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PEACEFUL SETTLEMENT OF INTERNATIONAL DISPUTES THROUGH MEDIATION

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Abstract *The international disputes could be subject to the mediation carried out by a third party in order to settle them peacefully, studies in the field of international relations showing that mediation is being used in the international practice for at least 200 years. The evolution of the international community was marked by changes in the foreign policy of the states, but the number of international disputes and the tendency of the intervention of a third party to mediate them, remained a constant which characterizes the international society.*

Keywords
Mediation, international dispute, settlement

The legal framework for regulating the means of peaceful settlement of international disputes

International regulations regarding the peaceful settlement of disputes led both to the proliferation and acceptance of the idea of peaceful resolution, as well as in formulating and setting of the means and procedures for peaceful settlement, thus contributing to recognition of the possibility to remove the war from the international life by replacing the force with the force of the right. It is what was stated by the General Treaty for Renunciation of War of Paris in August 27, 1928 (the Briand-Kellogg Pact), which, instituting the renunciation by the states, including the ones who were not members of the League, to the right to wage war, banned the war of aggression and proclaimed the principle of peaceful settlement of international disputes as a principle of general application. Article 1 of the Treaty states: *„The High Contracting Parties solemnly declare that they condemn recourse to war as an instrument of national policy in their relations with one another ".* Article 2 states: *„The High Contracting Parties agree that the settlement or solution of all disputes or conflicts of whatever nature or of whatever origin they may be, shall never be sought except by peaceful means".* But the Treaty does not specify any procedure for collective coercion designed to suppress its violation and, as one of its main limitations, it prohibited only the recourse to war, but not other forms of use of force or threat of force[1]. Later was attempted the clarification of the concept of aggression. As a result, on 3 July 1933 was adopted the London Convention for the definition of aggression; but in its text can be found only an explanation of armed aggression, ignoring other forms of aggression, such as political or economic.

With the creation of the UN and adoption of the Charter of this organization, on 24 October 1945, the peaceful settlement of disputes has become not only a goal of the Organization, which, according to Article 1 para. (1) of the Charter, have *„to perform, by peaceful means and in accordance with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace",* but also a principle according to which all states must act, both members and non-members of the UN.

Thus, the UN Charter[2], which sets out the principles according to which the member states must act, provides in Article 2: *„All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered".* This text defines the essential elements of the principle and obligation[3] of all States to protect the fundamental values of international society that need to be defended by the use of force.

The Charter fits the principle of peaceful settlement of international disputes in the context of

[1] R. Miga-Beşteliu, *International law. Introduction to Public International Law,* All Educational Publishing House, Bucharest, 1997, p. 299.

[2] For developments concerning the UN Charter, see, C. F. Popescu, M.-I. Grigore-Rădulescu, *Legal protection of human rights*, Universul Juridic Publishing House, Bucharest, 2014, pp. 49-51.

[3] This is an obligation towards humanity and towards the international community as a whole.

other principles of international law [4] and, above all, the principle of renunciation of force or threat of force. Moreover, the Charter enshrines in Chapter VI (art. 33-38) the means that states must use in order to resolve any dispute arising between them - negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, regional agencies or arrangements, or other means of their own choice.

Referring to the general nature documents of the UN, the General Assembly resolutions should be mentioned: no. 2160 (XXI) of 30 November 1966 „Strict observance of the prohibition of the threat or use of force in international relations, and of the right of peoples to self-determination", no. 2734 (XXV) of 16 December 1970 „Declaration on the strengthening of international security", no. 2626 (XXV) 24 October 1970 „Declaration on the principles of international law concerning friendly relations and cooperation among States in accordance with the UN Charter ", no. 33 (XXIX) of 1 January 1975 „Defining aggression", no. 34/102 of 14 December 1979 „Peaceful settlement of international disputes", no. 35/160 of 15 December 1980 „Peaceful settlement of international disputes ", no. 36/110 of 10 December 1981 „Peaceful settlement of international disputes", no. 37/10 of 15 December 1982 „Declaration on the Peaceful Settlement of International Disputes" (Manila Declaration)[5]. More recently, through the UN General Assembly Resolution no. 55/2 was adopted on 8 September 2000, „The Millennium Declaration", which in paragraph 4 of Chapter I "Values and principles" proclaims: *„settlement of disputes by peaceful means and in accordance with principles of equity and international law".*

