edited by), *The protection of human rights in Europe: between state sovereignty and legal systems Supranationals*, Padua, 2010, p. 173 ff., p. 199 ff. Lastly, on the same line, see par. 9 of the European Parliament resolution of 5 July 2012 on EU policy in the West Bank and East Jerusalem (2012/2694(RSP)), in which the Parliament calls for "a full and effective implementation of existing Union legislation and bilateral agreements EU-Israel to ensure that the EU's control mechanism, i.e. the "technical agreements", does not allow Israeli settlement products to be imported into the European market under the preferential conditions set out in the EU-Israel association agreement ». According to the Court, "art. 83 of the EC-Israel association agreement must be interpreted as meaning that products originating in the West Bank do not fall within the territorial scope of that agreement and therefore cannot benefit from the preferential regime established by it»: Court of Justice, judgment of 25 February 2010, Case C-386/08, *Firma Brita GmbH v. Hauptzollamt Hamburg-Hafen*, in *Collection*, 2010, p. I-1289, paragraph 53. On the judgment see the comments by HARPAZ, RUBINSON, *The Interface Between Trade, Law, Politics and the Erosion of Normative Power Europe: Comment on Brita*, in *European Law Review*, 2010, p. 551 et seq. and MARTINES, *Rules on the origin of products and territorial application of the Association Agreement with Israel under consideration by the Court of Justice*, in *Studies on European integration*, 2010, p. 691 et seq. Thus KATTAN, *The Wall, Obligations Erga Omnes and Human Rights: The Case for Withdrawing the European Community's Terms of Preferential Trade with Israel*, in *The Palestine Yearbook of International Law*, 2004-2005, p. 71 ff., pp. 88-89. The Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco (see Council Regulation (EC) No 764/2006 of 22 May 2006 on the conclusion of a Partnership Agreement in the fisheries sector between the European Community and the Kingdom of Morocco, in *Official Journal L 141* of 29 May 2006, p. 1 ss.), which entered into force on 28 February 2007, grants vessels flying the flag of Member States of the Union fishing rights in exchange of a financial contribution (both established in the attached protocol), in the waters under the sovereignty and jurisdiction of Morocco (a very general formula and unusual in other treaties of the same type). The spatial scope therefore does not expressly include the waters off Western Sahara, so the



