LEGAL ANALYSIS OF THE ROLE OF THE EUROPEAN UNION AS A MEDIATOR IN RUSSIA-UKRAINE DISPUTES

An Undergraduate Thesis

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بسم الله الرحمن الرحيم

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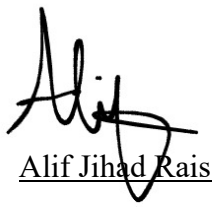

Alif Jihad Rais

16410405

MOTTO AND DEDICATION

"Sirna Dalane Pati, Nur Sifat, Luber Tanpo Kebek"

Dedicated to My Mom, My Sister, My Family, and My Friend

PREFACE

Alhamdulillah, all the praises and thanks be to Allah, for the grace and mercy given to us especially the blessings given to me so I can finish thiswork. *Shalawat* and *Salam* are also sent upon the Prophet, *Rasulullah* Muhammadﷺ who guided us from darkness to light.

The title of this final assignment is "Legal Analysis Of The Role Of The European Union as a Mediator in Russia-Ukraine Disputes" and surely this writing has lots of flaws and mistakes and is far from excellent, so criticisms and suggestions are welcome, it will allow me to learn and develop.

This assignment will never be finished without the people who supported and assisted me, so allow me to express my sincere appreciation to:

4. My family, a loving mom, a caring sister who are always supporting, motivating, encouraging and praying for my success.
5. Mrs. Prof. Dra. Sri Wartini, S.H., M.H., Ph.D. as my academic supervisor who patiently guided me with my academic problems during my study.
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ABSTRACT

This study analyzes the role of the European Union as a mediator in resolving disputes between Russia and Ukraine. The conflict between the two countries has created regional tensions that affect political stability and security in Europe. In dealing with this complex situation, the European Union is trying to function as a mediator with the aim of reducing tensions and encouraging constructive dialogue between the two warring parties. This study aims to identify and analyze the role of European Union law as a mediator in the context of this dispute. A legal approach that includes an analysis of agreements and legal instruments involving the European Union as a mediator in efforts to reach a peaceful settlement. This study also reviews the legal mechanisms used by the European Union in facilitating dialogue and peace between Russia and Ukraine. This study uses a qualitative normative method, namely the method of collecting data through books, journals and online news related to the subject matter of this research. The results of the analysis show that the European Union's role as a mediator in the Russia-Ukraine dispute involves many legal aspects, including authority, the relevant legal framework, and existing legal commitments. In this context, the European Union must operate with due observance of its limitations and legal responsibilities as a neutral and independent mediator.

Keywords: Conflict, Mediation, European Union.

CHAPTER I

INTRODUCTION

A. Background

Russia finally invaded Ukraine. President Vladimir Putin officially announced the military operation on Thursday, February 24, 2022. The Russian offensive actions began with explosions in a number of Ukrainian cities, including Kyiv, Odessa, Kharkiv, and Mariupol. Until October 2022, the tension it was still ongoing. In fact, Ukraine had "a meeting" with Russia in the past. However, the current Ukrainian leader is closer to the West and wants to be part of the North Atlantic Treaty Organization (NATO). Whereas when the Cold War occurred, before 1990, the Ukrainians and Russians united in a federation called the Soviet Union, a strong communist state at that time. The Soviet Union after Germany lost and WWII ended, had an influence in eastern Europe. It's no wonder that countries in eastern Europe have also become communist countries.[1] In 1991, the Soviet Union and the Warsaw Pact dissolved.[2] In the same year, Ukraine voted for independence from the Soviet Union in a referendum. Russian President Boris Yeltsin that year agreed to this. Subsequently, Russia, Ukraine, and Belarus formed the Commonwealth of Independent States (CIS). But there was a split. Ukraine considers that the CIS is Russia's attempt to control the countries under the Russian

[1] Sefti Oktarianisa, *Kronologi dan Latar Belakang Konflik Rusia dan Ukraina*, https://www.cnbcindonesia.com/news/20220304134216-4-320044/kronologi-dan-latar-belakang-konflik-rusia-dan-ukraina, 04 March 2022, Accessed 2 April 2022.

[2] Andrew Glass, *Warsaw Pact dissolved, March 31, 1991*, https://www.politico.com/story/2017/03/this-day-in-politics-march-31-1991-236664#:~:text=After%2036%20years%2C%20the%20Warsaw,control%20of%20Warsaw%20Pact%20forces. 03/30/2017, Accessed 30 July 2022.

Empire and the Soviet Union. In May 1997, Russia and Ukraine signed a friendship treaty. It is an attempt to resolve disagreements.[3]

Russia was allowed to detain most of the Ukrainian Black Sea Fleet ships in the Crimea region. Russia also has to pay rent to Ukraine to use the port in Sevastopol. Russia and Ukraine have been warm again since 2014. At that time, there was a revolution against Russian hegemony in Ukrainian territory. The rebels were able to defeat Ukraine's pro-Russian president, Viktor Yanukovych. The unrest before peace with Minsk was reached in 2015.[4] This revolution also fueled Ukraine's desire to join the European Union (EU) and NATO. This angered Putin with hopes of building a NATO base on the Russian side. This is also shown by its proximity to NATO in Eastern Europe. Call it Poland and the Balkan Peninsula. In 2014, when Yanukovych fell, Russia annexed Crimea using power. Russia also supports the Ukrainian government with eastern Ukrainian separatists, on the part of Donetsk and Luhansk.[5]

Western media have quite understandably paid most attention to the tug-of-war between Russia and Ukraine over nuclear weapons and Russia's territorial claims on Crimea.[6] It is, however, important to understand that this imbroglio is multifaceted. Both Russia and Ukraine have to redefine their national interests and at the same time build domestic consensus for their policies. Contrary ideas on the

[3] Peter van Ham, *Ukraine, Russia and European Security: Implications for Western Policy*, Institute for Security Studies of WEU 1996, Paris, February 1994, p 5.

[4] Michael Ray, *Ukraine crisis*, https://www.britannica.com/topic/Ukraine-crisis. 26 May 2017, Accessed 30 July 2022.

[5] The Center for Preventive Action, *Conflict in Ukraine*, https://www.cfr.org/global-conflict-tracker/conflict/conflict-ukraine, May 12, 2022, Accessed 30 July 2022.

[6] *Ibid*. Peter van Ham, *Ukraine, Russia and European Security: Implications for Western Policy.* p 3.

role of the CIS reflect the dissimilar views on regional cooperation held by Ukraine and Russia. Both countries have a vital stake in maintaining a considerable level of cooperation, given Ukraine's high degree of economic dependence on Russia, and Moscow's concern with the Russophone minority living in Ukraine. For both countries, however, these disputes detract political energy from a task that is much more vital to their national interests: reforming their stagnating economies.[7]

Judging from its characteristics and nature, the Russian-Ukrainian conflict is a political conflict, not a legal one. This conflict is somewhat different from conflicts between other countries because Russia is a permanent member of the United Nations Security Council.[8] Oppenheim and Kelsen said every dispute has its political and legal aspects. These disputes are usually between sovereign states. Disputes that are considered legal disputes may involve the high political interests of the countries concerned and *Vice versa*. Disputes which are considered to have a political nature, may in fact apply the principles or rules of international law.[9] The difference between political and legal dispute resolutions according to Boer Mauna[10]is political disputes are disputes in which a country bases its claims on non-juridical considerations, for example on the basis of politics or other national interests. For this non-legal dispute, the dispute resolution is political. Meanwhile, legal disputes are disputes in which a country bases its dispute on its demands on the provisions contained in an agreement or which have been recognized by

[7] *Ibid.* Peter van Ham, *Ukraine, Russia and European Security: Implications for Western Policy.* p 5.

[8] Koesrianti, *Penyelesaian Konflik Rusia-Ukraina*, https://www.kompas.id/baca/artikel-opini/2022/03/17/penyelesaian-konflik-rusia-ukraina, Maret 2022, Accessed 12 June 2022.

[9] Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, Cetakan Ketiga, Sinar Grafika, Jakarta, 2008, p 5-6.

[10] Boer Mauna, *Hukum Internasional (Pengertian, Peranan, dan Fungsi Dalam Era Dinamika Global)*, Edisi ke-2, PT. Alumni, Bandung, 2005, p 193.

international law. Furthermore, it also divides the settlement of political disputes (non-juridical) which includes, for example, dispute resolution within the framework of inter-states, namely diplomatic negotiations (negotiations, good intentions, mediation), questionnaires, international conciliation. dispute resolution within the framework of the United Nations organization, namely preliminary observations, the main role of the United Nations Security Council, the intervention of the United Nations General Assembly.[11] Finally, dispute resolution within the framework of regional organizations, namely the Arab League, Organization of American States, Organization of African Unity, European Union, ASEAN and others.

Basically, war disputes between countries have often occurred, as in the history of the Kosovo-Serbian conflict, Kosovo has a long history of conflict with Serbia. Kosovo was previously a province with special autonomy from the Federal state of Yugoslavia.[12] During President Josip Broz Tito's reign, Yugoslavia was divided into several states: Croatia, Slovenia, Serbia, Bosnia and Herzegovina, Montenegro, and North Macedonia. Kosovo is a special autonomous region under the Serbian government. The war between February 1998 and March 1999 caused many casualties and damage to various public infrastructures.[13] A total of 13,548 people, both civilians and combatants, died during the conflict. Victims are dead, missing, and killed in action, most of the casualties were caused by murder. In 1999,

[11] *Ibid.* Boer Mauna, *Hukum Internasional (Pengertian, Peranan, dan Fungsi Dalam Era Dinamika Global)*, p 227.

[12] Britannica, *Kosovo conflict*. Encyclopedia Britannica, November 30, 2021. https://www.britannica.com/event/Kosovo-conflict. Accessed 12 June 2022.

[13] David Anderson, *The Collapes of Yugoslavia: Background and Summary*, research paper Published by the Department of the Parliamentary Library of the Commonwealth of Australia, 1995, No 14 1995-96, p 5-6.

the United Nations mandated NATO to end the conflict. From March to June 1999, the conflict evolved into an international conflict. In May 1999, NATO launched an air bombing campaign to repel Serbian troops and stop the ethnic cleansing of Albanians in Kosovo.[14] The European Union continued to urge Serbia and Kosovo to find a lasting solution. The dialogue between Serbia and Kosovo began in 2011 after Kosovo declared independence from Serbia in 2008. However, because of the political disaster among the two governments, talks have stalled numerous times.[15] Kosovo imposed one hundred percentage customs obligations on merchandise imported from Serbia and Bosnia and Herzegovina, till Belgrade acknowledged its independence. Although the European Union has entreated Kosovo, Kosovo kept disregarding the pressure. Then, the European Union took action. For the functions of similarly contingency making plans for the deployment of the European Union task withinside the Kosovo region, the European Union set up the so-referred to as Planning Team (EUPT), which turned into deployed to Kosovo. The Planning Team was tasked with preparing the basic factors for the possibility of carrying out European Union crisis management operations in the area of the rule of law and possibly other areas in Kosovo.[16]

The EUPT has an important role in the initial phase of the deployment of the European Union Rule of Law Mission (EULEX) mission as defined in Article

[14] Operation Allied Force, *Kosovo Air Campaign (March-June 1999),* https://www.nato.int/cps/en/natohq/topics_49602.htm, 17 May. 2022, accessed 30 July 2022.

[15] Martin Russell, *Serbia-Kosovo relations Confrontation or normalisation?,* European Parliamentary Research Service, PE 635.512, February 2019, https://www.europarl.europa.eu/RegData/etudes/BRIE/2019/635512/EPRS_BRI(2019)635512_EN.pdf, Accessed 20 May 2022.

[16] *Ibid.* Martin Russell, *Serbia-Kosovo relations Confrontation or normalisation?.*

4 of the Joint Action 2008/124/CFSP of the European Union Rule of Law Mission in Kosovo.[17]

When Russia invaded Ukraine on February 24, 2022, so far, the Russian government insists it is carrying out "special military operations" in Ukraine. The use of the words "war" and "invasion" to refer to military action in Ukraine is practically prohibited, the world was shocked because this kind of war was like an anachronism.[18] The moments before the attack, Putin said in his speech that the reason Russia attacked was because Russia could not feel safe, develop and exist because the modern Ukrainian leadership is a constant threat. Russia refuses to call the attack a war or an invasion. Putin claims that the purpose of waging war is to protect the people who are the targets of your dreams and genocide. According to the UN Human Rights Agency, the Office of the High Commissioner for Human Rights (OHCHR) recorded that until 6 March 2022 the death toll from the Russo-Ukrainian war reached 1,123 civilians, of which 364 people were killed and 759 injured. Among observers and practitioners of international politics, Russia's aggression against Ukraine has divided society into two opposing camps. On the one hand, there are those who accuse the pro-Russians of saying the war was the fault of the West.[19] On the other hand, there are those who accuse the pro-Western simply because they think the war was motivated by Russian ambitions. Clear analysis should not reinforce such a sentimental, black-and-white perspective. The

[17] Bilbil Kastrati, Samo Uhan, The EU's Common Security and Defence Policy in The Case of The Eulex Mission in Kosovo, *Journal Teorija In Praksa*, let. 58, 1/2021, p 202.

[18] BBCNews, *Perang Ukraina: Apa yang terjadi jika Putin menyatakan perang secara resmi*, https://www.bbc.com/indonesia/dunia-61347028, Mei 2022. Accessed 22 May 2022.