Also, in order to maintain peace and security have also been signed conventions with a regional character concerning the peaceful settlement of international disputes, such as the Treaty for the Peaceful Settlement of Conflicts Between the American States (Treaty of London of 1923) and the Inter-American Treaty on Good Offices and Mediation (1929), the General Convention of Inter-American Conciliation (1929) and the Inter-American Treaty to a Peaceful Settlement of Disputes (Pact of Bogota, 1948). Among the regional agreements can also be mentioned the European Convention for the peaceful settlement of disputes, establishing the procedures for investigation and conciliation, and the Arbitration and Conciliation Convention of the CSCE of 1992, as well as the Statutees of the regional international organizations (Organization of American States, the Organization of African Unity, the League of Arab States), containing provisions on the peaceful settlement of disputes. Thus, Chapter IV (art. 20-23) of the Organization of American States Charter enshrines the peaceful settlement of international disputes. In the Bogota Charter are expressly mentioned the means of peaceful settlement, and art. 26 of the Charter refers to a special treaty which establishes the modalities on the peaceful settlement and the procedure to be followed, being the American treaty on peaceful settlement (April 30, 1948).

Drawn up in 1963, the Charter of the Organization of African Unity (OAU) contains a provision aimed at establishing a Commission of mediation, conciliation and arbitration. The provision of the Charter is governed by the 1964 Cairo Protocol. Subsequently, in June 1993, at Cairo, was adopted the OAU resolution on the creation of the "Special mechanism of prevention, management and resolution of conflicts in Africa", which focuses on preventive diplomacy, mediation and good offices.

Article 5 of the Pact of the League of Arab States (March 22, 1945, Cairo) confers to the Council an arbitral role. The Council, according to art. 5 paragraph (3) of the Pact, offer its good offices in all disputes likely to give rise to an armed conflict between the States involved.

Another regional organization active in the field of peaceful settlement is the Economic Community of West African States (ECOWAS), which was established by the ECOWAS Treaty, signed in Lagos on 28 May 1975 and revised in Cotonou on July 24, 1993 (by including provisions that directly concern the problem of maintaining peace and security in the region). In the light of Article 4 "Fundamental Principles" of the revised ECOWAS Treaty is ordered *„the peaceful settlement of disputes occurred between the member states"*[6]*.* Among other relevant documents of this organization regarding the peaceful settlement are included the Protocol on Non-Aggression (Lagos, April 22, 1978) and the Protocol relating to the Mechanism for Conflict Prevention, Settlement Management, Maintaining Peace and Security (Lome, December 10, 1999)[7].

Nowadays can be mentioned approximately 30 international legal instruments relevant in the field of

[4] For the principles of public international law, see, C. F. Popescu, M.-I. Grigore-Rădulescu, *Public International Law. Introduction*, Universul Juridic Publishing House, Bucharest, 2015, pp. 60-95.

[5] To these are also added the resolutions no. 42/22 of 17 March 1988, "Declaration on the Enhancement of the Effectiveness of the Principle of Refraining from the Threat or Use of Force in International Relations ", no. 49/57 of 9 December 1994 " Declaration on the Enhancement of Cooperation between the United Nations and Regional Arrangements or Agencies in the Maintenance of International Peace and Security".

[6] Cooperating for peace in West Africa: An Agenda for the 21st Century., United Nations Institute for Disarmament Research, UNIDIR, Geneva, 2001, p. 12.

[7] In this context, UN Secretary-General, Kofi A. Annan, stated that African countries are determined to work together more effectively to prevent the outbreak of new conflicts and to promote peace in the region. See, Annan A. Kofi, *Common Destiny. New Resolve. Annual Report on the work of the Organization*, New-York, 2000, p. 16.

peaceful settlement, starting with the Hague Conventions of 1899 and 1907 and finishing with the statements of the UN General Assembly and the Final Act of the Conference on Security and Cooperation in Europe (August 1, 1975, Helsinki), which in Chapter I (V), paragraph B ii) provides that: *„The participating States, wishing to strengthen and improve the methods at their disposal for the peaceful settlement of disputes are determined to continue the examination and the elaboration of a generally accepted method for peaceful settlement of disputes in order to complement the existing methods...]."*

