

Considerations regarding the Right of Veto in the Current International Context

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ABSTRACT: The military aggressions involving various states in the recent period raise significant and substantial problems regarding the possibility of maintaining a right of veto regarding the intervention in the conflict of some international organizations in order to restore peace. Given that the notion of the right of veto extends to many areas such as the economic, the social, the free passage of goods and services, the possibility of development on the labor market and the military, it cannot be completely abandoned the prerogative of exercising such a right in its entirety. As in the current international context, most of the world's states have joined or are preparing to join international organizations with economic and security purposes, and these organizations have as principles the granting of the right of veto for decisions regarding international political cooperation and their functioning, it can be admitting the necessity of a division of the prerogatives conferred by the right of veto. The article aims to analyze the essential prerogatives that the right of veto gives to the member states of an international organization and the possibility of maintaining them against the backdrop of military conflicts that have arisen at the international level recently. Conclusions of the paper will aim to determine the sustainability of the right of veto in the current international context.

KEYWORDS: right of veto, wars, crimes against humanity, economic factors, international organizations, international criminal law, the Security Council of the United Nations Organization.

The right of veto. Origins and applicability

The word “veto” comes from Roman Law, and it denoted the possibility that the plebeians had to block the legislative initiatives of the Senate when they did not correspond to their needs or interests or in a situation when certain decisions could lead to unfavorable effects regarding this category of citizens (Molcuț 2011, 89). In the current society, the right of veto has been preserved in legal relations between member states of an international organization and denotes the totality of the prerogatives of a certain state to oppose the political decisions of the entire organization by blocking the legislative initiative at the level of the entire union of states (Moldovan 2022, 223).

Among the various international organizations, the most well-known in economic and military terms and which retain the notion of the right of veto in the elaboration of decisions with regard to all member states are the European Union, the North Atlantic Treaty Organization and the United Nations Organization, the latter also having a component to guarantee the security of the member states called the Security Council.

The importance of the United Nations Organization on the international level as a union of states also results from the fact that this organization includes more than 190 states out of the 195 declared independent and internationally recognized as sovereign states (Corlățean 2015, 86). Of all the member states of the United Nations, only 15 are members of the Security Council, and of these, only 5 are its permanent members, namely France, the Republic of China, the Russian Federation, the successor of the Union of Soviet Socialist Republics, Great Britain and the United States of America, have the right of veto regarding the launch of military peacekeeping operations (Corlățean 2015, 86).

The right of veto within the United Nations Security Council gives the possibility to the states that hold this prerogative to block the Organization's initiatives regarding military intervention in various local conflicts that could escalate into international conflict. In this sense, any of the states that are constituted as permanent members of the Security Council

would oppose an initiative to restore peace through military actions would block the entire process of making such a decision (Năstase, Jura and Coman 2019, 186).

Regarding the right of veto of the member states of the European Union as an international organization, it has the consequence of blocking certain economic initiatives with an unfavorable impact on the states that, being less financially developed, would not have the necessary capacity to apply the Union's regulations on their territory (Dușca 2021, 119). The applicability of the right of veto in matters of national economy in the international context has, therefore, positive consequences on interstate policies and the ability to apply some legal provisions from international treaties to which the various states of the world have acceded or on the general policies of various international organizations, as long as the general principles of international law are respected.

The essential issue of respecting the right of veto within international organizations arises when a decision has to be made regarding the stopping of military aggressions that could degenerate into a conflict of international scope, more concretely, when an act of military deterrence could lead to the termination of such a conflict.

Consequences of the right of veto in the context of military aggression, crimes against humanity and genocide

In the current socio-economic context, both against the background of accelerated globalization and against the background of the economic losses suffered by states following the pandemic period, the need for the formation of international economic treaties even between states that are not part of from the same international organization (Popescu 2023, 79).

In the event of a military conflict between states that are not part of the same international organization, according to the principles of Public International Law, it would require each of the two states in conflict to try to resolve their differences peacefully, through diplomatic mechanisms and to compete to restore the order of international law through bilateral agreements (Anghel 2011, 418).

From this point of view, if none of the states in conflict wants to end the conflict through the mechanisms that Public International Law makes available and no other procedure can be identified to restore peace, and the conflict tends to escalate giving rise to one of international scope, international organizations are obliged, according to their statute, to intervene in order to resolve international disputes (Năstase and Aurescu 2018, 313). In such a situation, one could end up in the position where a member state of an international organization such as the United Nations, which also holds the right of veto by being part of the permanent members of the Security Council of this organization, would exercise its prerogative of blocking the military initiative to restore peace in order to protect its own economic interests in the event that the state with which it has treaties on the exchange of goods and the free movement of persons should enter into an armed conflict with another state. In the same way, the problem should be viewed in the event that two states, without economic ties or other interstate interests, would come into conflict, and one of them would represent a source of political interests for a third state which, in turn, having partnerships of any nature with one of the states being able to exercise its veto prerogatives within an international organization could prevent any military initiative to restore peace between the original conflicting states.