[19] Indra Kusumawardhana, *Mengapa Rusia Menyerang Ukraina?*, https://publika.rmol.id/read/2022/03/08/526122/mengapa-rusia-menyerang-ukraina, Maret 2022. Accessed 22 May 2022.

first and most widely accepted explanation is the feeling of being threatened by Russia by the expansion of NATO membership into Eastern Europe. An international political expert, John J. Mearsheimer, from University of Chicago, in his oft-cited article entitled Why the Ukraine Crisis is the West's Fault in the journal Foreign Affairs (2014) claims that the scapegoat for the Ukraine crisis must be placed on the US and its European allies for supporting NATO's expansion to the East. When NATO was formed in 1949 to counter the Soviet Union's Warsaw Pact, the alliance still had a membership of 12 countries.[20] Currently, NATO consists of 30 countries.[21] The expansion of NATO membership occurred during the Cold War (as many as 4 countries entered) and after the Cold War when 14 Eastern Bloc countries joined. Thus, NATO is the largest and strongest defense pact in the 21st century. The issue of expanding NATO membership has become a central point of conflict between Russia and the West. Since the beginning, the issue of NATO's expansion to Eastern Europe after the Cold War has made relations between the two sides hot and cold.[22]

Russia's concerns grew when Ukraine applied for NATO membership in 2008. After Russia's invasion of Crimea in 2014, this desire has strengthened. The majority of the Ukrainian public supports the plan.[23] As quoted from the Interfax-Ukraine news agency on April 18, 2016, 45 percent of the public supported

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[20] Adam Tooze, *John Mearsheimer and the dark origins of realism Rage aimed at the eminent international relations scholar reflects liberal frustration over the West's limited power to prevent Russia's war in Ukraine*, https://www.newstatesman.com/ideas/2022/03/john-mearsheimer-and-the-dark-origins-of-realism, March 2022. Accessed 22 May 2022.

[21] "The North Atlantic Treaty". North Atlantic Treaty Organization. 4 April 1949. Retrieved 16 June 2008.

[22] *Ibid.* Indra Kusumawardhana*, Mengapa Rusia Menyerang Ukraina?*.

[23] Harley Balzer, The Ukraine Invasion and Public Opinion, *Georgetown Journal of International Affairs*, Vol. 16, No. 1 (Winter/Spring 2015), p 79.

Ukraine's entry as a member of NATO while 30 percent refused. Dipper was also greeted. At the NATO summit in Brussels in June 2021, it was decided that NATO was open to Ukraine's wishes and said that Ukraine's foreign policy was free from foreign interference.[24] For Russia Ukraine's decision is clearly intolerable. In 2008, Russian President Vladimir Putin warned Ukraine not to join NATO or it would be attacked by Russian missiles.[25]

Historical and cultural factors also led to Russian aggression against Ukraine. Ukraine is a part of the Soviet Union. In the minds of the Russian political elites, this historical awareness is firmly attached to form the spirit of nationalism which is sometimes a bit exaggerated. Culturally, Ukraine has half the Russian identity. However, due to its geographical proximity to Europe, Ukraine is also influenced by European culture. As a result, Ukraine is a unique country because, on the one hand, it has a cultural identity as "Western" but on the other hand is also aware of being part of the "East" (Russia).[26]

The Office of the United Nations High Commissioner for Human Rights (OHCHR) noted that on April 17, 2022, 4,890 civilian casualties were in the country: 2,072 were killed and 2,818 injured. These include a total of 2,072 killed (537 boys, 327 girls, 38 girls, and 60 boys, as well as 71 children and 1,039 adults

[24] *Ibid.* Indra Kusumawardhana*, Mengapa Rusia Menyerang Ukraina?*.

[25] Article 2 paragraph (4) of the United Nations (UN) Charter prohibits "Actions that threaten or use force against the territorial integrity or political independence of another country or in any way contrary to the objectives of the United Nations." There are only two exceptions which are clearly stated in the UN Charter: Individual or collective self-defense under Article 51 of the UN Charter in the event of an armed attack, or authorized by the UN Security Council acting under Chapter VII of the UN Charter. Neither of these exceptions applies in the current situation. In particular, the Russian Federation does not have the right to defend itself individually against Ukraine.

[26] Jeffrey Mankoff, *Russia's War in Ukraine: Identity, History, and Conflict*, https://www.csis.org/analysis/russias-war-ukraine-identity-history-and-conflict, April 2022. Accessed 22 May 2022.

whose gender is unknown); a total of 2,818 were injured (327 men, 253 women, 56 women, and 61 men, as well as 155 children and 1,966 adults whose gender was unknown). In Donetsk and Luhansk regions: 2,103 victims (732 killed and 1,371 injured) In Government-controlled territories: 1,712 victims (653 killed and 1,059 injured) In territories controlled by the self-proclaimed 'republic': 391 victims (79 killed and 312 injured).[27]

Settlement of international disputes legally will result in binding decisions against the disputing countries. This binding nature is based on the fact that dispute resolutions or decisions taken are entirely based on legal provisions, final and binding.[28] Within an international organization, disputes can occur within the region, internal to the organization, or outside the organization's territory. Internal disputes or those within the organization's territory are usually caused by the emergence of regulations issued by international organizations, which are then not approved and accepted by one member or several existing members. In general, every dispute in the world is resolved through a dispute resolution process recommended by the United Nations and avoids violent dispute resolution. In resolving internal regional disputes, one of the main roles of Regional Organizations is to become a forum for consultation, organizing, and providing a negotiation forum for member countries both in conflict situations and in conditions

[27] Office Of the High Commissioner for Human Rights, *Ukraine: civilian casualty update 18 April 2022*, https://www.ohchr.org/en/news/2022/04/ukraine-civilian-casualty-update-18-april-2022, April 2022. Accessed 22 May 2022.

[28] Juvelin Rezara and Marcellino Gonzales Sedyantoputro, The Settlement of Territorial Disputes Among Countries in The Perspective of International Law and Other Aspects*, Indonesian Law Journal*, Volume 13; No. 1; July 2020, P-ISSN: 1907–8463; O-ISSN: 2772–8568, p 65.

that have the potential to cause conflict.[29] The European Union as a Regional International Organization cannot be separated from resolving disputes with the countries in it as well as resolving disputes with non-member countries. the role of regional organizations is very necessary for their role serves as the mediating media in a conflict. . Dispute resolution mechanisms have advanced greatly in European Union integration. Dispute resolution procedures within the European Union are carried out through legal path and alternative way offered as dispute resolution mechanisms.[30] In this research, the author will explain "Legal Analysis of The Role of The European Union as A Mediator in Russia-Ukraine Disputes".

B. Problem Formulation

1. What is the role of the European Union as a mediator in the Russia - Ukraine conflict?
2. What are the legal challenges and opportunities of the European Union to settle the dispute between Russia and Ukraine?

C. Research Objectives

1. To examine the role of the European Union as a mediator for the Russia - Ukraine conflict.

2. To analyze the legal challenges and opportunities of the European Union to settle the dispute between Russia and Ukraine.

D. Originality/ Literature Review

[29] Retno Sulistiani, Penguatan Kerangka Hukum Asean Untuk Mewujudkan Masyarakat Ekonomi Asean 2015*, Jurnal Education and development*, Vol.7, No.4 Edisi Nopember 2019, p 150.

[30] Siahaan, Carina, "Peran Uni Eropa dalam Proses Penyelesaian Sengketa Bagi Negara Anggota dan Negara Non Anggota". *Sumatra Journal of International Law*, Vol. 1, No. 3, 2013, p 10.

In order to emphasize the originality of this research and to avoid repetition or duplication of a theme with the same focus of study, the author conducted a search on previous studies. articles published in journals, dissertations, or theses published in journals were searched. Several studies relevant to the topic have been collected for comparison with previous studies are as follows:

First, Ida Bagus Nindya Wasista Abi, Putu Tuni Cakabawa Landra, and Anak Agung Sri Utari entitled "*Intervensi Rusia Di Ukraina Dalam Perspektif Hukum Internasional*".[31] in the form of a journal article in 2015. This study aims to analyze the factors behind the occurrence of Russian intervention in Ukraine and analyze the legality of Russia's intervention in Ukraine from the perspective of International Law.

Second, a study by Al Mukhlis with the title of the "*Konflik Ukraina Dan Rusia Terkait Masalah Status Krimea*",[32] in the form of an undergraduate thesis in 2016, whose research objective was to find out the Crimean Conflict involving Ukraine and Russia ad to explore the reactions of the European Union, America, and the United Nations to the Crimean referendum involving Russia.

Third, Rizky Widiasa, entitled "*Bingkai Identitas Dalam Konflik Geopolitik: Intervensi Militer Rusia Di Ukraina*",[33] in the form of a 2018 journal article, discussing the conflict between Russia and Ukraine which ended with the release

[31] Ida Bagus Nindya Wasista Abi, Putu Tuni Cakabawa Landra and Anak Agung Sri Utari, Intervensi Rusia Di Ukraina Dalam Perspektif Hukum Internasional, *Kertha Negara: Journal Ilmu Hukum*, Vol. 03, No. 03, September 2015.

[32] Al Mukhlis, *Konflik Ukraina Dan Rusia Terkait Masalah Status Krimea*, Fakultas Ilmu Sosial Dan Ilmu Politik, Universitas Satya Negara Indonesia, Skripsi, 2016.

[33] Rizky Widiasa, Bingkai Identitas Dalam Konflik Geopolitik: Intervensi Militer Rusia Di Ukraina, *Intermestic: Journal of International Studies*, Vol 3, No 1, (2018).

of the Crimea region. Russia defended itself by arguing that the annexation of Crimea was an effort to liberate the region aimed at protecting the majority of its ethnic citizens from the effects of political instability in Ukraine due to the emergence of the revolutionary movement. By analyzing specifically that focuses on the similarity of the identity of Ukrainian citizens in Crimea with Russians, this paper generally argues how historically similarity of identity can be a factor that supports oppressive actions taken by a country in achieving its geopolitical ambitions.

Fourth, Melyana Safira Lamusu, Michael Mamentu, Franky Rengkung, entitled *"Kebijakan Luar Negeri Vladimir Putin Dalam Menanggapi Konflik Ukraina"*,[34] in the form of a journal in 2022, which discusses the factors behind the Russian president Vladimir Putin in taking the policy to invade Ukraine. President Vladimir Putin intervened in Crimea for several reasons, including to defend the ethnic and Russian citizens living in the region, and to respect President Yanukovych's desire to maintain peace, legality, and law in Ukraine as the president of Ukraine recognized by Russia. In addition, Crimea is a territory of Ukraine with a majority population of ethnic Russians.

Fifth, Umm Ro'iyatu Nahdliyati Millati Hanifah, entitled "*Embargo Ekonomi sebagai Strategi Konfrontasi Uni Eropa terhadap Rusia pada Masa Konflik Ukraina 2013-2015*",[35] in the form of a journal article in 2017, which discusses the

[34] Melyana Safira Lamusu, Michael Mamentu, Franky Rengkung, Kebijakan Luar Negeri Vladimir Putin Dalam Menanggapi Konflik Ukraina, *Jurnal Politico*, Vol 11, No 2, (2022).

[35] Umm Ro'iyatu Nahdliyati Millati Hanifah, Embargo Ekonomi sebagai Strategi Konfrontasi Uni Eropa terhadap Rusia pada Masa Konflik Ukraina 2013-2015, *Sospol: Jurnal Sosial Politik*, Vol. 3 No. 2 (2017).

economic embargo imposed by the European Union on Russia and the background of the embargo using the theory of foreign policy strategy and the concept of energy security. The economic embargo policy carried out by the European Union is a strategy for the European Union's confrontation with Russia which is based on two things, namely the capability of the European Union which is considered higher than Russia and Russia's position which is considered a threat by the European Union.

Sixth, a journal article written by Achmad Syaroni and Arinto Nugroho entitled "*Analisis Yuridis Penyelesaian Sengketa Cyber Attack Pada Konflik Rusia Dan Ukraina Dalam Hukum Humaniter Internasional*",[36] in 2019 analyzes the application of international humanitarian law and forms of conflict resolution between Russia and Ukraine according to international law.

From the description of the authenticity of the research that has been described, it can be concluded that the focus of the research conducted by the author is different from previous studies. However, there are previous studies that have some similarities in focus and research makes its own contribution to complement further research. The six studies can be seen in the following table 1.1 list.