Various other declarations and treaties also enshrine the principle of peaceful settlement of international disputes. The Charter of Paris for a New Europe of 21 November 1990, adopted at the Summit of the CSCE participating States, reaffirmed the principle of peaceful settlement of disputes between States and was decided the establishment of mechanisms to prevent and resolve the conflicts between states-parties: *„We want Europe to be a source of peace, open to dialogue and to co-operation with other countries, welcoming exchanges and involved in the search for common responses to the challenges of the future ".* Subsequently, these goals were complemented by the adoption at the OSCE Summit in Istanbul, of another document - The Charter for European Security of 19 November 1999 which stipulates in paragraph 7: *"We reaffirm O.S.C.E. as a regional arrangement under Chapter VIII of the UN Charter and as the main organization for the peaceful resolution of disputes in its area"*

The peaceful settlement of disputes is one of the fundamental directions of the UN activity and the international community for establishing lasting peace in the world, for which the consecration and the affirmation of the principle of peaceful settlement of international disputes in conventional legal instruments have formed the regulation subject of numerous resolutions adopted by consensus in the Plenary of the UN General Assembly.

The advantages of mediation as a mean of resolving international disputes

The peaceful settlement of international disputes is conducted according to the principles of international law, the states refraining from any action that might aggravate the situation, having the possibility to freely choose the appropriate way of resolving the conflict and the obligation to settle the international disputes by peaceful means, and it cannot be regarded as incompatible with the exercise of their sovereignty[8].

[8] D. Popescu, F. Maxim, *Public International Law*, 2nd Volume, University course, Lumina Lex Publishing House, Bucharest, 2012, p. 141.

The majority of international disputes whose settlement impose the recourse to mediation remain within the scope of security, because they take place, usually, in a context which places in the centre of the disputes the manner of exercising the power, a fact that explains the objectives of the parties involved in mediation, the conditions affecting the performance and the role of the mediator, as well as the results of an effective mediation in international disputes. In the economic nature international disputes, regarding the environmental factors or otherwise, the parties involved in the dispute do not exacerbate the competition to a level of violence that would generate an armed conflict nor have at hand the means which they have when engaging in conflicts arising from security issues.

The mediation has experienced the most comprehensive regulation in the Hague Conventions, when it becomes a procedure widely accepted. According to article 2 of the Hague Convention of 1907, it is recommended that, in case of serious disagreement or conflict, before resorting to weapons, to resort to mediation. Article 3 provides that the right to offer mediation belongs to the powers not participating in the conflict, even during military operations.

The consecration of mediation as a mean of peaceful settlement of international disputes was achieved, subsequently, through other international legal documents, including[9]: the UN Charter, the Pact of the League of Arab States, The Charter of the Organization of the American States, the Pact of Bogota of 1948, the 1970 Declaration on Principles of International Law, the OSCE Final Act of 1975, the Peaceful settlement of disputes between States of 1982.

The mediation appears as an independent procedure for resolving international disputes, characterized by the intervention of a third party who pursues, by creating a suitable framework, to assist the parties to examine in depth the dispute between them and to identify the appropriate way of solving[10].

The mediation is a form of intervention of a third party in the dispute, the purpose of which is to identify an acceptable solution for the parties and consistent with the interests of the mediator. The mediation process has a political nature, in which there is no previous commitment of the parties concerned, to accept the mediator's ideas and solutions. The mediation must be understood as a particular way of negotiation in which a third party assists the parties involved to find a solution that they cannot find

[9] A. Bolintineanu, A. Năstase, B. Aurescu, *Contemporary International Law*, 2nd edition revised and enlarged, All Beck Publishing House, Bucharest, 2000, p. 187.

[10] R. Miga-Beșteliu, *Public International Law*, 2nd Volume, C.H. Beck Publishing House, Bucharest, 2008, p. 5.

themselves. In order to meet its objectives, the mediation should be acceptable to the parties involved in the dispute, which must cooperate diplomatically with the mediator, so that its efforts should be directed, initially, to convince the parties involved of the good faith and the consistency of the effort made by the mediator.

The mediation can take place either at the request of the parties in dispute, either as a result of the acceptance offered to a third party, from this point of view in the specialized literature being made a distinction between the required and the provided mediation[11]. The establishment of the mediator in these two situations becomes a pretty big problem in practice, but regardless of the type of mediation, the mediator must be accepted by the parties in dispute, which is on an equal position in the mediation[12], and the identification of the solutions seeks to take into account the interests of all those involved.