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question of the compatibility of the agreement with art. 41, par. 2, of the draft of the International Law Commission is essentially interpretative in nature. When the first protocol expired, the European Parliament initially decided not to approve the conclusion of a new protocol by the Council, which did not substantially alter the terms of the previous one. However, it was a momentary paralysis: v. Council Decision 2013/720/EU of 15 November 2013 on the signing, on behalf of the European Union, of the Protocol between the European Union and the Kingdom of Morocco fixing the fishing opportunities and the financial contribution provided for in the Fisheries Partnership Agreement between the European Union and the Kingdom of Morocco, in the O.U.E. L. 328 of 7 December 2013, p. 1 et seq. (for a comment see MILAN, The new fisheries protocol between the European Union and Morocco and the rights of the Sahrawi people on natural resources, in *Human rights and international law*, 2014, p. 505 ff.). On the subject v. MILAN, The New Fisheries Partnership Agreement between the European Community and the Kingdom of Morocco: Fishing Too Far South, in *Anuario Español de Derecho Internacional*, vol. XXII, 2006, p. 413 ff.; CHAPAUX, La question de l'accord de pêche conclu entre les Communautés européennes et le Maroc, in CHAPAUX, ARTS, LEITE (dirs.), *Le droit international et la question du Sahara occidental*, Porto, 2009, p. 217 ff.; ETIENNE, L'accord de pêche CE-Maroc: quels remèdes juridictionnels européens à thèse illicéité internationale?, in *Revue belge de droit international*, 2010, p. 77 ff.; REBASTI, Beyond the policy of conditionality, cit., especially p. 198 ff. The situation appears even more critical with regard to the implementation of the prohibition of providing assistance in maintaining situations created by serious offenses erga omnes (which according to the International Law Commission concerns those behaviors which ex post facto contribute to preserving the situation produced by the illicit), a prohibition which requires States not to offer technical, economic or financial assistance. In his 2012 report, the special rapporteur on the human rights situation in the Palestinian territories occupied since 1967, Richard Falk, highlighted numerous cases of foreign companies which, operating in Israel's illegal settlements, profit with their activities from the occupation and contribute to the expansion of settlements in the Palestinian territories (UN Doc. A/67/379, 19 September 2012, par. 38 et seq.). Hence the invitation to civil society to implement a boycott against these companies (ibid., par. 99). In March 2013, a fact-finding mission set up by the United Nations Human Rights Council concluded that «business enterprises have enabled, facilitated and profited, directly and indirectly, from the construction and growth of the settlements», and urged Governments «to take appropriate measures to ensure that business enterprises domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, that conduct activities in or related to the settlements respect human rights throughout their operations » (Report of the independent international fact-finding mission to investigate the implications of the Israeli settlements on the civil, political, economic, social and cultural rights of the Palestinian people throughout the Occupied Palestinian Territory, including East Jerusalem, UN Doc. A/HRC/22/63, 7 February 2013, respectively paragraphs 96 and 117). Finally, see the resolution of the Human Rights Council entitled "Israeli settlements in the Occupied Palestinian Territory, including East Jerusalem, and in the occupied Syrian Golan", A/HRC/25/L.37/Rev.1 , 27 March 2014, in which among other things States are urged to «take appropriate measures to encourage businesses domiciled in their territory and/or under their jurisdiction, including those owned or controlled by them, to refrain from committing or contributing to gross human rights abuses of Palestinians” (par. 11). the Declaration on Palestine of the XIV Ministerial Conference of the Movement of Non-Aligned Countries, held in Durban from 17 to 19 August 2004, in particular the lett. b) of par. 5, in which the ministers recommend to the Member States «to undertake measures, including by means of legislation, collectively, regionally and individually, to prevent any products of the illegal Israeli settlements from entering their markets [...], to decline entry to Israeli settlers and to impose sanctions against companies and