No.	Name and Title	Research Form and Year	Distinguishing Element
1.	Ida Bagus Nindya Wasista Abi, Putu Tuni Cakabawa Landra and Anak Agung Sri Utari	Journal 2015	The research objective is to analyze the factors behind the occurrence of Russian intervention. in Ukraine and

[36] Achmad Syaroni and Arinto Nugroho, Analisis Yuridis Penyelesaian Sengketa Cyberattack Pada Konflik Rusia Dan Ukraina Dalam Hukum Humaniter Internasional, *Novum: Jurnal Hukum*, Vol. 3 No. 2 (2017).

	entitled "*Intervensi Rusia Di Ukraina Dalam Perspektif Hukum Internasional*".		analyze the legality of Russia's intervention in Ukraine from the perspective of International Law.
2.	Al Mukhlis with the title of the "*Konflik Ukraina Dan Rusia Terkait Masalah Status Krimea*"	Thesis in 2016	Research objective is to find out the Crimean Conflict involving Ukraine and Russia. And to explore the reactions of the European Union, America, and the United Nations to the Crimean referendum involving Russia.
3.	Rizky Widiasa, entitled "*Bingkai Identitas Dalam Konflik Geopolitik: Intervensi Militer Rusia Di Ukraina*"	Research journal 2018	Disscusing the conflict between Russia and Ukraine which ended with the release of the Crimea region. Russia defended itself by arguing that the annexation of Crimea was an effort to liberate the region aimed at protecting the majority of its ethnic citizens from the effects of political instability in Ukraine due to the emergence of the revolutionary movement.
4.	Melyana Safira Lamusu, Michael Mamentu, Franky Rengkung, entitled *"Kebijakan Luar Negeri Vladimir Putin Dalam Menanggapi Konflik Ukraina"*	in the form of a journal in 2022	It discusses the factors behind the Russian president Vladimir Putin in taking the policy to invade Ukraine. President Vladimir Putin intervened in Crimea for several reasons, including to defend the ethnic and Russian citizens living in the region, and to respect President Yanukovych's desire to maintain peace, legality, and law in Ukraine as the president of Ukraine recognized by Russia. In addition, Crimea is a territory of Ukraine with a majority population of ethnic Russians.
5.	Umm Ro'iyatu Nahdliyati Millati Hanifah, entitled "*Embargo Ekonomi sebagai Strategi Konfrontasi Uni Eropa terhadap Rusia pada*	in the form of a journal in 2017	It discusses the economic embargo imposed by the European Union on Russia and the background of the embargo using the theory of foreign policy strategy and the concept of energy security. The economic embargo

	Masa Konflik Ukraina 2013-2015"		policy carried out by the European Union is a strategy for the European Union's confrontation with Russia which is based on two things, namely the capability of the European Union which is considered higher than Russia and Russia's position which is considered a threat by the European Union.
6.	Achmad Syaroni and Arinto Nugroho, entitled "*Analisis Yuridis Penyelesaian Sengketa Cyber Attack Pada Konflik Rusia Dan Ukraina Dalam Hukum Humaniter Internasional*"	in the form of a journal in 2019	It analyses the application of international humanitarian law and forms of conflict resolution between Russia and Ukraine according to international law.

Table 1.1.

This research aims to examine the role of the European Union as a mediator in the Russia-Ukraine conflict. Furthermore, it also aims to analyze the challenges and opportunities of the European Union to settle the dispute between the two countries.

E. Definition Of Terms

1. Mediation

There are various methods of carrying out conflict resolution efforts, one of which is mediation. Mediation is one method of conflict resolution that exists in alternative resolution. It is the resolution of disputes through efforts to adjust opinions between the disputing parties in a friendly manner. Mediation can be

carried out by the disputing parties by negotiation, goodwill or mediation, conciliation, and investigation.[37]

Reported in the book Conflict Resolution in Organizations (2017) by Djoys Anneke, mediation is a negotiation process facilitated by a neutral third party. The party is the mediator, who helps the two parties to the conflict resolve issues that satisfy both parties.[38] A mediator is a professional who provides mediation services. The task of the mediator is only to assist the parties in conflict so that they carry out negotiations to reach an agreement.[39] Meanwhile, the main purpose of mediation is to reach an agreement or solution regarding the conflict.

2. International Conflict Dispute

In general, international law distinguishes international disputes over disputes of a political nature and disputes of a legal nature. Political disputes are disputes in which a country bases its claims on non-juridical considerations, for example on the basis of politics or other national interests, while legal disputes are disputes in which a country bases its dispute or claim on the provisions contained in an agreement or which have been recognized by international law.[40]

F. Theoretical/ Conceptual Framework

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[37] Mahfud, Langkah Pencegahan Konflik Bersenjata, *UBELAJ*, Volume 1 Number 1, October 2016, p 73-74.

[38] Djoys Anneke Rantung*, Resolusi Konflik dalam Organisasi*, PT BPK Gunung Mulia: Jakarta. 2017, p 104.

[39] Cahya Dicky Pratama, "*Mediasi Sebagai Bentuk Usaha Resolusi Konflik*", https://www.kompas.com/skola/read/2020/12/05/161033869/mediasi-sebagai-bentuk-usaha-resolusi-konflik?page=all. 05 December 2020, Accessed 16 April 2020.

[40] Boer Mauna, *Hukum Internasional Pengertian Peranan Dan Fungsi Dalam Era Dinamika Global*, (Jakarta: P.T. Alumni, 2001), p 188.

1. Dispute Resolution in International Law

International disputes can be said to be one side of international relations. This is based on the idea that international relations that are held between states, states and individuals, or states and international organizations, often lead to disputes between them. These international relations include several aspects of life such as politics, social, and economics. According to Oscar Schachter, international public relations in the economic field are, "Economic relations among states including, inter alia trade, finance, investment, concessions, and development agreements, transfer of technology, economic cooperation and economic aid".[41]

International disputes are often equated with the term "disputes between countries". This view is a classic view assuming that the state is the only subject of international law, while in its development, currently, it is not only the state that is the subject of international law but there are subjects of international law who are not states, namely individuals and international organizations. Thus, what is meant by an international dispute is a dispute that arises or occurs between a state and a state, a state and a non-state legal subject and a non-state legal subject. In the study of public international law, there are two kinds of international disputes, namely legal or judicial disputes and political or non-justiciable disputes. A legal dispute is a dispute in which a country or other legal subject bases its dispute or claim on the provisions contained in a treaty or which have been recognized by international law. What is meant by a political dispute is a dispute whose claim is based on non-

[41] Oscar Schachter, *Sovereign Right and International Business*, International Law and Practice, Martinus Nijhoft Publisher, Dordrecht, 1991, p 300.

juridical considerations, for example on the basis of politics or other national interests.[42]

International legal experts confirm that the distinction between international disputes over legal disputes and political disputes does exist, but they have not yet reached an agreement on its content. This is because until now a truly objective basis has not been found, which allows for clear classification of the two types of disputes.[43] However, one view that is usually held is that a dispute which is subject to a court decision is a dispute in which there is a rule of law applicable to the dispute. This means that for other disputes that are not subject to court decisions, there are no rules of international law that may be applied.[44]

Broadly speaking, dispute resolution methods can be classified into two categories, namely:[45]

a) Methods of an amicable settlement, namely if the parties have been able to agree to find a friendly solution.
b) Methods of resolving disputes by force or by force, that is, if the solution used or imposed is through violence or war.

Peaceful dispute resolution is a positive law (binding provisions that must be enforced) that the use of force in relations between countries is prohibited and therefore international disputes must be resolved peacefully. This requirement was

[42] Boer Mauna, *Hukum Internasional (Pengertian Peranan dan Fungsi Dalam Era Dinamika Global)*, PT Alumni, Bandung, 2003, p 188.
[43] J.L. Briely, *The Law of Nation, An Introduction to The International Law of Peace*, Fourth Edition, Oxford at The Clarendon Press, 1949, p 263.
[44] *Ibid.*
[45] J. G. Starke*, Introduction to International Law*, 10th Ed, Butterworths, London, 1989, p 485.

originally stated in Article 2 paragraph 3 of the Charter of the United Nations (UN)[46] and subsequently by the Declaration of Principles of International Law Regarding Friendly Relations and Cooperation between States which was accepted by the United Nations General Assembly on October 24, 1970. In the declaration, it requested that all countries resolve their disputes by peaceful means in such a way that peace, international security, and justice are not disturbed.[47] Public international law recognizes two kinds of international disputes: legal or judicial disputes and political or non-justiciable disputes. In fact, there are no clear and generally accepted criteria for the meaning of these two terms. What is often used as a measure of a dispute as a legal dispute is when the dispute can or can be submitted and resolved by an international court. However, this view is difficult to accept. International disputes, theoretically in principle, can always be resolved by international courts. No matter how difficult a dispute is, even if there is no regulation, an international court seems to be able to decide it by relying on the principles of propriety and worthiness (*ex aequo et bono*).[48]

Political way: In resolving political disputes through political channels, there are several ways to resolve them, such as (1) negotiation, (2) mediation, (3) good office, (4) request or investigation (Inquiry). But according to J.G. Starke in his book; This classification does not mean that these processes are rigidly separate altogether, each of which is only suitable for resolving a particular group of

[46] Article 2 paragraph 3 of the Charter of the United Nations (UN): All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.

[47] Boer Mauna, *Hukum Internasional (Pengertian, Peranan, dan Fungsi Dalam Era Dinamika Global)*, Edisi ke2, PT. Alumni, Bandung, 2005, p 193.

[48] *Ibid.* Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, Cetakan Ketiga, p 3.

disputes.[49] This means that if in a dispute the four methods above can be used, the most important thing is that the disputing parties agree and do not object. Usually, the first step taken in the event of a dispute is negotiation. In Huala Adolf's book, he explains the meaning of negotiation as negotiations held directly between the parties with the aim of finding a solution through dialogue without involving a third party.[50] This method is highly recommended to be done, besides being effective it also does not take a lot of time and capital. Another definition of negotiation is an important peaceful dispute resolution technique because negotiation is an attempt to prevent more serious disputes from arising.[51] Usually negotiations are carried out by diplomatic representatives or the foreign ministry. If the disputed matter is large or very sensitive regarding the relationship between the State and the State or the State with international organizations, then the negotiations are carried out by the Head of State or the Head of the International Organization. The most important aspect of negotiations is that there must be mutual trust between the parties to the dispute. The distrust that arises actually hinders the negotiation process itself and hinders the achievement of the initial goal of the negotiation, namely resolving the dispute.

The resolution of international disputes legally will result in binding decisions against the disputing countries. This binding nature is based on the fact that dispute

[49] J.G. Starke, *Pengantar Hukum Internasional 2 Edisi Kesepuluh*, Sinar Grafika, Jakarta, 2007, p 646.

[50] Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, Sinar Grafika, Jakarta, 2006, p 26.

[51] Sri Seftianingsih Suwardi, *Penyelesaian Sengketa Internasional*, Penerbit Universitas Indonesia, 2006, p 7.

resolutions or decisions taken are entirely based on legal provisions, finals, and bindings.[52]

The settlement of international disputes using violence is broadly divided into

a) War: The use of violent weapons in a dispute can only be made possible in times of urgency to carry out self-defense if it is first attacked by another country. This action is based on Article 51 of the United Nations Charter which states:

> "Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations… Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council…".[53]

The use of war as an alternative to resolving an international dispute is an option that must be used in certain situations. The use of weapons as media for dispute resolution must be carried out for reasons of self-defense and not as an act to pressure other parties.

b) Retortion: retortion s a technical term for retaliation by a country for inappropriate actions from another country.[54] The form can be in the form of severance of diplomatic relations, revocation of diplomatic privileges, withdrawal of tax or tariff concessions, termination of economic assistance[55], restrictions on the movements of diplomatic representatives of opposing countries, withdrawal of exequatur for

[52] *Ibid.* Boer Mauna, *Hukum Internasional (Pengertian, Peranan, dan Fungsi Dalam Era Dinamika Global)*, p 227.

[53] Article 51 of the United Nations Charter.

[54] Pede, A. Peran Negara dalam Penyelesaian Sengketa Intenasional dengan Kekerasan Bukan Perang, *Jurnal Hukum Internasional Fakultas Hukum Universitas Hasanuddin*, Vol 1, no 3, (2014), p 385.

[55] Sefriani, *Hukum Internasional: Suatu Pengantar*. Jakarta: Rajawali Pers, (2012), p 197.

consuls of opposing countries, elimination of privileges of citizens or companies belonging to the opposing country, closure of borders for traffic flow, or rejection of imported goods produced by the opposing country.[56]

c) Reprisals: this is a method used by countries to seek compensation from other countries by taking retaliatory actions. The acts of reprisal may still be justified under international law.[57] At the present time, retaliation can be in the form of actions against the self or property of citizens of the opposing country, bombing of certain territories, residents of the territory of the opposing party, or termination of debt payments.[58]

d) Peaceful blockade: A peaceful blockade is an act of closing the entry and exit of a country by another country in response to unpleasant actions carried out by that country. This was done for example in January 1837 when thirteen ships of the British Royal Navy peacefully blockaded the coast of New Grenada. The British Ambassador in New Grenada ordered a halt to all traffic both into and out of New Grenada in an attempt to ask New Grenada to release the British consulate convicted of assaulting a local official. This blockade was considered "peaceful" because there was no declaration of war from either side.[59]

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[56] Suwardi, S. S, *Penyelesaian Sengketa Internasional*. Jakarta: UI Press, (2006), p 197.

[57] Danial, Peranan Dewan Keamanan Perserikatan Bangsa-Bangsa dalam Proses Penyelesaian Konflik Internasional. *Jurnal Ilmu dan Budaya Universitas Nasional Jakarta*, 2010, p 237.

[58] *Ibid.* Suwardi, S. S, *Penyelesaian Sengketa Internasional,* p 198.