However, from the perspective of the intervention of an international organization in restoring peace between two states in conflict, the situations in which such a decision is allowed to be taken by international agreements must be taken into account, namely, the situations in which one of the conflicting states commits international crimes, those the most serious of these being genocide and crimes against humanity (Nițu 2021, 168).

The prohibition of military intervention by an international organization in a conflict in which none of the states has committed acts of genocide or crimes against humanity is the expression of the international principle of non-interference in the internal affairs of another state according to the fundamental principles of public international law (Florea 2017, 119). Thus, genocide means the act of aggression exercised by a natural or legal person or a state entity, directed totally or partially against a national, ethnic, racial or political collective or group with the aim of destroying that collective deliberately and not in response to a previous act of aggression, exercised in turn by the respective collective (Nițu 2021, 170).

Through crimes against humanity can be understood any action of military aggression directed against a civilian population with the aim of extermination, enslavement or that threatens the life, sexual integrity or freedom of decision of some citizens belonging to a certain state and which is exercised deliberate and premeditated (Nițu 2021, 175). Only under these conditions, and if there is proof beyond any doubt that a particular state has committed such acts against another state, could an international organization such as the United Nations intervene militarily through its Security Council to restore peace.

Under these conditions, the exercise of the right of veto to block the military initiative of deterrence in order to end the conflict by one of the permanent member states of the Security Council of the United Nations Organization, either to defend its own interests, or to defend the interests of a third state with which he maintains international relations, would be equivalent to exercising the right of veto in bad faith at the level of the international organization (Radu 2017, 76).

Another consequence of such an exercise of the right of veto could be the creation of an international precedent whereby the principles of Public International Law could no longer be applied to future situations of international conflict and, as a result of this fact, the rules of international criminal law no longer find their applicability among international organizations, as they were enacted in international treaties and in the jurisprudence of the International Court of Justice (Deteșeanu 2016, 312).

From the point of view of the confidence of the member states of the United Nations Organization in the protection capacity conferred by the Security Council of this international organization, the bad faith exercise of the right of veto by one of the states endowed with such a prerogative would lead to the emergence of internal conflicts between all member states of the Organization against the background of the development of the international precedent mentioned above.

Last but not least, the blocking of the military initiative to restore peace by exercising the right of veto of a permanent member state of the United Nations Security Council, could represent the validation of an act contrary to the principle of peaceful resolution of international disputes, leading to the destabilization of order by law between all the states of the world (Jura 2017, 115). Thus, from all the above it can be seen the need for a reconsideration of the right of veto as a prerogative conferred on some member states of the United Nations Organization in the current international context.

The need to reconsider the right of veto in the current international context

As could be ascertained from the previous section of this article, in the current international context the need for a requalification of the prerogatives conferred on some member states of various international organizations is noted. Since, from an economic point of view, the right of veto has positive consequences on the national economy of the states that hold this prerogative within an international organization, an essential issue is the reconsideration of this prerogative within the military initiatives to restore peace between states in a local military conflict that could escalate into an international one.

Even in these specific conditions, against the background of the strict rules of military intervention by international organizations in military conflicts between states, the need for control mechanisms to ensure compliance with the norms of Public International Law in conflict contexts that do not require such intervention is noted, i.e. those in which serious crimes regulated by the rules of international criminal law are not committed (Miga-Beșteliu 2014, 124). One of the effective alternatives for the regulation of a special right of the permanent member states of the United Nations Security Council could be the exercise of the right to democratic vote between these states to deliberate on military intervention to restore peace in the armed conflict between two states (Paraschiv, Paraschiv and Paraschiv 2014, 117).

Another alternative could also be constituted based on the right to vote, with the permanent member states of the United Nations Security Council having the equivalent of 49 percent, and all other member states of the Organization having a weight of 51 percent in adopting the decision to military intervention in a conflict between two states, in compliance with the principles of Public International Law (Jura and Buruian 2013, 93).

In any of the situations, considering the mechanisms of diplomatic and consular law in correlation with the principles of Public International Law, but also the degree of interdependence between all the states of the world, the right of veto could be requalified to avoid consequences that the exercise in bad faith of such a prerogative could represent them for the order of international law.

Conclusions

The prerogative that a certain state has in order to block the process of adopting decisions at the level of international organizations has both positive consequences, in the economic and social field, as well as negative consequences, if it is exercised in bad faith, in terms of security and the defense of the organization's member states. A decision of military intervention in order to restore peace by the United Nations Security Council can only be adopted except for good reasons such as the commission of genocide or crimes against humanity, as they are presented among the fundamental principles of public international law. However, the blocking of military initiatives even under these conditions would have negative effects for the international legal order, endangering both confidence in the security system of the United Nations Organization, as well as the prospects of a good understanding between the states of the world by validating actions that violate the norms of International Criminal Law.

The exercise the right of veto in bad faith by a permanent member state of the United Nations Security Council could have economic reasons in the current world socio-economic context. In this sense, in the field of security and defense, the right of veto could be requalified by offering the alternative of a free and independent vote by all member states of the international organization for the adoption of emergency decisions in order to restore international peace and order, thus avoiding the possible effects negative aspects of differences between the states of the world.

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