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entities involved in the construction of the wall and other illegal activities in the Occupied Palestinian Territory» (recommendation subsequently renewed several times by the Movement). On the failure by the EU and its members to ban assistance in maintaining the situation resulting from Israel's grave violations of the right to self-determination of the Palestinian people, cf. CRAWFORD, *Third Party Obligations*, cit., paragraphs 84-85, 138, and DUBUISSON, op. cit., p. 42 ff. See extensively PICONE, *Obligations erga omnes*, cit., p. 951 ff.; ID., *The Role of the Injured State*, cit., p. 970 ff. and in compliance with ALAIMO, *International responsibility of States*, in *Legal Encyclopaedia. Update*, Vol. XVI, Rome, 2008, p. 10, according to which the art. 41, par. 3 together with the art. 54 «give evolving general international law a central role in the discipline of international liability». GRADE, op. cit., pp. 137 ff., 193 ff., which speaks of a reversal of the typical relationships between third States and warring parties, complete with regard to conflicts related to colonial, racist or foreign dominations, and still partial with regard to those related to internal aspects of the principle. RONZITTI, *The wars of national liberation*, Pisa, 1974; IOVANE, *The protection of fundamental values in international law*, Naples, 2000, p. 359. Various resolutions of the General Assembly can be cited as confirming the legitimacy of assistance from third states to national liberation movements struggling for self-determination. See Declaration on Friendly Relations among States, UN Doc. A/RES/25/2625, 24 October 1970 («people are entitled to seek and to receive support in accordance with the purposes and principles of the Charter»), or the res. 3070 (1973) of 30 November 1973 (in which the Assembly, in paragraph 3, invited the States to give «moral, material and any other assistance to all peoples struggling for the full exercise of their inalienable right to self-determination» ), or the res. 35/227 of 6 March 1981, relating to the situation in Namibia (in which par. 6 asked for «increased and sustained support and material, financial, military and other assistance» for the People's Organization of South West Africa (South West African People's Organization - SWAPO) in its struggle for self-determination. See also Article 20 of the African Charter of Human and Peoples' Rights, which, after having proclaimed in paragraph 1 that «all peoples shall have [...] the unquestionable and inalienable right to self-determination», provides in paragraph 3 that "all peoples shall have the right to the assistance of the State Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural". According to CASSESE, *Le droit international et la question de l'assistance aux mouvements de libération nationale*, in *Revue belge de droit international*, 1986, p. 307 ff., p. 323, humanitarian assistance would indeed constitute the subject to an obligation for third countries. CASSESE, op. last cit., p. 324 ff. (according to which, however, the admissibility of this form of aid would in any case be subject to two conditions: that the beneficiaries «ne se livrent pas à des actes de terrorisme» and respect the fundamental principles of humanitarian law); GRADE, op. cit., p. 141 ff.; PALMISANO, op. cit., p. 126 ff. On the other hand, it does not make much sense to include among the special guarantees for the implementation of the principle of self-determination the prohibition, for third States, to provide armed support, both direct and indirect, to the State that violently represses the self-determination of the people subject to its control (see for this thesis GRADO, op. cit., p. 130 ss.). This prohibition, in fact, derives from the same primary rule which requires states to respect the self-determination of all peoples, both those under their own control and those under the control of others: thus, for example, LATTANZI, *Self-determination of peoples*, in *Digesto delle Discipline Pubbliche*, vol. II, Turin, 1987, p. 4 ff., pp. 24-25. See in this sense the par. 3 of the art. 1 common to the United Nations Covenants, as interpreted by the United Nations Human Rights Committee in General Comment No. 12: «[p]aragraph 3, in the Committee's opinion, is particularly important in that it imposes specific obligations on States parties, not only in relation to their own peoples but vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising their right to self-determination» (Human Rights Committee, General comment No. 12: Article 1 (Right