[59] Williamson, R, *A Friendly Demonstration of Force: Pacific Blockade, International Law and State Identity, 1827 to 1921*. Thesis submitted asrequirement for the degree of Master of Arts in Legal Studies. Ontario: Charleton Univeristy. (2013), p 1.

e) Intervention: Intervention is defined as an activity carried out by a country, a group within a country, or an international organization that forcibly interferes with the internal affairs of another country. Interventions are carried out with the aim of maintaining or changing conditions, situations, or goods in the country.[60]

2. European Union

The European Union is neither a federal state nor an International Organization in the traditional sense, but an autonomous body between the two. In the legal field, the term used is supranational organization. The European Union is unique, in that its member states remain sovereign and independent states, but they combine their sovereignty and thus gain greater collective power and influence. In practice, an amalgamation of sovereignty means that member states are willing to delegate some of their power in terms of decision-making to a jointly established institution so that decisions on certain issues involving common Interest can be taken democratically at the European level.[61]

European Union structure comprises the European Parliament, The European Council, and The European Commission. The European Parliament is the legislative assembly of the European Union. Inaugurated in 1958 as the General Assembly, the European Parliament originally consisted of representatives elected by the national parliaments of the European Union member states. Starting in 1979,

[60] Eliza, E., Heryandi, & Syofyan, A. Intervensi Kemanusiaan (Humanitarian Intervention) Menurut Hukum Internasional dan Implementasinya dalam Konflik Bersenjata. *Fiat Justisia: Jurnal Ilmu Hukum*, 8 (4), (2014), p 2.

[61] Siahaan, Carina, "Peran Uni Eropa dalam Proses Penyelesaian Sengketa Bagi Negara Anggota dan Negara Non Anggota". *Sumatra Journal of International Law*, Vol. 1, No. 3, 2013, p 10.

members of the European Parliament (MEPs) are elected by direct universal suffrage for five-year terms. There are more than 700 members. The number of members per country varies depending on the population; for example, France, Germany, Italy, and the UK have more than 70 members of parliament each, while Cyprus, Estonia, Luxembourg, and Malta each have less than 7. Most MPs sit in one of the seven transnational political groups, rather than in the national cohort. However, a large number of members are not tied to any transnational group; they represent various political parties in their home countries.

The European Council defines the political direction and priorities of the European Union as a whole. It is not one of the European Union's legislatures, so it neither negotiates nor adopts European Union legislation. Instead, it sets the European Union's policy agenda, traditionally by adopting 'conclusions' during European Council meetings that identify issues of concern and action to be taken.[62] The Council of the European Union (commonly referred to as the Council of Ministers or simply the Council) or Council of the European Union is a forum for meeting Ministers of Member States and is the main decision-making body in the European Union. The council can make decisions through a unanimous procedure, and in sectors where Parliamentary decisions are required. It also makes decisions by an appropriate majority. Although generally referred to simply as the council, in practice, there are 16 council formations, including general issues, agriculture, environment, economy, finance, and social. The legal instruments stipulated, upon

[62] The European Council, https://www.consilium.europa.eu/en/european-council/#, Accessed 16 April 2022.

the recommendation of the Commission, may be in the form of Regulations, Orders, and Decisions.[63]

The European Commission (usually simply the Commission) or the European Commission is the driving force in building Europe. The Treaty of the European Community states that only the Commission has the right of initiative to submit proposals. No other European Union body or member state has the right to submit proposals other than the Commission. Even if the proposed proposal is rejected by the Council of the European Union and the European Parliament by way of a decision, only the Commission has the right to amend it (unless it is rejected by unanimity).[64]

3. Invasion

In general, invasions have various purposes, such as to conquer, liberate or re-establish control and authority over a country. The invasion also aims to change the government that has been established or obtain concessions from that government. Then, the invasion can also be the cause of war and be part of a larger strategy to end the war. By definition, the term invasion usually denotes a very large strategic effort because it is large-scale and long-term because it takes a large enough force to defend the territory and interests of the attacker. Usually, skirmishes, surprise attacks, raids, infiltrations, or guerrilla warfare are not considered invasions. A military operation that takes place within the territory of a single geopolitical entity is usually called an invasion if the military enters a well-

[63] Council of the European Union, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/council-european-union_en, Accessed 16 April 2022.

[64] European Commission, https://www.age-platform.eu/european-commission, Accessed 16 April 2022.

defined part of the territory and is, at the time of the operation, fully under the control of the armed forces.[65] The international legal basis of the Invasion is a blatant violation of Article 2 (4) of the United Nations Charter[66], which prohibits any state from using force against the territorial integrity or political independence of another country. It is also a crime of aggression.[67] An example of an invasion that occurred is the war in South Ossetia in 2008 August 8, Russia allied with the South Ossetian separatists and retaliated by sending troops to Georgia by bringing tanks and artillery to Tskhinvali. According to Russian president Dmitry Medvedev, Russia's goal is to protect the large number of residents of South Ossetia who have Russian citizenship status. Georgian President Mikheil Saakashvili said his country was protecting Georgia from Russian aggression and the Russian army was bombing Georgia.[68]

4. Remedy After Invasion Base International Invasion

In improving post-war relations, there are several things that the conflicting parties can do, namely:

Pre-negotiation: When defining pre-negotiations there is no standard definition but several variations on a similar theme providing a very broad

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[65] Alexander Haryanto, *"Apa Itu Invasi & Kategorinya: Seperti Kasus Perang Rusia-Ukraina?"*, https://tirto.id/apa-itu-invasi-kategorinya-seperti-kasus-perang-rusia-ukraina-gpve, 1 March 2022, Accessed 18 April 2022.

[66] Article 2 (4) of the United Nations Charter: All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

[67] Christofel Sanu, *Aspek Hukum Internasional Reangan Rusia ke Ukraina*, https://kumparan.com/christofel-vander-flores/aspek-hukum-internasional-reangan-rusia-ke-ukraina-1ximrUvcOPr, April 2022. Accessed 22 May 2022.

[68] Jim Nichol, *Russia-Georgia Conflict in August 2008: Context and Implications for U.S. Interests*, Congressional Research Service, Research Paper, RL34618, hlm 3-4.

understanding of the pre-negotiations process. Different writers tend to focus on different aspects of the pre-negotiations process in order to give their definitions. For example, Saunders suggests that "pre-negotiations cover two fundamental needs; the defining of the problem and developing a commitment to negotiation on the part of the parties", which are followed by a third phase, arranging the negotiations. Moreover, Zartman suggests that "pre-negotiations begin when one or more parties consider negotiation as a policy option and communicate this intention to the other party. It ends when parties agree to formal negotiations". The most notable difference between the two writers' definitions of the pre-negotiations stage of the negotiation process is Zartman's suggestion that pre-negotiations represent a "move from conflicting unilateral solutions for a multilateral problem to a joint search for cooperative multilateral or joint solutions". Meanwhile, Saunders focuses on a more basic definition. These differences can be seen across all the different academic opinions. As a result, it can be difficult to gain a concise understanding of exactly what pre-negotiations are. Most academic definitions place pre-negotiations to be part of the whole negotiation process. For example, Rothman suggests that pre-negotiations are an integrated process in which highly placed representatives of parties in conflict prepare for negotiation by jointly framing their issues of conflict, generating various options for handling them cooperatively, and interactively structuring the substance and process of future negotiations.[69]

[69] Elyse Wakelin, *Pre-Negotiations: A Necessary Pre-Requisite for Success in Diplomatic Negotiations*, https://www.e-ir.info/2012/08/15/pre-negotiations-a-necessary-pre-requisite-for-success-in-diplomatic-negotiations/, Accessed 17 April 2022.

The second stage is 'Around-the-Table' Negotiations where after the conclusion about how the negotiations will proceed, the negotiators will discuss in a more formal direction and discuss the main interests. In this stage there are two main parts, namely the formula stage which contains the formula or material to be brought, it can also be said as an agreement framework.[70] The second part is the detail stage, this stage is the toughest stage because in this part the negotiator tries to provide an explanation, and must be very careful in using language because it can happen between the negotiating parties. For this reason, this section is often carried out by people who are truly experienced. The detailed stage also contains the negotiator's efforts to show the mutual benefits that will be obtained so as to create a balance of benefits to create trust between the two parties. If trust is small then what appears is only fear and hope from cooperation getting smaller. This section is also called the moment of truth, there should be no mistakes because even one mistake will result in the worst thing, namely the absence of interest in negotiations.[71]

In every process and stage of negotiations, of course, it does not always run smoothly, there are always obstacles caused by various things, one of which is the interests of the negotiating parties. Negotiators will certainly prioritize their national interests if it is within the scope of negotiations between countries. The occurrence of failure in the middle of negotiations is very likely to occur, therefore a negotiator is required to able to create a conducive situation besides being required

[70] G. R. Berridge, *'Around-the-Table' Negotiations, Diplomacy Theory and Practice*, (Palgrave Macmillan, London), 2010, p 44.

[71] *Ibid.* G. R. Berridge, *'Around-the-Table' Negotiations, Diplomacy Theory and Practice.*

also to achieve the interests of the group.[72] In the initial or pre-negotiation stage it is very important for the negotiator to arrange a plan so that the opposing party or co-worker get influenced to continue the cooperation with no interest. This stage is also often used as an arena for the propaganda of interests. The next stage is a stage that has a higher level of complexity, as in the last stage in negotiations around the table detail stage which is a very important part, it takes people who are really experienced to show and even try to influence the opponent so that its interests are achieved. Strongly avoiding the occurrence of mistakes because mistakes will not only affect the group but will lead to some detrimental effects.[73] But the most important of all the components of negotiation is how a negotiator develops a strategy that will be used as a weapon. It takes a long time so that the footing that will be used is also strong in dealing with opponents. In formulating a strategy, many individuals are needed to find a strategy that really works.

Diplomatic momentum is a moment when a country agrees to participate or not participate in a diplomatic activity, or when a country shows a foreign policy for its response to its participation or non-participation in diplomatic activities at the international level which can be in the form of international agreements (generally) or other international commitments.[74] Diplomatic momentum, in practice, can be defined as the actions and/or national policies of a country aimed

[72] Martin Schweinsberg, Stefan Thau, Madan M. Pillutla, Negotiation Impasses: Types, Causes, and Resolutions, *Journal of Management*, Vol. 48 No. 1, January 2022, p 51-52.

[73] Professor E. Wertheim, *Negotiations and Resolving Conflicts: An Overview*, College of Business Administration, Northeastern University, p 6.

[74] Asoke Mukerji, *Diplomatic Theory and Practice*, https://www.gob.mx/cms/uploads/attachment/file/527580/DiplomaticTheoryandPractice.pdf, Accessed 18 April 2022.

at foreign countries. Diplomatic momentum can be part of a country's agreement to an international treaty and convention or *vice versa*.

The packaging agreement stage is the last stage that negotiators at the international level go through. It is a stage that requires negotiators to negotiate to decide what form of agreement can accommodate the proposals of countries that have reached the overlapping point. The packaging agreement can also be interpreted as an effort to make concessions and connect the winning and losing parties in negotiations.[75] There are many forms of agreement that the negotiator can choose to accommodate the contents of the agreement that has been made. The form of agreement can be in the form of a treaty, final acts, protocol, exchange of notes, general agreement, charter, concordat, convention, covenant, declaration, exchange of correspondence, *modus vivendi*, pact, understanding, and agreed minutes.[76] There is also another form of agreement that is rarely used, namely a statute. The statutes or legislative acts can be found in the statutes of the International Court of Justice.[77] There are four reasons why the contents of the negotiated agreement must be put in a container in the form of an agreement approved by each negotiator, namely international legal obligations at a premium, signaling importance at a premium, convenience at a premium, saving face at a premium. An agreement resulting from the negotiation process between countries must be packaged in a

[75] Robert D. Putnam, Diplomacy and Domestic Politics: The Logic of Two-Level Games, *International Organization*, Vol. 42, No. 3 (Summer, 1988), p 454.

[76] Britannica, *International Agreement*, March 15, 2016. https://www.britannica.com/topic/international-agreement. accessed 30 July 2022.

[77] Israr Khan, *Article 38 of the Statute of the International Court of Justice: A Complete Reference Point for the Sources of International Law?,* https://newjurist.com/article-38-of-the-statute-of-the-international-court-of-justice.html#:~:text=Article%2038(1)of%20the,principles%20recognized%20by%20civilized%20nations. 5 April, 2019, accessed 30 july 2022.

container that is able to represent the urgency of the contents of the agreement (signaling importance at a premium) because the form of the agreement can be a measure of how important the agreement must be fulfilled by the bound countries.[78] For example, the state felt that it had to fulfil the contents of the treaty which in fact was a peace treaty after the war rather than a memorandum of understanding. In addition, historical reasons can also be considered by the leader or state representative who is appointed as a negotiator to choose the appropriate form of agreement.[79]

G. Research Methods

1. Type of Research

The research method used in order to answer the problem formulation in this study is the normative legal research method. Normative legal research is carried out through library research by collecting, studying, and analyzing various legal materials, both secondary legal materials and relevant tertiary legal materials. The research data will then be presented qualitatively based on its relevance to the problem formulation.[80]

2. Research Approach

There are several approaches taken by the author in compiling this research, namely:

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[78] Tanya Alfredson, Azeta Cungu, *Negotiation Theory and Practice, A Review of the Literature*, Food and Agriculture Organization of the United Nations, EASYPol Module 179, 2008, p 3.

[79] *Ibid.* G. R. Berridge, *'Around-the-Table' Negotiations, Diplomacy Theory and Practice*, p 70-71.