The mediation implies, like the good offices, the intervention of a third party, which can be one or more States, an international organisation or a chosen person taking into account its personal qualities or functions that he complies with[13]. Unlike good offices, where the third party serves only to establish the contact between the States parties to the dispute, in mediation, he plays a far more complex role, as it is involved in the background settlement of the dispute by participating in the negotiations, offering advices and proposals concerning the way in which they can resolve the conflict. The parties are free to accept or refuse the advices or solutions proposed by the mediator[14].

The powers and functions of the mediator

In the specialized legal doctrine was emphasized that the success of the mediation depends, mainly, on the persuasion ability of the mediator, which consists of his ability to refocus the perceptions of the involved parties. Like any form of persuasion, the ability of the mediator depends on different personal qualities or capabilities, which are used in a professional manner, including: its international prestige level, the experience, the confidence he inspires to the parties, impartiality, independence of the States parties or other entities, as well as the awareness and knowledge of the issues in the case in question[15]. Also, the persuasion uses the benefit of the support in the development and strengthening of regional and global relations. The financial benefits granted without conditioning the outcome of the conflict are effective only if they meet a real need, urgent and that is more important than the result that can be obtained through the acquisition of concessions. The parties involved may become aware of some needs that previously did not want to recognize, especially when there are chances to receive a reward in counterpart. For example, accepting the withdrawal of Cuban troops from Angola, desired by South Africa, made this State in turn to make concessions and withdraw both military and administrative from Namibia.

Essentially, similar to majority opinions, we believe that the main responsibilities and functions incumbent to the mediator can be summarized as follows:

- must perform the mediation according to the principle of the independence of the parties, so that each party makes a free choice regarding the process and the outcome, based on voluntary decisions;
- is authorized to hold meetings with the parties and/or their representatives before, during and after any scheduled mediation conference;
- encourages the parties in order to exchange documents, with the exception of confidential ones;
- does not have the right to suggest solving the dispute, but will try to help the parties to reach a favorable solution of their dispute;
- even if the problem is not resolved during the mediation session, the mediator will be able to continue to communicate with the parties for a period of time in order to reach an agreement;
- it is not the legal representative of any party and has no fiduciary obligation towards any of the parties.

The mediation ends by establishing a settlement agreement between the parties, through a written or verbal declaration of the mediator regarding the effect of the mediation which did not contribute to a settlement between the parties, or through a written or verbal declaration of the parties that the mediation procedure ends[16].

[11] I. Cloșca, *About international disputes and ways of solving them*, Editura Științifică Publishing House, Bucharest, 1973, p. 97; I. Diaconu, *Manual of Public International Law*, 3rd Edition, revised, Lumina Lex Publishing House, Buchares, 2010, p. 355.

[12] Along with the principle of peaceful settlement of international disputes, another applicable basic principle in this matter is the principle of sovereign equality of states, as well as the principle of non-recoursing to force or the threat of force. For developing, see A. Preda-Mătăsaru, *Public international law treaty*, Third Edition Revised and enlarged, Lumina Lex Publishing House, Bucharest, 2008, p. 246;

[12] B. Selejan-Guțan, L.-M. Crăciunean, *Public International Law*, Hamangiu Publishing House, Bucharest, 2008, p. 255.

[13] R. Miga-Beșteliu, *op. cit*., p. 5.

[14] Bianca Slejan-Gutan,Laura-Maria Craciunean, *op.cit*, p. 258. Likewise, R. Miga-Beșteliu, op. cit., p. 6.

[15] I. Anghel, A. Bolintineanu, I. Cloșcă, I. Diaconu, M. Malița, D. Rusu, I. Voicu, *Mechanisms of peaceful settlement of disputes between States,* Politica Publishing House, Bucharest,1982, p.110.

[16] According to article 5 of the Hague Convention of 1907, the mediator's functions ceases when one of the parties to the dispute or the mediator himself notes that the proposed means of reconciliation were not accepted.

The dimension of the power that the mediator can maintain depends entirely on the parties involved in the conflict, the acceptance of which depends the mediator's ability to obtain a solution agreed by all parties involved. Having the opportunity to establish the mode of action, the mediator's ability to fulfill the task depends on the acceptance of the parties, who agree the mediation proceedings to the extent that it restricts the opponent's actions, but did not accept it when restricting its own actions[17].