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to self-determination), March 13, 1984, in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, UN Doc. HRI/GEN/1/Rev.9 (Vol. I), 27 May 2008, pp. 123-124). V. RONZITTI, op. cit., p. 116 ff.; CASSESE, *Self-Determination*, cit., pp. 184, 199 ff.; GRADE, op. cit., p. 133 ff.; CORTEN, *L'applicabilité problématique du droit de légitime défense au sens de l'article 51 de la Charte des Nations Unies aux relations entre la Palestine et Israël*, in *Revue belge de droit international*, 2012, p. 67 ff., p. 72 ff.; FABBRICOTTI, *Legitimate defense and self-determination of peoples*, in TANZI, LANCIOTTI (edited by), *Use of force and legitimate defense in contemporary international law*, Naples, 2012, p. 255 ff.; PALMISANO, op. cit., p. 129. On the matter see, for all, TANCREDI, *The Russian Annexation of the Crimea: Questions Relating to the Use of Force*, in *Questions of International Law*, 2014, Zoom-out I, [www.qil-qdi.org](http://www.qil-qdi.org). For a framework of the revolts of the Arab Spring within the scope of application of the right to self-determination of populations oppressed by authoritarian regimes, see for example the speech of the President of the United States, Barack Obama, to the Department of State on May 9, 2011 (Remarks by the President on the Middle East and North Africa, [www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa%20](http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa%20)); and, in doctrine, PAUST, *International Law, Dignity, Democracy, and the Arab Spring*, in *Cornell International Law Journal*, 2013, p. 1 et seq. On the subject v. extensively PICONE, *Considerations on the nature of the Security Council resolution in favor of a "humanitarian" intervention in Libya*, in *Human rights and international law*, 2011, p. 213 ff. For this notation see AKANDE, *Self Determination and the Syrian Conflict - Recognition of Syrian Opposition as Sole Legitimate Representative of the Syrian People: What Does This Mean and What Implications Does It Have*, in *EJIL: Talk!*, 6 December 2012. See AKANDE, *Which Entity is the Government of Libya and Why Does It Matter?*, in *EJIL: Talk!*, June 16, 2011; ID., *Self Determination and the Syrian Conflict*, cit.; TALMON, *Recognition of Opposition Groups as the Legitimate Representative of a People*, in *Chinese Journal of International Law*, 2013, p. 219 ff. Thus AKANDE, *Would It Be Lawful For European (or other) States to Provide Arms to the Syrian Opposition*, in *EJIL: Talk!*, 17 January 2013. According to AMOROSO, *The role of recognition of insurgents in promoting the principle of internal self-determination: considerations in the light of the «Arab spring»*, in *Federalismi.it*, 21/2013, p. 38, the premature recognition of the insurgents, in these cases, would constitute "a collective reaction of the international community to the violation of the right to (internal) self-determination of the peoples of Libya and Syria". On this point, see extensively RUYS, *Of Arms, Funding and «Nonlethal Assistance» - Issues Surrounding Third-State Intervention in the Syrian Civil War*, in *Chinese Journal of International Law*, 2014, p. 13 ff., pp. 48 ff., 52. With regard to the conflict in Libya cf. eg SPENCER, *France Supplying Weapons to Libyan Rebels*, in *The Telegraph*, 29 June 2011, [www.telegraph.co.uk/news/world-news/africaandindianocean/libya/8606541/France-supplying-weapons-to-Libyan-rebels.html](http://www.telegraph.co.uk/news/world-news/africaandindianocean/libya/8606541/France-supplying-weapons-to-Libyan-rebels.html). In favor of supplying arms to Syrian rebels, see instead the statement of the British Foreign Secretary to Parliament of 10 January 2013, [www.gov.uk/government/speeches/foreignsecretary-updates-parliament-on-syria](http://www.gov.uk/government/speeches/foreignsecretary-updates-parliament-on-syria); as well as, for the United States, the statements of the Deputy National Security Advisor of the White House, Ben Rhodes, of June 13, 2013 [www.whitehouse.gov/the-press-office/2013/06/13/statement-deputy-national-security-advisor-strategic-communicationsben](http://www.whitehouse.gov/the-press-office/2013/06/13/statement-deputy-national-security-advisor-strategic-communicationsben). For further references, see also HENDERSON, *The Provision of Arms and «Non-lethal» Assistance to Governmental and Opposition Forces*, in *University of New South Wales Law Journal*, 2013, p. 642 ff., p. 657 ff. See Council Decision 2013/255/CFSP of 31 May 2013 concerning restrictive measures against Syria, in OJ L 147 of 1 June 2013, p. 14 ff., and point 2 of the Foreign Affairs Council declaration on Syria adopted on 27 May 2013 ([www.consilium.europa.eu/ue\\_docs/cms\\_data/docs/pressdata/EN/foraff/137315.pdf](http://www.consilium.europa.eu/ue_docs/cms_data/docs/pressdata/EN/foraff/137315.pdf)).

The principle of self-determination of peoples as a source of erga omnes obligations, represents one of the essential principles of contemporary international law, protects a collective interest of



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the international community understood as a unit, establishes erga omnes obligations, i.e. obligations enforceable by all States. Confirmed by the jurisprudence of the International Court of Justice and the codification work of the Commission of International Law on the responsibility of States.