[80] Johnny Ibrahim, *Teori dan Metodologi Penelitian Normatif*, (Bayumedia Publishing, Malang), 2006, p 6.

a) Approach using statutory approaches that are linked to the formulation of the problems discussed in it.[81]

b) In this study the author uses a conceptual approach because it is a type of approach in legal research that provides an analytical point of view of problem solving in legal research seen from the aspects of the legal concepts that lie behind it, or even can be seen from the values contained in the norm.[82]

3. Sources of Data

The sources of data used in this study are secondary data sources consisting of primary legal materials, secondary legal materials, and tertiary legal materials. The data collection method used in this research is document study. Data analysis cannot be separated from various interpretations.

a) Primary legal materials are binding legal materials because they are issued by the government or international regulations, and are discussed in this study such as United Charters, International Law related to international disputes, Humanitarian Law, and also peace treaties, such as Statute of the International Court of Justice, Vienna Convention on the Law of Treaties between States 1969.

[81] What is meant by this statutory approach is that it is carried out by reviewing all statutory regulations relating to the problems (legal issues) that are being faced. quoted on Meray Hendrik Mezak. Jenis, Metode dan Pendekatan Dalam Penelitian Hukum, *Law Review. Faculty of Law, Pelita Harapan University*, Vol. V, No. 3. March 2006, p 92.

[82] Conceptual approach is a type of approach in the legal approach that provides a point of view of analysing problems in legal research seen from the aspects of the legal concepts behind it, or even can be seen from the values contained in the norm. "*Pendekatan Perundang-Undangan (Pendekatan Negara) Dalam Penelitian Hukum*", https://www.saplaw.top/approach-perundang-undang-statute-approach-dalam-penelitian-law/#:~:text=Approach%20conceptual%20(conceptual%20approach)%20is the value%20which%20contains%20in%20normalization, accessed on May 16, 2022.

And peace treaties in the European Union, such as the European Convention for the Peaceful Settlement of Disputes 1957.

b) Secondary Legal Materials are legal sources that are not binding but describe primary legal materials which are the result of processed opinions or thoughts of experts or experts studying a particular field, either in the form of papers, as well as books, and journals as the main reference.

c) Tertiary legal materials are sources that provide explanations for primary and secondary legal materials.

4. Data collection Method

The data collection technique carried out through literature study[83], namely by examining the rules in law, journals, or other existing legal sources that are related to the subject matter under study.

5. Method of Data Analysis

This research uses data analysis by means of descriptive qualitative research by examining data that has been obtained from the literature and selecting other sources that are in accordance with the object under study[84]. After that, a few conclusions are drawn objectively and systematically in the form of a narrative.

H. Thesis Framework

To make it easier for the author to compile a more structured and systematic thesis, the systematic writing is organized as follows:

[83] Literature study is a series of activities related to the methods of collecting library data, reading and taking notes, and managing research materials.

[84] Sugiyono, *Metode Penelitian Kuantitatif Kualitatif Dan R&D*, (Alfabeta, Bandung), 2010. p 9.

Chapter I Introduction: Contains background, problem formulation, research objectives, originality, definition of the terms, theoretical framework, research methods, and, research systematics. In this chapter, the author presents an introduction to the problem, the origin of the problem, and the subject being investigated.

Chapter II Literature Review: Describes the literature review or the theories related to this research. in this chapter the researcher describes a juridical basis relating to the subject matter being investigated.

Chapter III Discussion: This chapter discusses the main issues related to the role of the European Union as a peacemaker or mediator in the Russia-Ukraine conflict and the challenges and opportunities of the European Union to resolve the dispute.

Chapter IV Conclusion: In this chapter, the researcher makes conclusions which are the answers to the formulation of the problem, and provides suggestions on the results of research.

CHAPTER II

LEGAL THEORY OF DISPUTE RESOLUTION AND THE EUROPEAN UNION

A. The Theory of Disputes

According to Oppenheim and Kelsen, every dispute has its political and legal aspects. These disputes are usually between sovereign states. Disputes that are considered legal disputes may involve the high political interests of the countries concerned and *vice versa*. Disputes which are considered to have a political nature may actually involve the application of the principles or rules of international law.[85] According to Boer Mauna, a political dispute is a dispute in which a country bases its demands on non-juridical considerations, for example on the basis of politics or other national interests. For this non-legal dispute, the dispute resolution is political. Meanwhile, legal disputes are disputes in which a country bases its dispute on its demands on the provisions contained in an agreement or which have been recognized by international law.[86] Furthermore, he also divides political dispute resolution (non-juridical) which includes:

a) Settlement of disputes within the framework of inter-states, namely diplomatic negotiations (negotiations, goodwill, mediation), questionnaires, and international conciliation.
b) Settlement of disputes within the framework of the United Nations organization, namely preliminary observations, the main role of the

[85] Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, Cetakan Ketiga, Sinar Grafika, Jakarta, 2008, p 5-6.
[86] Boer Mauna, *Hukum Internasional (Pengertian, Peranan, dan Fungsi Dalam Era Dinamika Global)*, Edisi ke2, PT. Alumni, Bandung, 2005, p 193.

United Nations Security Council (DK), and the intervention of the United Nations General Assembly (MU). The powers of the Secretary-General.

c) Settlement of disputes within the framework of regional organizations, namely, the Arab League, the Organization of American States, the Organization of African Unity, the European Union, ASEAN and others.

Settlement of international disputes legally will result in binding decisions against the disputing countries. This binding nature is based on the fact that dispute resolutions or decisions taken are entirely based on legal provisions, Final and binding.[87]

Within an international organization, disputes can occur within the region or internal to the organization, or outside the organization's territory. For internal disputes or those within the organization's territory, it is usually caused by the emergence of regulations issued by international organizations, which are then not approved and accepted by one member or several existing members.[88] In general, every dispute in the world is resolved through a dispute resolution process recommended by the United Nations and avoids violent dispute resolution. In resolving internal regional disputes, one of the main roles of Regional Organizations is to become a forum for consultation, organizing, and providing a

[87] Walter Poeggel and Edith Oeser, *Methods of Diplomatic Settlement*, dalam Mohammed Bedjaoui (Editor), *International Law: Achievements and Prospects*, Martinus Nijhoff and UNESCO, Dordrecht, 1991, p 512.

[88] Retno Sulistiani, Penguatan Kerangka Hukum Asean Untuk Mewujudkan Masyarakat Ekonomi Asean 2015*, Jurnal Education and development*, Vol.7, No.4 Edisi Nopember 2019, p 150.

negotiation forum for member countries both in conflict situations and in conditions that have the potential to cause conflict.[89]

The European Union as a Regional International Organization cannot be separated from disputes, be it between member countries and the Commission in the European Union, disputes that occur between member countries and disputes between the European Union and non-member countries, and for all of this, a role is needed. Dispute resolution mechanisms have advanced greatly in The EU integration. Dispute resolution procedures within the European Union are carried out through legal channels and alternative channels offered as dispute resolution mechanisms.[90]

B. The European Union

The European Union is neither a federal state nor an International Organization in the traditional sense, but an autonomous body between the two. In the legal field, the term used is supranational organization. The European Union is unique in that its member states remain sovereign and independent states, but they combine their sovereignty and thus gain greater collective power and influence. In practice, an amalgamation of sovereignty means that member states are willing to delegate some of their power in terms of decision-making to a jointly established

[89] *Ibid.* Retno Sulistiani, Penguatan Kerangka Hukum Asean Untuk Mewujudkan Masyarakat Ekonomi Asean 2015.

[90] Anatasia Anjani, *Mengenal Uni Eropa: Peran dan Strukturnya*, https://www.detik.com/edu/detikpedia/d-5965014/mengenal-uni-eropa-peran-dan-strukturnya, 02 Mar 2022, Accessed 1 August 2022.

institution so that decisions on certain issues involving common interests can be taken democratically at the European level.[91]

1. The Structure of The European Union

a. The European Parliament

The European Parliament is the legislative assembly of the European Union (EU) inaugurated in 1958 as the General Assembly. It originally consisted of representatives elected by the national parliaments of the EU member states. Starting in 1979, members of the European Parliament (MEPs) are elected by direct universal suffrage for five-year terms. There are more than 700 members. The number of members per country varies depending on the population; for example, France, Germany, Italy, and the UK have more than 70 members of parliament each, while Cyprus, Estonia, Luxembourg and Malta each have less than 7. Most MPs sit in one of the seven transnational political groups, rather than in the national cohort. However, a large number of members are not tied to any transnational group; they represent various political parties in their home countries. The largest transnational groups are the center-right Group of the European People's Party (Christian Democrats) and the Progressive Alliance of Socialists and Democrats (mainly made up of members of the European Socialist Party). The Alliance of Liberals and Democrats for Europe (dominated by members of the Liberal Democrats and Reform Europe) also occupied a large number of seats. The European Parliament meets annually for about 12 plenary sessions a week in Strasbourg, France. Most of the other work (e.g., committee meetings) takes place

[91] Siahaan, Carina, Peran Uni Eropa dalam Proses Penyelesaian Sengketa Bagi Negara Anggota dan Negara Non Anggota. *Sumatra Journal of International Law*, Vol. 1, No. 3, 2013, p 10.

in Brussels. The Bureau, which is responsible for the budget, administration, and organization of Parliament, is headed by a president and 14 vice presidents who are elected from among the members of Parliament for a term of 30 months. Parliament is further divided into specialized committees, including those dealing with foreign affairs, budget, agriculture, economic and monetary, employment, women's rights, civic freedoms and rights, environment, and regional affairs. Interim committees are also formed on occasion to address issues of particular concern. Parliament is assisted in its work by the Secretariat, which spends most of its time translating and interpreting the 23 official EU languages.[92]

The powers of the European Parliament, originally only as a consultative body, have increased in several areas as integration has progressed. For example, Parliament has veto power in most areas related to economic integration and budget policy.[93] With the entry into force of the Lisbon Treaty in 2009, Parliament took further legislative powers. In particular, the decision procedure, in which Parliament adopts legislation in conjunction with the Council of the European Union (a decision-making body made up of ministerial representatives from member states), is extended to many policy areas. It also serves as a democratic check on other European Union institutions.[94] In particular, it must approve and be empowered to remove the president of the European Commission (the main executive body of the European Union). Parliament also has the power to denounce

[92] Britannica, The Editors of Encyclopaedia. *European Parliament*. Encyclopedia Britannica, 3 May. 2017, https://www.britannica.com/topic/European-Parliament. diakses 26 May 2022.

[93] The European Parliament: Powers, https://www.europarl.europa.eu/ftu/pdf/en/FTU_1.3.2.pdf, Accessed 1 August 2022.

[94] Explaining the Treaty of Lisbon, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_09_531, MEMO/09/531, Brussels, 1 December 2009, Accessed 1 August 2022.

the Commission with two-thirds of the votes of its members, forcing the Commission to resign. Although the censure was never voted on, the entire Commission resigned rather than face such a motion in 1999.[95]

b. The European Council

The Council of Europe defines the political direction and priorities of the European Union as a whole. It is not one of the European Union's legislatures, so it neither negotiates nor adopts European Union legislation. Instead, it sets the European Union's policy agenda, traditionally by adopting 'conclusions' during European Council meetings that identify issues of concern and action to be taken.[96]

Members of the Council of Europe are the heads of state or government of the 27 member states of the European Union, the President of the Council of Europe, and the President of the European Commission. The Union High Representative for Foreign Affairs and Security Policy also takes part in the Council of Europe meetings when foreign issues are discussed. The European Council largely makes its decisions by consensus. However, in certain specific cases outlined in the European Union agreement, it is decided unanimously or by a qualified majority. In the decision-making process, if a vote is taken, neither the President of the Council of Europe nor the President of the Commission takes part. The conclusions of the Council of Europe are adopted during each meeting of the Council of Europe. They are used to identify specific issues of concern to the European Union and outline specific actions to be taken or goals to be achieved.

[95] *Ibid.*

[96] The European Council, https://www.consilium.europa.eu/en/european-council/#, Accessed 26 May 2022.

The Council of Europe may also set deadlines for reaching an agreement on certain items or for the presentation of legislative proposals. In this way, the Council of Europe can influence and guide the European Union's policy agenda.[97]

c. The European Commission

The European Commission (usually simply called the Commission) or the European Commission is the driving force in building Europe. The Treaty of the European Community states that only the Commission has the right of initiative to submit proposals. No other European Union body or member state has the right to submit proposals other than the Commission. Even if the proposed proposal is rejected by the Council of the European Union and the European Parliament by way of a decision, only the Commission has the right to amend it (unless it is rejected by unanimity). The Commission also has the role of custodian of all European Union laws and regulations. In this regard, one of the main tasks of the Commission is to ensure that member states comply with all European Union regulations.[98]

d. European Union Council

The Council of the European Union (usually referred to as the Council of Ministers or simply the Council) or Council of the European Union is a meeting forum for Ministers of member states and is the main decision-making body in the European Union. The council can make decisions through a unanimous procedure, and in sectors where Parliamentary decisions are required. The council makes decisions by an appropriate majority. Although generally referred to simply as the

[97] How the European Council works, https://www.consilium.europa.eu/en/european-council/how-the-european-council-works/, 16 June 2022, Accessed 1 August 2022.