In each case, the effectiveness proved by the mediator in obtaining the results depends on the pressing need to find new solutions, a feature that makes the mediation difficult.

The mediator should be able to convince the parties on the benefits of the conflict resolution, the mediation proceedings being recommended when the mediator can obtain a favorable proposal from one of the parties involved, which would be seen as favorable by the other party.

The essence of how to pursue the mediation capacity consists, in our opinion, in the exchange of views between the parties of the dispute on the mediator's proposals, in relation to the need of each party to put an end to the conflict and the problems it generates.

At the same time, the mediator can use the incentives and benefits tactic, or on the contrary, of the deprivation of one or other party of certain items of material or moral support. In this regard, a course of action in the mediation are the financial aids, that can be part of the solution mediated, the mediator guaranteeing the financial aid if there are respected the conditions laid down by those treaties or agreements or could be some incentives to determine the parties to reach an agreement. We mention, as an example, the gradual aid that U.S. pledged and subsequently have granted to Israel and Egypt after signing the Disengagement Agreement in the Sinai Peninsula, aid that has increased significantly after signing the peace treaty itself (the Camp David Accord).

The mediation actions mean more than simply persuading the opposing parties, this depending on the ability to meet certain needs and desires of the parties to the dispute. Although the official mediators are best able to facilitate the conclusion of agreements between the parties to the dispute, non-state mediators can also participate effectively in order to help refocus the priorities, values and opportunities of the involved parties. If the lack of communication is a major impediment for the official mediators (the States) it is easier to use the informal mediation (unofficial), which is more flexible and can reach more easily to the essence of the problem in dispute. For example, in the conflict between Eritrea and Ethiopia was involved a private mediator, even if a former US president, Jimmy Carter, who was perceived by the parties involved as having an official support from the US government. This approach answered a call expressed by the two parties, but failed because a deadlock in military terms was not yet reached and because the nature of the conflict changed during the mediation. The mediator failed to convince those involved of the lack of alternatives and could not respond to requests for financial and logistical support. Former President Carter was in contact with the heads of state in the region, from which he has obtained the sympathy and support and even the neutrality during the mediation. Whereas he did not officially represent the US, he could not engage any official funds nor could provide logistical and financial support for the parties involved. The same mediator, this time being officially supported by the US, could successfully mediate the internal conflict in Haiti in 1994. When the ruling military junta refused to hand over power to the elected president, as the UN asked, Jimmy Carter traveled to Haiti and managed to convince the military leaders to withdraw and negotiated the terms of this transfer of power. Carter was successful this time, primarily because the negotiations took place with only a few hours before the military invasion planned and officially announced by the US, but also because of the participation of some American officials in the mediation proceedings.

In other mediating actions, the support given by States was only unofficially, as in many cases the effort made by private and non-governmental organizations supported the formal mediation initiatives. The most significant examples are considered the conflicts in Northern Ireland, Cyprus and the Arab-Israeli one. The algorithm of the involvement of a third party to resolve conflicts, in its various stages[18].

Categories of interests promoted by mediation

The States that accept the role of mediators tend to seek solutions that would strengthen the international stability, reduce the chances of intervention of rival powers, to win the gratitude of at least one, if not all the parties involved, and also to create the prerequisites and conditions to maintain a privileged role for themselves in the future of the region.

[17] I. Diaconu, *op. cit*., p. 355.

[18] T. Frunzeti, *Conflict and negotiation in international relations,* "Carol I" National Defence University Publishing House, 2011, p. 130.

It results, therefore, that through mediation can be promoted simultaneously both defensive and offensive interests[19].

It is considered that the mediators act defensive when a dispute between other parties threatens the interests of the mediator, and finding a solution is important for the mediator himself, due to the dispute result regarding the mediator's relations to those parties. For example, if two allies of the mediator are in dispute, it weakens the alliance and affects the mediator's relations with both sides. Likewise, a dispute between two states can create the opportunity for another state to intervene in the dispute and to increase its influence in the region. In other cases, a dispute may cause the danger of escalation and to attract other states. In these situations it might that the simple mediation of a third party represented by one state may not be sufficient, requiring a collective effort from two or more States, to act in or outside the framework provided by an international organization[20].