The provision for the protection of fundamental interests - rectius: of an obligation erga omnes - ipsius animi promptitudinem - is configured by the codified institutional-constitutive law of the Rome Statute, the United Nations Statute, the Statute of the Council of Europe, the Inter-American Court of Rights rights, African Court on Human and Peoples' Rights. International law recognizes the individual as an international personality, deriving from the fact that human rights conventions make him the recipient of the norms contained therein, i.e. the UN pacts on civil and political rights and on economic, social and cultural rights. All peoples have the right to self-determination. By virtue of this right, they decide freely on their political status. The law of peoples as an extension of the fundamental concepts of his conception of justice as fairness to the sphere of international society, understood as a political society. Universal human rights are not separated from the right of self-determination of peoples: equal rights and self-determination of peoples. The participating States respect the equal rights of peoples and their right to self-determination. Self-determination is the right of peoples to freely choose their political, economic and social regime. The participating States reaffirm the universal importance of the respect for and effective exercise by peoples of equal rights and self-determination, for the development of friendly relations among themselves as between all States. They also recall the importance of the commitment to sanction and eliminate any form of violation of this principle. From the obligations, rights and duties deriving from the rules of international law of the rule of law: all powers rest on freely and democratically signed treaties. By virtue of the principles, which characterize the rule of law, on the jurisdictional protection of peoples in self-determination, self-determination, self-identification, solemnly proclaimed and recognized. Where there is a conflict between internationally recognized human rights and the rights of states, the former must prevail.

Draft conclusions on the identification and legal consequences of peremptory norms of general international law (ius cogens) 2022. Conclusion 23. Non-exhaustive list.

Notwithstanding the existence or subsequent emergence of other peremptory norms of general international law (ius cogens), a non-exhaustive list of norms which the Commission on International Law has previously indicated as having this status is annexed to these draft conclusions.

Attached:

- (a) The prohibition of aggression;
- (b) the prohibition of genocide;
- (c) the prohibition of crimes against humanity;
- (d) the fundamental norms of international humanitarian law;
- (e) the prohibition of racial discrimination and apartheid;
- (f) the prohibition of slavery;
- (g) the prohibition of torture;
- (h) the right to self-determination.



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The International Court of Justice for Peoples' Self-Decision is established on the basis of legal science by the Charter of the United Nations, as the main judicial body protected by the rights of the United Nations, is constituted and functions in accordance with the provisions of this Charter.

The Parliament of the Veneto State adopts by law the general principles of cooperation for the maintenance of international peace and security,

General Assembly Distr.: General

October 13, 2011

Human Rights Council

Eighteenth session

Agenda item 3

Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Resolution adopted by the Human Rights Council 18/6

Promotion of a democratic and equitable international order

The Human Rights Council,

Recalling all previous resolutions of the General Assembly, the Commission on Human Rights and the Human Rights Council on this issue, in particular Assembly

resolution 65/223 of 21 December 2010 and Council resolution 8/5 of 18 June 2008,

Reaffirming the commitment of all States to fulfill their obligations to promote universal respect for, and observance and protection of, all human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments

relating to human rights and international law,

Affirming that the enhancement of international cooperation for the promotion and protection of all human rights should continue to be carried out in full conformity with the purposes and principles of the Charter and international law as set forth in Articles 1 and 2 of the Charter and, inter alia, with full respect for sovereignty, territorial integrity, political independence, the non-use of force or the threat of force in international relations and nonintervention in matters that are essentially within the domestic jurisdiction of any State,

Recalling the Preamble to the Charter, in particular the determination to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and of nations large and small,

Reaffirming that everyone is entitled to a social and international order in which the rights and freedoms set forth in the Universal Declaration of Human Rights can be fully realized,

Reaffirming also the determination expressed in the Preamble to the Charter to save succeeding generations from the scourge of war, to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, to promote social progress and better standards of life in larger freedom, to practice tolerance and good-neighbourliness, and to employ international machinery for the promotion of the economic and social advancement of all peoples,

Stressing that the responsibility for managing worldwide economic and social issues, as well as threats to international peace and security, must be shared among the nations of the world and should be exercised multilaterally, and that, in this regard, the central role must be played by the United Nations as the most universal and representative organization in the world,

Considering the major changes taking place on the international scene and the aspirations of all peoples for an international order based on the principles enshrined in the Charter, including promoting and encouraging respect for human rights and fundamental freedoms for all and respect



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for the principle of equal rights and self-determination of peoples, peace, democracy, justice, equality, the rule of law, pluralism, development, better standards of living and solidarity, Recognizing that the enhancement of international cooperation in the field of human rights is essential for the full achievement of the purposes of the United Nations, including the effective promotion and protection of all human rights,