[98] European Commission, https://www.age-platform.eu/european-commission, Accessed 26 May 2022.

council, in practice, there are 16 council formations, including general issues, agriculture, environment, economy, and finance, social. The legal instruments stipulated, upon the recommendation of the Commission, may be in the form of Regulations, Orders, and Decisions. In addition to these three matters which are legally binding, the Council and the Commission can also issue Recommendations and Opinions which are not legally binding.[99]

The council mandates the commission to negotiate on behalf of European Union agreements between the European Union and non-EU countries and international organizations. At the end of the negotiations, the Council decides on the signing and conclusion of the agreement, based on the proposals of the Commission. The Council also adopts a final decision to conclude the treaty, after Parliament has given its approval (required in areas subject to joint decisions) and has been ratified by all European Union member states. These agreements can cover broad areas, such as trade, cooperation, and development, or they may deal with specific subjects such as textiles, fisheries, customs, transportation, science, and technology.[100]

2. Courts of the European Union

The Court of Justice of the European Union (CJEU), also known as the European Court of Justice (ECJ), is the judicial branch of the European Union (EU). Its basic mission is to ensure the observance and uniform application and interpretation of European Union law within European Union member states and

[99] Council of the European Union, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/council-european-union_en, Accessed 26 May 2022.

[100] The Council of the European Union, https://www.consilium.europa.eu/en/council-eu/, 1 June 2022, 1 August 2022.

institutions. Its head office is in Luxembourg. The CJEU stems from the individual courts established in the 1950s for the European Coal and Steel Community (ECSC), European Economic Community (EEC), and European Atomic Energy Community (EAEC).[101] The function of these courts is to ensure that these organizations comply with the law in their interpretation and application of the agreements with which they are established. In 1957, under the Treaty of Rome, a single CJEU was created to serve the three European Communities, later called the European Community (EC). The European Union incorporated the EC in 1993 and officially replaced it in 2009. In 1988 the Court of First Instance was established to reduce the workload of existing courts; it was renamed the General Court in 2009. The General Court is now one of the two courts comprising the CJEU, the other being the Court of Justice.[102]

Courts issue decisions on the interpretation of European Union law to the national courts of European Union member states and hear various actions involving member states and institutions, including actions brought by the European Commission or by member states for the failure of member states to comply obligations under European Union law; an action brought by a member state against the European Parliament or the European Commission, or by one European Union agency against another, seeking the annulment of a regulation, directive or decision; and appeals to the legal points of the General Court's

[101] Pengadilan Uni Eropa: Sejarah, Yurisdiksi, & Komposisi, https://delphipages.live/id/politik-hukum-pemerintahan/hukum-kejahatan-hukuman/european-court-of-justice, 05 Sep, 2020, 1 August 2022.

[102] Britannica, "*Court of Justice of the European Union*". Encyclopedia Britannica, 20 Apr. 2020, https://www.britannica.com/topic/European-Court-of-Justice. Accessed 26 May 2022.

decisions.[103] The General Court hears actions involving member states, institutions, and legal entities or individuals, including actions brought by legal entities or legal entities against European Union institutions for failing to act in accordance with European Union law or brought by them seeking the annulment of regulations, directives, or decisions; actions taken by member states against the European Commission; and actions against European Union institutions on specific issues, such as state aid, trade, intellectual property or labor relations.[104]

When speaking of The Court of Justice of the European Union CJEU, one usually refers to the European Court of Justice (ECJ). However, the CJEU actually consists of three courts: the European Court of Justice, the General Court, and the European Court of Civil Services. They all serve different purposes. The ECJ has twenty-eight judges, one from each Member State.[105] Furthermore, the General Court has thirty-five judges, and European Court of Civil Services has seven judges. The main task of the General Court is to consider cases brought by companies and individuals against European Union institutions, and by member states against the European Commission or the European Central Bank. His most important jobs are in the areas of competition, intellectual property and external trade law. The Civil Service Court hears disputes involving employees of the European Union institutions.[106] The Nice Treaty provides for the formation of judicial panels in certain areas. This provision was later amended and codified in Article 257

[103] Competences Of the Court of Justice of The European Union, Fact Sheets on The European Union - 2022, https://www.europarl.europa.eu/factsheets/en/sheet/12/competences-of-the-court-of-justice-of-the-european-union, 1 August 2022.

[104] *Ibid.* Britannica, "*Court of Justice of the European Union*".

[105] Damian Chalmers, *The Court of Justice*, https://ukandeu.ac.uk/explainers/the-court-of-justice/, 18 May 2016, 1 august 2022.

[106] *Ibid.* Britannica, "*Court of Justice of the European Union*".

("*special court*") of the Treaty on the Functioning of the European Union by the Treaty of Lisbon:[107]

> "The European Parliament and the Council, acting in accordance with ordinary legislative procedures, may establish special courts attached to the General Courts to hear and determine at first instance the class of actions or processes brought in a particular area. The European Parliament and the Council will act through regulations either on the proposal of the Commission after consultation with the Court or at the request of the Court after consultation with the Commission [...]".

The Council of the European Union on November 2, 2004, adopted the basis of a decision establishing the European Union Civil Services Court.[108] A new special tribunal, consisting of seven judges, was summoned to adjudicate disputes between the European Union and its civil servants, jurisdiction until 2005 exercised by the General Court. Its decisions are subject to appeal on legal questions only to the General Court and, in exceptional cases, for review by the European Court. The European Union Civil Service was established on 2 December 2005. It was dissolved on 1 September 2016, despite the success of its mandate, in order to double the size of the General Court.[109]

There are two sources of confusion. First, the ECJ is often confused with the European Court of Human Rights. The latter is a different court that is not part of the European Union. It is the court that make judgments about the voting rights of prisoners. Second, each ECJ judge is assisted by an Advocate General who is

[107] The Treaty on the Functioning of the European Union, Article 257 (ex-Article 225a TEC).

[108] The Council of The European Union Has Adopted the Decision Establishing the European Union Civil Service Tribunal, The Treaty of Nice Provided for The Creation of Judicial Panels in Certain Specific Areas. The Council Today Adopted on That Basis A Decision Establishing the European Union Civil Service Tribunal. CJE/04/88, 2 November 2004.

[109] Regulation (EU, Euratom) 2016/1192 of the European Parliament and of the Council of 6 July 2016 on the transfer to the General Court of jurisdiction at first instance in disputes between the European Union and its servants, Document 32016R1192.

tasked with providing an independent opinion on each case.[110] These opinions provide impartial advice to judges to help them reach their decisions and are non-binding – Courts can reach the same conclusions as the Attorney General but for different reasons. The problem is that, too often, this opinion is presented as the ECJ's judgment or as something the ECJ will almost certainly follow.[111]

3. Court of Auditors (CoA)

The Court of Auditors calls itself the European Union's financial 'conscience'. The CoA was established through the Treaty of Brussels on 22 July 1975, was created in 1977, and is recognized as a Community Institution by the Maastricht Agreement. The Court of Auditors has no judicial function, so it is not really a court, but an Independent Auditing body, the European Union's financial watchdog.[112] In order to fulfill all of its duties, the CoA has strong investigative powers, that is, it can investigate the documents of any person or organization dealing with European Union income or expenses. However, the CoA does not have the power to prosecute those responsible for irregularities. In situations where irregularities are suspected, the CoA will prepare a written report, and depending on who it deems accountable to them, the report will eventually be submitted either to the Commission or to the Member State concerned.[113] If the CoA suspects fraud, corruption, or other illegal acts, the case is referred to the European Anti-Fraud Office.[114]

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[110] *Ibid.* Damian Chalmers, *The Court of Justice*.

[111] *Ibid.*

[112] European Court of Auditors, https://www.eca.europa.eu/en/Pages/History.aspx, Accessed 1 August 2022.

[113] European Court of Auditors, https://european-union.europa.eu/institutions-law-budget/institutions-and-bodies/institutions-and-bodies-profiles/eca_en, Accessed 26 May 2022.

[114] *Ibid*. European Court of Auditors.

C. Mediation

The agreement is determined by the parties involved in the conflict itself. The mediation method is usually chosen because the two parties to the conflict no longer have the ability to resolve the conflict on their own. Therefore, both parties ask for the help of a mediator to resolve their conflict. Mediation activities often require a long process and patience. The mediation processes are as follows:

a) identifying mediation needs,
b) conflict mapping,
c) developing intervention designs,
d) conducting hearings,
e) developing a conducive conflict climate,
f) Conflict element transformation,
g) formulating decision alternatives together,
h) choosing one of the mutually agreed alternatives,
i) The parties to the conflict agree to choose one of the alternatives suggested by the mediator and sign a joint decision,
j) executing the agreement.[115]

In the book "*Konflik dan manajemen konflik: teori, aplikasi, dan penelitian*" (2010) by Wirawan, it is explained that there are three types of mediators, namely:

a) Social network mediator: A social network mediator is an individual who is asked to be a mediator because he has a relationship with the parties to

[115] Tanya Glaser, Summary of "*The Mediation Process: Practical Strategies for Resolving Conflict*" by Christopher Moore, https://www.beyondintractability.org/bksum/moore-mediation, Accessed 18 April 2022.

the conflict. The individual is part of a social network, such as a friend, neighbor, co-worker, business colleague, religious leader, and so on.

b) Authoritative mediator: An authoritative mediator is someone who is chosen to be a mediator because he has an authority relationship with the parties to the conflict. An example is a superior who has the capacity to influence those (parties) involved in the conflict. However, this type of mediator does not have the right to make decisions. The mediator only helps develop alternatives and select the best alternative for both parties to the conflict.

c) Independent mediator: An independent mediator is a professional mediator who intervenes in a neutral manner with the parties to the conflict. This type of mediator usually exists in cultures that have developed a tradition of helping to resolve conflicts with professional assistance. Members of this culture prefer help and advice from outsiders who are considered to have no permanent interest in the intervention process and conflict resolution. This type of mediator is clearly different from social network mediators and authoritative mediators as these often have particular interests in the parties to the conflict. Meanwhile, independent mediators do not have any interests, they must be neutral. They are purely carrying out their duties as a professional mediator.[116]

[116] *Ibid.* Tanya Glaser, Summary of "*The Mediation Process: Practical Strategies for Resolving Conflict*".

D. International Dispute

The International Court of Justice (ICJ) stipulates four criteria for international disputes, namely:

a) Based on objective criteria. The point is to look at the facts that exist. Example: The case of the United States and Britain's invasion of Iraq.
b) Not based on the arguments of either party. Example: USA vs. Iran 1979 (Iran case). In this case, the International Court of Justice in making a decision is not only based on arguments from the United States, but also on Iran.
c) Denial of an event or fact by one of the parties regarding the existence of a dispute does not in itself prove that there is no dispute. Example: Case Concerning the Northern Cameroons 1967 (Cameroons vs. the United Kingdom). In this case, the UK stated that there was no dispute between the UK and Cameroon, even though the UK said that the dispute was between Cameroon and the UN. From the case between England and Cameroon, it can be concluded that it is not the parties to the dispute who decide whether there is a dispute but must be resolved/decided by a third party.
d) There is a conflicting attitude from both parties to the dispute. Example: Case Concerning the Applicability of the Obligation to Arbitrate under section 21 of the United Nations Headquarters agreement of 26 June 1947.

Based on the two conventions of The Hague regarding the resolution of international disputes, the countries (members) make maximum efforts to resolve

international disputes peacefully. For that purpose, as long as the circumstances permit the parties agree to submit their dispute to good offices, mediation, or a commission of inquiry to resolve their dispute (diplomatic method). If this diplomatic method fails, then the submission of the dispute to arbitration is only permitted.[117] Today international law has set a minimum obligation for all member states of the United Nations to settle their international disputes peacefully. This provision is stated in particular in Articles 1, 2, and 33 of the United Nations Charter. The obligation requires that states must settle their disputes by peaceful means in such a way that international peace and security and justice are not threatened. Although it is universal, this obligation does not mean that it is absolutely binding on the state. The state is the only subject of international law that has full sovereignty. It is a subject of international law par excellence. Therefore, even though a country is subject to the obligation to settle disputes peacefully, it still has full authority to determine the methods or methods of resolving disputes. This obligation remains subject to the agreement (consensus) of the country concerned.[118]

One of the goals of the establishment of the United Nations is to maintain international peace and security. This can be seen in Article 1 paragraph (1) of the United Nations Charter[119]. Implicit in the provisions of the article is the function of

[117] Melda Theresia Sihombing, Penyelesaian Sengketa Internasional Melalui Kekuatan Bersenjata Oleh Perserikatan Bangsa-Bangsa Dalam Menjaga Perdamaian Dunia, *Journal of International Law*, Vol 1, No 1 (2013), p 3.

[118] Huala Adolf, *Hukum Penyelesaian Sengketa Internasional*, (Bandung: Sinar Grafika, 2004), p 10-11.

[119] Charter of the United Nations, Chapter I Purposes and Principles, Article 1: "1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the

this world body and its member countries, namely to jointly create and encourage the resolution of international disputes. In particular, for its member countries, Article 2 paragraph (3) of the Charter provides further arrangements to implement and achieve the above objectives. This article obliges all member countries to resort to peaceful settlement methods. Article 2 paragraph (3) which is very important states: "All members shall settle their international disputes by peaceful means in such a manner that international peace and security are not endangered."[120]

The word shall (should) in the sentence above is one of the keywords that oblige states to resort to peaceful means in resolving their disputes. Other obligations are contained in Article 2 paragraph (4). This article states that in international relations, all countries must refrain from violent means, namely the threat and use of weapons against other countries or methods that are inconsistent with the objectives of the United Nations. Article 2 paragraph (4) reads:

> "All members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state or in any manner inconsistent with the purpose of the United Nations."[121]

It is necessary to emphasize the two obligations contained in the two paragraphs above, namely the obligation to refrain from using armed force. These two obligations must be seen as independent. Specifically, regarding the principle of prohibiting the use of armed or non-peaceful force, although it is stated in the United Nations Charter, in its later development it is no longer solely binding on

principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace."