As shown, the mediators can also promote the offensive nature interests, evidenced by the desire to expand and increase its influence, situation in which the solution applicable to the settlement of the dispute is not important for the mediators, merely seek only the improvement of the relations with one or both parties. Thus, the mediators can earn the gratitude of the parties to the dispute, either by helping them to reach a negotiated solution, either helping one party to obtain better conditions in a solution, that otherwise would not be able to obtain, as it can to increase their poise and influence becoming guarantor powers of some agreements.

Relevant examples to illustrate offensive or defensive interests are represented by the US mediation in the conflict in Zimbabwe, from 1976-1979, the USSR mediation in 1966 and the US in 1999 in the conflict between India and Pakistan.

In terms of defensive, the US feared lest at any that the conflict in Zimbabwe can be an opportunity for the USSR to gain influence in the area by supporting the African nationalists. But since the adverse groups were already close in political terms with the USSR and China, US mediation was also an attempt to improve the relations with these groups and to expand the American influence.

The Soviet mediation between India and Pakistan was directed towards improving the relations with Pakistan, which had a much closer relationship with the US and China. The USSR also aimed, through this mediation, to increase its prestige and create a precedent to justify further involvement in the problems of the region. At the same time, there were important defensive reasons for Soviet mediation. The conflict between India and Pakistan gave China an opportunity to expand its influence in Pakistan and establish a presence close to the southern borders of the USSR. Together with the defuse of the conflict, the opportunity for Chinese expansion would be significantly reduced, which is a very good illustration of the fact that even when resorting to international law, power interests are pursued.

The Mediation exerted in the same conflict by the US in 1999, pursued the same interests, but in another sense, to which was added the interest in obtaining the signatures of the parties to the conflict on the Treaty on the Non-Proliferation of Nuclear Weapons.

States role in mediating international disputes

The USA was the most active mediator in international conflicts after the end of World War II. This involvement finds its explanation in promoting and protecting the national interests of this superpower. Because during the Cold War, the US considered that many conflicts could provide the USSR the opportunity to intervene and to expand its influence, they sought most often to intervene to find solutions to conflicts, mediation being a suitable instrument for this purpose. In addition, the US was often required by smaller states engaged in conflicts, to intervene as a mediator, because of its power and prestige.

The models based on promoting the interests of mediators have not changed much since the end of the Cold War, although the level of preparedness and response capacity of mediators changed. The US proved less willing to mediate as in the past, its reservation to engage in mediation could be explained by the perception that actually, other actors conflicts are now a lesser threat to US security than during the Cold War. It is noteworthy that, thus, the US retains a practically unlimited leeway.

On the other hand, Russia is still active in the former Soviet space. Its influence in this area is significant, its interests continue to be prevalent and also, the dangers to its security are the greatest.

A notable change can be observed in the Western countries, where humanitarian concerns of public opinion play a more important role in shaping the foreign policy than in the past. The need to meet the demands of public opinion prompted the actions of governments which have intervened in foreign conflicts, including civil wars, even when they do not directly influence the security interests of the countries concerned.

[19] V. Udalov, *National Interests and Conflict Reduction,* in Cooperative Security: Reducing Third World Wars, Syracuse University Press, Syracuse, New York, 1995.

[20] For example, the efforts to mediate various conflicts occurred in former Yugoslavia involved the EU, OSCE, NATO, the UN, the "Contact Group", Russia and the US.

Because the mediation involves lower costs for the interventionist power than military actions, especially if done through international organizations, we observe that the collective mediation is situated on an upward trend. Examples include the mediation actions in Afghanistan, Haiti, Liberia, Sierra Leone, Angola, Mozambique, Congo, Rwanda, Burundi, Somalia, Sudan and the former Yugoslavia.

The mediation performed by the small and medium-sized States is also motivated by their own interests, many of them related to internal problems. Such concerns often refers to the possibility that a dispute to expand on the territory of the mediator, the fear that other states would intervene in a local dispute, the reluctance to get involved in a dispute to one side or the other, trying to promote the norms and rules that protect even the mediator's security, trying to promote the role of the mediator in a region or area.

Small and medium-sized States are often pursuing through the undertaken mediation actions to consolidate their prestige and regional influence. Algeria has mediated between the United States and Iran on the issue of the hostages from the American Embassy in Tehran in 1980, hoping that this mediation will generate the US goodwill and will enhance the relations between Algeria and the United States, considering the support provided until then by the US to Morocco in the Western Sahara issue. Our country tried to play a mediating role in the relations between Israel and the Palestinian organisations, as well as in Israel's relations with Arab countries, contributing significantly to the planning of the visit of the Egyptian President Anwar Sadat to Jerusalem in 1977[21].