Considering that the Universal Declaration of Human Rights proclaims that all human beings are born free and equal in dignity and rights and that everyone is entitled to all the rights and freedoms set out therein, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Reaffirming that democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing, and that democracy is based on the freely expressed will of the people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives,

Recognizing that the promotion and protection of human rights should be based on the principle of cooperation and genuine dialogue and aimed at strengthening the capacity of Member States to comply with their human rights obligations for the benefit of all human beings,

Emphasizing that democracy is not only a political concept, but that it also has economic and social dimensions,

Recognizing that democracy, respect for all human rights, including the right to development, transparent and accountable governance and administration in all sectors of society, and effective participation by civil society are an essential part of the necessary foundations for the realization of social and people-centered sustainable development,

Noting with concern that racism, racial discrimination, xenophobia and related intolerance may be aggravated by, inter alia, inequitable distribution of wealth, marginalization and social exclusion,

Reaffirming that dialogue among religions, cultures and civilizations could contribute greatly to the enhancement of international cooperation at all levels,

Underlining the fact that it is imperative for the international community to ensure that globalization becomes a positive force for all the world's people and that only through broad and sustained efforts, based on our common humanity in all its diversity, can globalization be made fully inclusive and equitable,

Deeply concerned that the current global economic, financial, energy and food crises, resulting from a combination of several major factors, including macroeconomic and other factors, such as environmental degradation, desertification and global climate change, natural disasters and the lack of financial resources and the technology necessary to compare their negative impact in developing countries, particularly in the least developed countries and small island developing States, represent a global scenario that is threatening the adequate enjoyment of all human rights and widening the gap between developed and developing countries,

Stressing that efforts to make globalization fully inclusive and equitable must include policies and measures, at the global level, that correspond to the needs of developing countries and countries with economies in transition and are formulated and implemented with their effective participation,

Stressing also the need for adequate financing of and technology transfer to developing countries, in particular landlocked developing countries and small island developing States, including to support their efforts to adapt to climate change,

Having listened to the peoples of the world, and recognizing their aspirations to justice, to equality of opportunity for all, to the enjoyment of their human rights, including the right to development, to live in peace and freedom and to equal participation without discrimination in economic, social, cultural, civil and political life,





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Recalling Human Rights Council resolutions 5/1, on institution-building of the Council, and 5/2, on the code of conduct for special procedures mandate holders of the Council, of 18 June 2007, and stressing that all mandate holders shall discharge their duties in accordance with these resolutions and the annexes thereto,

Resolved to take all measures within its power to secure a democratic and equitable international order,

1. Affirms that everyone is entitled to a democratic and equitable international order;
2. Also affirms that a democratic and equitable international order fosters the full realization of all human rights for all;
3. Declares that democracy includes respect for all human rights and fundamental freedoms and is a universal value based on the freely expressed will of people to determine their own political, economic, social and cultural systems and their full participation in all aspects of their lives, and reaffirms the need for universal adherence to and implementation of the rule of law at both the national and international levels;
4. Reaffirms the Universal Declaration of Human Rights, in particular the principle that the will of the people, as expressed through periodic and genuine elections, shall be the basis of government authority, as well as the right to choose representatives freely through periodic and genuine elections, which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures;
5. Calls upon all Member States to fulfill their commitment expressed during the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance, held in Durban, South Africa, to maximize the benefits of globalization through, inter alia, the strengthening and enhancement of international cooperation to increase equality of opportunities for trade, economic growth and sustainable development, global communications through the use of new technologies and increased intercultural exchange through the preservation and promotion of cultural diversity, and reiterates that only through broad and sustained efforts to create a shared future based upon our common humanity and all its diversity can globalization be made fully inclusive and equitable;
6. Affirms that a democratic and equitable international order requires, inter alia, the realization of the following:
  - (a) The right of all peoples to self-determination, by virtue of which they can freely determine their political status and freely pursue their economic, social and cultural development;
  - (b) The right of peoples and nations to permanent sovereignty over their natural wealth and resources;
  - (c) The right of every human person and all peoples to development;
  - (d) The right of all peoples to peace;
  - (e) The right to an international economic order based on equal participation in the decision-making process, interdependence, mutual interest, solidarity and cooperation among all States;
  - (f) International solidarity, as a right of peoples and individuals;
  - (g) The promotion and consolidation of transparent, democratic, just and accountable international institutions in all areas of cooperation, in particular through the implementation of the principle of full and equal participation in their respective decision-making mechanisms;
  - (h) The right to equitable participation of all, without any discrimination, in domestic and global decision-making;
  - (i) The principle of equitable regional and gender-balanced representation in the composition of the staff of the United Nations system;
  - (j) The promotion of a free, just, effective and balanced international information and communications order, based on international cooperation for the establishment of a new