[120] Article 2 paragraph (3) of the United Nation Charter.

[121] Article 2 paragraph (4) of the United Nation Charter.

member states of the United Nations.[122] The provisions of the United Nations Charter also do not provide for an express prohibition against the use of armed force in resolving an international dispute. The United Nations Charter even stipulates the possibility of resolving international disputes using armed force which will be carried out by the United Nations Security Council if peaceful methods of resolving international disputes, both diplomatically and legally, are deemed no longer able to resolve disputes that occur. Many actions using armed force are happening today and this of course makes the people suffer.

1. International Rules

Russia's political policy to take military action into Ukraine using Article 51 of the United Nations Charter[123] on the Right to Self-defense is not supported by facts, arguments, or legal and clear legal grounds. The attack is in fact a blatant violation of the sovereignty of the state and the territorial integrity of Ukraine, which is not in the least justified. This is contrary to the principles and provisions contained in the United Nations (UN) Charter Article 1 paragraph (1), Article 1 paragraph (2)[124], Article 2 paragraph (3), and Article 2 paragraph (4)[125], all of which

[122] *Ibid.* Huala Adolf, *Hukum Penyelesaian Sengketa Internasional.* p 12.

[123] UN Charter, Article 51. Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations until the Security Council has taken measures necessary to maintain international peace and security.

[124] 1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity 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; 2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.

[125] 3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. 4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

explicitly recognizes sovereignty as the main thing in international relations. It also calls for the maintenance of international peace and security through the restriction of the use of armed force against the territorial integrity or political independence of any country. Not only that, Russia's actions are also a serious violation of a number of other contemporary international legal rules such as international humanitarian law and international human rights, including international morality. Furthermore, in international law, Russia's actions against Ukraine in Crimea in 2014 and what it is currently doing can qualify as acts of aggression, both in a technical and substantive sense.

The definition of aggression was framed by the United Nations General Assembly in 1974 as 'an attack by the armed forces of one state on the territory of another state, or the military occupation or annexation by the use of armed force against another territory or part of a state'. Russia's actions both in Crimea in 2014 and in Ukraine today represent the criteria outlined in the definition. Furthermore, objectively it can also be said that the military attack was also indicated as a form of serious violation of international humanitarian law standards. The attack in almost the entire country of Ukraine which has killed more than 550 innocent civilians according to a report from the Office of the United Nations High Commissioner for Human Rights (OHCHR), is a direct violation of the 1949 Geneva Conventions.to civilians. The attack was also a violation of Article 51 paragraph (5) letter (b) of Additional Protocol I of 1977[126], which prohibits all forms

[126] Article 51 paragraph (5) letter (b) of Additional Protocol I of 1977: (b) an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated.

of attack that can cause loss of civilian life, injury to civilians, and damage to civilian objects.[127]

Regardless of the legal analysis, this Russian military offensive must stop immediately. However, what kind of mechanism can be done when the international community does not have much choice. the wave of global criticism and pressure as well as international sanctions from individual countries against Russia do not have any implications for stopping the attack. The UN Security Council is in fact powerless to carry out the mandate of Chapter VII of the UN Charter[128] to be able to take action to maintain world peace and security. Russia can exercise its veto power over any draft resolution condemning Ukraine. It is also the latest evidence that the veto is a particular weakness of contemporary international law in 'action'. The political design of the veto needs to be reformed. The aim is to prevent other actions in the future by the veto-wielding state and its allies, which could threaten international peace and security. This must be a serious concern, lest the existence of the veto power be counterproductive to the purpose of establishing the United Nations and make superpower countries immune to any actions that may threaten international peace and security. Furthermore, Ukraine can also 'institutionalize' this crisis in the International Court of Justice (ICJ) through an interim action mechanism. However, if the ICJ's decision turns out to be in Ukraine's favour,

[127] *Ibid.* Ogiandhafi z Juanda, Konflik Rusia-Ukraina, *Hukum Internasional Bisa Apa?*.

[128] Chapter VII of the United Nations Charter sets out the UN Security Council's powers to maintain peace. It allows the Council to "determine the existence of any threat to the peace, breach of the peace, or act of aggression" and to take military and nonmilitary action to "restore international peace and security".

enforcement of that decision will still require the support of the UN Security Council, and that is unlikely.

Thus, war is a condition governed by international law.[129] The causes of war lie in the fact that human development is closely related to the national development of states. If it is not regulated, then the continuous increase in population will certainly force a country to expand its territory, and if this cannot be achieved by peaceful means and international law does not provide a way for peaceful changes in accordance with justice, then there will be no other way than violence. National unity and independence, competition between two countries, the emergence of national ideals, the effort to expand religious or political ideologies, the pursuit of colonies rich in new materials, the desire of a country that does not have a coast to have a port that can connect it with other countries, the efforts of a small country to become a ruling state, and other things can be a factor causing actions to occur using armed force.[130]

The causes of war are recognized as a tool of national policy to give effect to existing rights and to change the law, the truth or not of the causes of the use of armed force is not a problem. The right to use armed force for any purpose is the prerogative of national powers. When viewed from this angle, then war is truth. With the prohibition of the use of armed force in the United Nations Charter and with the elimination of war as a tool of national policy by the Treaty of Denial of War, this legal position has changed. In the past, international law did not think

[129] GPH. Djatikoesoemo, *Hukum Internasional Bagian Perang*, (Jakarta, Penerbit Pemandangan N.V, 1956), p 1.

[130] *Ibid.* GPH. Djatikoesoemo, *Hukum Internasional Bagian Perang*, p 13.

about the right or wrong of disputes that gave rise to armed forces. But for legal purposes, a distinction can now be made between legal and illegal wars. Illegal wars are wars that are waged in violation of the provisions as set out in the Charter and Treaty of Denial of War.[131]

E. Russia-Ukraine Disputes

Europe awoke to news of Russia's military attack on Ukraine. The full-scale attack was carried out on a number of regions in Ukraine such as Kyiv and Kahrkiv. This was done after Moscow recognized two regions in eastern Ukraine, namely Luhansk and Donetsk, as independent regions three days earlier. This conventional attack using armed force is the second peak of tensions between Russia and Ukraine since the breakup of the Soviet Union in 1991. In 2014, Russia and Ukraine were also involved in armed conflict in the region which is also in eastern Ukraine, namely Crimea. After Russia's annexation or occupation of Crimea that year (UN General Assembly Resolution 68/262)[132], tensions between the two countries had 'frozen' and eventually melted back into an open war as it is currently taking place. In other words, this Russia-Ukrainian conflict did not happen by chance and suddenly. There are a number of external and internal factors along with political reasons that are so complex that the two countries have been in a vortex of conflict

[131] *Ibid.* GPH. Djatikoesoemo, *Hukum Internasional Bagian Perang*, p 14.

[132] Resolution adopted by the General Assembly on 27 March 2014 (68/262. Territorial integrity of Ukraine): Reaffirming the paramount importance of the Charter of the United Nations in the promotion of the rule of law among nations, Recalling the obligations of all States under Article 2 of the Charter to refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, and to settle their international disputes by peaceful means, Recalling also its resolution 2625 (XXV) of 24 October 1970, in which it approved the Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations, and reaffirming the principles contained therein that the territory of a State shall not be the object of acquisition by another State resulting from the threat or use of force, and that any attempt at the partial or total disruption of the national unity and territorial integrity of a State or country or at its political independence is incompatible with the purposes and principles of the Charter.

for years. The latest is the desire of the Ukrainian government to join NATO as its two neighbours, Poland and Romania. For Moscow, the Ukrainian plan was considered 'too bold' because it could jeopardize Russia's military dominance and regional political hegemony, particularly in the eastern region and the North Pacific. If it is actually implemented, Ukraine's entry into NATO membership is considered to be a major obstacle to Russia's geopolitical space because later the NATO military position will actually be direct with the Russian border. In the eyes of Russia, it would be very dangerous for its interests. Currently, the situation in Ukraine is very worrying. Russia's military offensive has led to massive displacement and the loss of hundreds of innocent Ukrainian civilians. Not only that, but the Russian-Ukrainian crisis has also brought about economic and geopolitical instability and disaster throughout the region. For Ukraine, what Russia is doing is not the least bit understandable with common sense. These actions have not only presented a heartbreaking tragedy for the Ukrainian people. Still, they have also created the most serious threat to peace and security, especially in the European region. Although there have been many countries in the world who have strongly condemned Russia's actions against Ukraine, they have not been able to stop Russia from continuing to maneuver.[133]

F. The Basis of International Law in Islam

[133] Ogiandhafi z Juanda, Konflik Rusia-Ukraina, *Hukum Internasional Bisa Apa?,* https://mediaindonesia.com/opini/478687/konflik-rusia-ukraina-hukum-internasional-bisa-apa, Maret 2022, Accessed 26 May 2022.

The relations between nations/ethnicities or between countries both in the Qur'an, the Hadith of the Prophet and in Islamic history. In the Qur'an Chapter 49 (Al-Hujurat), verse 13, it is stated that

> "O mankind, verily We (Allah) have created you from a male and a female pair and made you into nations and tribes so that you may know one another. Verily, the most honorable of you in the sight of Allah is the most pious of you. Verily, Allah is All-Knowing, All-Knowing."[134]

It is clearly stated that the creation of the human race of nations and tribes aims to know each other. This implies that nations and tribes must be interconnected – interact. In order for these relations to run harmoniously and peacefully, of course, it is necessary to have rules or norms that encourage people or the nation/tribe to act and behave well for their own interests and to prevent bad actions that will harm them. Islam provides guidance for that, as stated in Chapter 3 (Ali 'Imran), verse 110:

> "You are the best people who were born for humans, enjoining the *ma'ruf* (good), and forbidding the evil (bad)."

Likewise in Chapter 5 (Al-Maidah), verse 2, Allah says:

> "Help with virtue and piety and do not help for (acts of) sin and enmity."[135]

Amar ma'ruf means that the implementation of Islamic law is intended to encourage mankind towards actions that lead to good and right goals that are desired and pleased by Allah SWT or have a social engineering function, while *nahi munkar* is a social control to prevent unwanted actions. It is on the basis of this principle that in Islamic law there are commands and prohibitions; mandatory and forbidden; there is a choice between doing and not doing an act which is then known as *al-*

[134] Al-Qur'an Chapter 49 (Al-Hujurat), verse 13.
[135] Al-Maidah, verse 2.

Ahkam al-Khamsah or the five laws, namely: mandatory, haram, *sunnat, makruh*, and permissible.[136]

All legal systems, including international law, are the same, consist of provisions that regulate what should be done and what should not be done, and are accompanied by rewards and punishments. Reward or benefit for those who obey it and punishment or punishment/loss for those who violate it.[137]

The basic principles in Islamic law regarding relations between nations/ethnic groups or between countries contain norms relating to the principle of brotherhood, the principle of equality (equality - egalite) among fellow human beings/ nation/state, the principle of independence or freedom (freedom), the principle of tolerance and peaceful co-existence (tolerance and peaceful co-existence), the principle of friendship (friendship), the principle of cooperation or help (cooperation), the principle of humanity, and others etc. As is known, these principles have now become principles adopted by international law, especially in the United Nations Charter (UN Charter) in an effort to create international peace and security (international peace and security). The United Nations Charter as an international treaty that establishes universal law (law making treaties) is the most important source of international law at this time. The principle or principle of equality between human beings, between nations, and between countries is the main foundation in their international relations both in terms of law, social, economic, and political. Discrimination based on differences in race, colour, sex, language, or

[136] Juhaya S. Praja, *Filsafat Hukum Islam*, Penerbit PIARA Bandung, 1993, p 117.

[137] Endang Saefullah Wiradipradja, Prinsip-Prinsip Hukum Internasional Dalam Islam, *MIMBAR*, Volume 19, No. 2, Tahun 2003, p 120.

religion is an act that is contrary to international law, especially international law on human rights.[138]

1. The Principle of Freedom or Independence

The principle of freedom or independence (al-Hurriyyah) in a broad sense includes individual freedom and freedom in the sense of society or the state, such as freedom of religion, association and assembly, speech or opinion, and political freedom, are fundamental rights of international law on human rights. In Islam the principle of freedom or independence is not only textually stated in the Qur'an and Sunnah, but has been implemented in practice since the time of the Prophet, the Caliphs since the first Caliph to the Abbasid era adhere to religion (freedom of religion), for example, in Chapter 2 (Al-Baqarah), verse 256; Chapter 10 (Yunus), verse 99; Chapter 42 (Ash Shura), verse 48; Chapter 88 (Al-Ghaasyiyah), verse 21, and in Chapter 109 (Al-Kaafiruun), verse 6.