Small and medium-sized States have fewer alternative instruments of their foreign policy and their involvement in international mediation actions lead to an increase of their independence or autonomy in relations with their powerful allies. Moreover, when they are under pressure from other powers to take the position of one side or another of the States involved in a conflict, a position which a small or medium State wants to avoid, they can escape from this dilemma by assuming the role of mediator in the conflict.

In the period after the end of the Cold War, the small and medium States continue to fulfill, often successfully, the role of mediator. Kenya and Zimbabwe mediated the internal conflict in Mozambique, Zaire mediated the conflict in Angola, South Africa the conflicts in Nigeria, Lesotho and Swaziland, ASEAN (Association of Southeast Asian Nations), the conflict in Cambodia, Norway the conflicts between Israel and the Palestinians, Saudi Arabia the conflicts in Yemen and Lebanon. Currently, many countries of the world, such as Tanzania, South Africa, Togo, Tunisia, Algeria, Saudi Arabia, Costa Rica and Colombia consider the involvement in the international mediation of conflicts in the regions where they are, as a major element of their foreign policy.

The reasons why international organizations assume the role of mediator of conflicts are more complex than those of the states. The International Peace is the reason for being of several international organizations, as stated in their Charters or programmatic documents. However, the international intergovernmental organizations, are subject to the policies and interests of the member states. For example, the UN was frequently paralyzed by the consequences of the Cold War specific antagonisms and has been engaged in peacekeeping actions much less than it should, in accordance with its Charter. Some of its assumed mediation efforts only aimed to blur the visibility of the US involvement, for example in the Arab-Israeli conflict. The regional organizations were not affected by the consequences of the Cold War as much as the UN. However, because the mediation requires the consent of the most influential members of the regional organizations, as well as the acceptance by the parties directly involved, neither the regional organizations have not been so engaged in peacekeeping as it should have been.

The end of the Cold War freed the international organizations from the constraints of the bipolar confrontation, allowing them to engage more actively in the mediation and conflict management. As a result, their reputation and resources had to be extended shortly, but their efforts were not rewarded with the rapid success they predicted. In a short time, many member states have stepped back, blaming the organizations they themselves manage and reducing the number of mediation actions in which they were involved.

The UN sent official representatives of the Secretary-General in various conflict zones, in different scale missions. The African Union constituted at the Secretary level a section for prevention, management and resolution of conflicts. ASEAN, in turn, has assumed increasingly more mediation actions. ECOWAS (the Economic Community of West African States) and CEAO (Economic Community of West Africa) have assumed mediating the conflicts in their area of responsibility. The Intergovernmental Authority on Drought and Development (IGADD) has assumed the role of mediation in the Horn of Africa. Thus, in the period after the Cold War, we are witnessing the involvement of new regional organizations in the activity of international mediation, to fill the gap left by the

[21] Ch. A. Crocker, Fen Osler Hampson, Pamela Aall, (editors), *Turbulent Peace, United States Institute of Peace Press,* Washington DC, 2003, p. 430.

reduced UN involvement. The UN experience in Somalia, Rwanda and Cambodia showed, simultaneously, the mediation possibilities of the world organization, but also the difficulties of separating its role, in accordance with the Charter, by the interests of the permanent Member States in the Security Council.

Conclusions

Although over the years there have been successful attempts to clearly specifying some rules to ensure peaceful settlement of arising disputes, difficulties have remained in their implementation plan. Thus, the sustainability of the measures taken in this direction depends only on the political will of the States. The solemn commitment of all States would be a political and legal guarantee and also a moral obligation to all humanity not to allow the outbreak of conflict situations. Unquestionably, however, is that such a commitment would have the desired effect only if it is incorporated into a universal legal instrument for the peaceful settlement of international disputes which should state unreservedly that the use of force or threat of force, direct intimidation, military, political, economic threat and pressure, other acts that could endanger international peace and security, as well as the recourse to other means, other than peaceful, for settling disputes are totally incompatible with the rules and principles of the international law recognized by civilized nations. Thus, the institutional and legal mechanisms concerning the peaceful settlement would fully reassert their functionality and efficiency.

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