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equilibrium and greater reciprocity in the international flow of information, in particular correcting the inequalities in the flow of information to and from developing countries;

(k) Respect for cultural diversity and the cultural rights of all, since this enhances cultural pluralism, contributes to a wider exchange of knowledge and understanding of cultural backgrounds, advances the application and enjoyment of universally accepted human rights across the world and fosters stable, friendly relations among peoples and nations worldwide;

(l) The right of every person and all peoples to a healthy environment and to enhanced international cooperation that responds effectively to the needs for assistance of national efforts to adapt to climate change, particularly in developing countries, and that promotes the fulfillment of international agreements in the field of mitigation;

(m) The promotion of equitable access to benefits from the international distribution of wealth through enhanced international cooperation, in particular in economic, commercial and financial international relations;

(n) The enjoyment by everyone of ownership of the common heritage of mankind in connection to the public right of access to culture;

(o) The shared responsibility of the nations of the world for managing worldwide economic and social development, as well as threats to international peace and security, that should be exercised multilaterally;

7. Stresses the importance of preserving the rich and diverse nature of the international community of nations and peoples, as well as respect for national and regional particularities and various historical, cultural and religious backgrounds, in the enhancement of international cooperation in the field of human rights;

8. Also stresses that all human rights are universal, indivisible, interdependent and interrelated and that the international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis, and reaffirms that, while the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms;

9. Urges all actors on the international scene to build an international order based on inclusion, justice, equality and equity, human dignity, mutual understanding and promotion of and respect for cultural diversity and universal human rights, and to reject all doctrines of exclusion based on racism, racial discrimination, xenophobia and related intolerance;

10. Reaffirms that all States should promote the establishment, maintenance and strengthening of international peace and security and, to that end, should do their utmost to achieve general and complete disarmament under effective international control, as well as to ensure that the resources released by effective disarmament measures are used for comprehensive development, in particular that of the developing countries;

11. Also reaffirms the need to continue working urgently for the establishment of an international economic order based on equity, sovereign equality, interdependence, common interest and cooperation among all States, irrespective of their economic and social systems, which shall correct inequalities and redress existing injustices, make it possible to eliminate the widening gap between the developed and the developing countries and ensure steadily accelerating economic and social development and peace and justice for present and future generations;

12. Further reaffirms that the international community should devise ways and means to remove the current obstacles and meet the challenges to the full realization of all human rights and to prevent the continuation of human rights violations resulting therefrom throughout the world;

13. Urges States to continue their efforts, through enhanced international cooperation, towards the promotion of a democratic and equitable international order;



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14. Decides to establish, for a period of three years, a new special procedures mandate of independent expert on the promotion of a democratic and equitable international order, with the following mandate:

- (a) To identify possible obstacles to the promotion and protection of a democratic and equitable international order, and to submit proposals and/or recommendations to the Human Rights Council on possible actions in that regard;
- (b) To identify best practices in the promotion and protection of a democratic and equitable international order at the local, national, regional and international levels;
- (c) To raise awareness concerning the importance of promoting and protecting of a democratic and equitable international order;
- (d) To work in cooperation with States in order to foster the adoption of measures at the local, national, regional and international levels aimed at the promotion and protection of a democratic and equitable international order;
- (e) To work in close coordination, while avoiding unnecessary duplication, with intergovernmental and non-governmental organizations, other special procedures of the Human Rights Council, international financial institutions, as well as with other relevant actors representing the broadest possible range of interests and experiences, within their respective mandates, including by attending and following up on relevant international conferences and events;
- (f) To integrate a gender perspective and a disability perspective into his or her work;
- (g) To report regularly to the Human Rights Council and the General Assembly in accordance with their respective programs of work;
- (h) To support the strengthening and promoting of democracy, development and respect for human rights and fundamental freedoms in the entire world;

15. Calls upon all Governments to cooperate with and assist the independent expert in the discharge of his or her mandate, to provide him or her with all the necessary information requested by him or her in order to enable him or her to fulfill his or her duties effectively;

16. Requests the United Nations High Commissioner for Human Rights to provide all the necessary human and financial resources for the effective fulfillment of the mandate by the independent expert;

17. Requests the independent expert to present his or her first report to the Human Rights Council at its twenty-first session;

18. Requests the human rights treaty bodies, the Office of the High Commissioner, the special mechanisms extended by the Human Rights Council and the Human Rights Council Advisory Committee to pay due attention, within their respective mandates, to the present resolution and to make contributions to its implementation;

19. Calls upon the Office of the High Commissioner to build upon the issue of the promotion of a democratic and equitable international order;

20. Requests the Office of the High Commissioner to bring the present resolution to the attention of Member States, United Nations organs, bodies and components, intergovernmental organizations, in particular the Bretton Woods institutions, and non-governmental organizations, and to disseminate it on the widest possible basis;

21. Decides to continue consideration of this matter under the same agenda item at its twenty-first session.

35th meeting-29 September 2011

**Law No. 37 Approved in Venice, Palazzo Ducale, 25 April 2023**

**Council of Ministers, approves: Date 05/15/2023**



## COMITATO LIBERAZIONE NAZIONALE VENETO D'EUROPA

Parliament approves: Date 05/20/2023

President of the Veneto National Liberation Committee of Europe

**Amedeo Casasola**

President of the Council of Ministers

**Moravio Pianegonda**

President of the Parliament

**Luca Ferrari**

Head of the Legal and Juridical Affairs Office of the Legislative Council of the Veneto People.

Head of Registry Authority Office of Treaties, Conventions and International Agreements.

Minister for Foreign Affairs, Security Policy, International Cooperation for Sustainable Development

**Rif. Leandro Nadin**





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Minister for the peremptory norms of general international law (*ius cogens*). The rules reflect and protect the fundamental values of the international community. They are universally applicable and are hierarchically superior to other rules of international law.

*Rif. Franco Paluan*

Ministers of Economic Development, Business, Industry, Commerce, Crafts, Agriculture, Technological Innovation, Digital Transition and Made in Veneto of the Veneto National Liberation Committee of Europe.

*Rif. Gianluca Fraccaroli*

Ministers of the Environment, Transport, Energy, Communications, Cultural Heritage and Activities and Tourism.

*Rif. Franco Paluan*

Minister of Defence, Civil Protection, Aeronautics and Marine Policies.

*Rif. Renato Carrai*

Attachments: Legal source of the Veneto National Liberation Committee, Proemio with attachments all the documents issued by the C.L.N.V. The mission of the Veneto National Liberation Committee of Europe is to promote universal and effective respect for the fundamental rights of peoples, determining whether these rights are violated, examining the causes of these



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violations and denouncing their authors to world public opinion. The Veneto National Liberation Committee applies the international principles of the JUS COGENS as an expression of the universal juridical conscience, in particular of the principles of Nuremberg; endorses the Algiers Declaration on the Fundamental Rights of Peoples and applies the fundamental juridical instruments of the United Nations, in particular the Universal Declaration and the international covenants on human rights...

PROEMIO available on the Institutional Government website

<https://www.clnveneto.net/>