In Chapter 2 (Al-Baqarah), verse 256 Allah says:

> "There is no compulsion to (enter) religion (Islam); Verily, the right path has become clearer than the erroneous path."[139]

In Chapter 10 (Yunus), verse 99:

> "And if your Lord had willed, all the people of the earth would have believed. So do you (will) force them to become all believers?"[140]

In Surah Ash-Shura, verse 48:

> "If they turn away, it has not sent you as watchdog over them. Your obligation is nothing but conveying (the treatise). Verily, when We taste a mercy from Us for man, he rejoices in it. And if they are afflicted with trouble

[138] *Ibid.* Endang Saefullah Wiradipradja, Prinsip-Prinsip Hukum Internasional Dalam Islam.
[139] Al-Baqarah, verse 256.
[140] Yunus, verse 99.

because of the deeds of their own hands (they will disobey) because indeed humans are very disbelievers (to favours)".[141]

In Surah Al-Ghasyiyah, verse 21:

"So, give warning, for verily you are only those who warn."[142]

And in Surah Al-Kaafiruun, verse 6:

"To you is your religion, and to me is my religion."[143]

2. Principles of International Law of War (Humanitarian) In Islam

Until now we still see that in various parts of the world armed conflicts always arise, subside in one place and arising in another, including in our own homeland. Thus, most of the provisions of international law initially contained regulations concerning war, whether on land, sea and air. Starting from how the war started (war announcement) to how the war ended (peace agreement). So, it is not strange if in Islam there are rules about the war. The goal is how to make the war carried out by paying attention to what actions can be done and what can't be done. The norms of war in Islam are based on the principle of just war (holy war-*bellum justum*) based on the command of Allah SWT. and pay great attention to the principles of humanity and human rights against the enemy. Modern international law has only developed since the 16th/17th century, so it's only been about four centuries – although its roots have been known since the Greek and Roman times as proposed by the thinkers of that era, such as Aristotle, Socrates, and Plato. At

[141] Ash-Shura, verse 48.
[142] Al-Ghasyiyah, verse 21.
[143] Al-Kaafiruun, verse 6.

that time international law was a combination of concepts between religion, morals, and law, not yet binding legal provisions.

Islam already has the principles of the law of war and has even been implemented as a positive law at the time of the Prophet, the Caliphs, and in the era of subsequent Islamic governments (eg in the Abbasid era). In international law of war, due to the horrors of war victims after the first world war, especially after the second world war, the contents of the provisions of the law of war are more about provisions on how to reduce the suffering of war victims. Thus, the principle of humanity is emphasized, so that both combatants and civilians who are victims of war do not experience unnecessary (excessive) suffering. One of the ways to prevent war from causing violations of the principles of humanity and human rights is since the 1970s the term “war” has been changed to the term “humanitarian”. so from law of war to humanitarian law, it means that psychologically, even though we are forced to do war, it must be carried out by upholding the principles of humanity.

CHAPTER III

THE EUROPEAN UNION AS MEDIATOR FOR THE RUSSIA - UKRAINE CONFLICT AND CHALLENGES AND OPPORTUNITIES OF EUROPEAN UNION TO SETTLE THE DISPUTE BETWEEN RUSSIA AND UKRAINE

A. The European Union as Mediator for The Russia - Ukraine

1. Regional Dispute Resolution by the European Union

The European Union (EU) is a unique economic and political partnership between 28 European countries that together cover much of the continent. The very foundation of the European Union lies in efforts to overcome divisions and promote peace. In 2009 the Member States agreed on the "Concept of strengthening European Union Mediation and Dialogue Capacities", reflecting their vision of mediation as an important European Union foreign policy tool.[144] The creation of the European External Action Service (EEAS) has made it possible to use mediation in a more systematic way as an efficient and cost-effective instrument to prevent and resolve conflict. To this end, a European Union Mediation Support Team was established in 2011 with the aim to put the relevant infrastructure in place to respond rapidly to conflict situations by offering support to European Union mediation actors as well as others involved in mediation efforts around the world. As an example, The European Union has engaged in mediation in notable cases such as the Aceh peace process, the Geneva International Discussions on Georgia, and the Pristina-Belgrade Dialogue; it also plays a supportive role in many current peace

[144] The Organization for Security and Co-operation in Europe, *Regional Organizations in Conflict Mediation: Lessons of Experience & Cooperation with The United Nations*, Report of the Third and Fourth Meetings of Regional, Subregional and other International Organizations on Preventive Diplomacy and Mediation, Vienna Austria, 2016, p 5.

processes, including in Mali, South Sudan, and Myanmar.[145] Problems that often involve an International Organization usually occur within or outside the organization's area. Disputes that occur in the region usually involve member countries that have disagreements regarding the decisions made by the organization. Meanwhile, external problems usually involve member countries and non-member countries of the organization.[146] The UN Charter has established regulations that authorize regional organizations to resolve conflicts that occur against their member states.

The European Union, which is one of the largest international organizations in the world, is also experiencing internal and external disputes between member and non-member countries, which are the main task of the European Union to resolve them. One of the roles of the European Union in resolving disputes that occur is to be a mediator and provide a place or negotiation forum for member countries that are in conflict situations or those with potential conflicts. In the forum, member countries can consult and share related steps to be taken to fulfill peace for their countries without violating existing international laws.[147] The European Union also has the right to investigate conflicts which will later be used to formulate a resolution for peace. Dispute resolution mechanisms have advanced greatly in European Union integration. Dispute resolution procedures within the

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[145] *Ibid.* The Organization for Security and Co-operation in Europe, *Regional Organizations in Conflict Mediation: Lessons of Experience & Cooperation with The United Nations*.

[146] Rifqani Nur Fauziah Hanif, *Arbitrase Dan Alternatif Penyelesaian Sengketa*, https://www.djkn.kemenkeu.go.id/kpknl-manado/baca-artikel/13628/Arbitrase-Dan-Alternatif-Penyelesaian-Sengketa.html, December 2020, Accessed 26 May 2022.

[147] Conflict Prevention, Peace building and Mediation As a global actor, the EU promotes prevention and resolution of conflicts as a mean to support peace and prosperity around the world, https://www.eeas.europa.eu/eeas/conflict-prevention-peace-building-and-mediation_en, accessed 1 august 2022.

European Union are carried out through legal channels and alternative channels offered as dispute resolution mechanisms.[148]

2. Alternative Dispute Settlement

The European Union as a supranational organization designs a mediation procedure for conflict situations between its member states. Mediation carried out by the European Union in order to reduce conflicts between member countries does not lead to violence. If a member state is deemed not to have fulfilled its obligations under the agreement, the matter can be submitted to the European Commission because the European Commission is responsible as a mediator.[149] The European Commission will provide several suggestions and options regarding the resolution of the conflict to the disputing countries within a period of 3 months. The cooperation of conflicting member countries is also needed in mediation by agreeing on the advice given by the mediator. If it turns out that one of the countries objected to the decision given by the European Commission, or the European Commission was unable to produce a decision within the specified timeframe, the dispute could be brought to legal action. Furthermore, the mediation procedure resembles the mediation process carried out according to Article 33 of the United Nations Charter[150].

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[148] *Ibid.* Siahaan, Carina, "Peran Uni Eropa dalam Proses Penyelesaian Sengketa Bagi Negara Anggota dan Negara Non Anggota".

[149] Mirza Satria Buana, *Hukum Internasional Teori dan Praktek*, (Bandung: Nusamedia, 2007), p 78.

[150] Article 33: 1. Parties to the dispute, the continuation of which may jeopardize the maintenance of international peace and security, shall first seek a settlement through negotiation, investigation, mediation, conciliation, arbitration, judicial settlement, using regional bodies or arrangements, or peaceful means. others of their own choosing. 2. The Security Council shall, as it deems necessary, request the parties to settle their dispute in this manner. And in article 33 paragraph 1 it is explained, the relevant peaceful dispute resolution: a) Diplomatic: 1). Diplomatic Dispute Resolution Without the participation of Third Parties: by negotiation, for example consultation, 2).

If one Member State considers that the measures of another Member State are not in accordance with and compatible with the provisions stipulated in the agreement or internally, the Member State may inform the Commission. The two member states and the Commission cooperate, so the committee makes every effort to solve the problem. The introduction of the mediation procedure is an interesting development, member countries that have disputes will be given some views and input by the mediator so that disputes do not occur and avoid dead ends in dispute resolution between them. The success of the mediation process depends on the agreement of the parties and the willingness of member countries to accept the settlement suggested by the mediator.[151]

3. Legal Path

The European Court of Justice is an inter-institutional debate forum that is responsible for all actions taken by member countries and community institutions where individuals can report if there is a performance that is not in accordance with the established regulations. The important role of the ECJ in maintaining the rule of law that has been stipulated in the agreement and the balance between its member countries makes the ECJ entitled to decide on major problems between member

Dispute Resolution Diplomatic Third-Party participation: Mediation, Inquiry, Conciliation for example good services. b) Law: International Arbitration and Permanent International Courts eg the International Court of Justice. c) International Organizations: 1). United Nations and Special Organizations in the United Nations system, 2). Other Regional Organizations, For example ASEAN and EU.

[151] Mediation in EU countries, Mediation is at varying stages of development in Member States. There are some Member States with comprehensive legislation or procedural rules on mediation. In others, legislative bodies have shown little interest in regulating mediation. However, there are Member States with a solid mediation culture, which rely mostly on self-regulation. https://e-justice.europa.eu/64/EN/mediation_in_eu_countries, accessed 1 august 2022.

countries or their communities that cannot be resolved through alternative channels.[152]

In view of its various duties, the ECJ has been described in various ways. The opinion or decision of the ECJ has been followed by the Commission. "Since the ECJ is seen as an inter-institutional debate forum, where it has jurisdiction to review Community actions or Community Institution Performance, both by member states and Community institutions (Article 230[153] and 232[154] European Community) and as a regulatory complaint board, which can hear cases brought by individuals against community action or institutional inaction (Articles 230 and 232 of the European Community)". The Courts of the European Union act as the Constitutional Court where it is necessary to maintain the objectives and rule of law set out in the Treaty and play an important role in maintaining the balance between the Community and the Member States. The ECJ can thus decide on major disputes that can no longer be resolved by alternative dispute resolution.

[152] Karen J. Alter, Who are the "Masters of the Treaty"?: European Governments and the European Court of Justice, *International Organization*, Vol. 52, No. 1 (Winter, 1998), p 4.

[153] Article 230: The Court will review the legality of acts jointly adopted by the European Parliament and the Council, acts of the Council, the Commission and the ECB, in addition to recommendations and opinions, and actions of the European Parliament intended to produce legal consequences against third parties. For this purpose, will have jurisdiction in actions brought by Member States, European Parliaments, Councils or Commissions on grounds of lack of competence, breach of essential procedural requirements, breach of this Agreement or the rules of law relating to its application, or abuse of power. Courts will have jurisdiction under the same conditions in actions brought by Courts of Auditors and by the ECB for the purpose of protecting their prerogatives. Any legal entity or legal entity may, under the same conditions, bring a claim against a decision directed against that person or against a decision which, even if it is in the form of a regulation or a decision directed against another person, is of direct and individual concern to that person. The legal proceedings provided for in this article shall commence within two months of the issuance of the action, or its notification to the plaintiff, or, in the absence of it, the day the act becomes known, as the case may be.

[154] Article 232 (ex-Article 199 TEC): The European Parliament shall adopt its Rules of Procedure, acting by a majority of its Members. The European Parliament proceedings will be published in the manner set out in the Treaty and its Rules of Procedure.

The European Court of Justice is a special organ responsible for resolving disputes between its member states. The jurisdiction of the European Court of Justice includes all member states, important organs of society, and legal citizens of member states. This is explained in the Treaty of Amsterdam which was signed on 2 October 1997, and entered into force on 1 May 1999[155]. Internal disputes that occur within the European Union, both between member states and institutions, member states and commissions, individuals and institutions, are resolved with European Union intervention. The Court of the European Union as stated in Article 19 (3) of the European Union Treaty that the CJEU has obligations, as follows:

a) deciding on the actions taken by a Member State, institutions or persons, or legal entities.
b) giving a preliminary decision, at the request of the court or tribunal of the Member State on the interpretation of the unity of law or the validity of the measures adopted by the institution.
c) Rules in other cases are regulated in the Court. In the dispute resolution process within the European Union, the process does not directly lead to a legal dispute resolution.[156]

The procedure before the ECJ acts to resolve a dispute consists of two parts: written and oral. However, certain aspects of the procedure as well as direct action and preliminary decisions differ which will be discussed in turn below. The

[155] The treaty stipulates that the Courts of the European Community should have jurisdiction, under certain conditions, in the third pillar — namely in the area of police and judicial cooperation in criminal matters — and is concerned with enhancing cooperation. The Commission is also responsible for ensuring that these institutions respect basic rights. Supervision of the Examining Court was extended, and was given the right to file a cancellation lawsuit to the Court to protect its prerogatives.

[156] Article 19 (3) EU Treaty.

procedure in direct action begins with a written request addressed and sent to the ECJ. As soon as it is received, the application is included in the submission. The applicant publishes a notification of the applicant's actions and claims in the Official Journal. A Judge-reporting and a Public Advocate are then appointed. However, the ECJ may decide that the case will be decided without opinion if the case does not raise new problems.

4. Efforts That Can Be Made

Most international actors in the world have a vision to achieve peace and stop all conflicts that occur and maintain the stability of the peace that has been achieved. As a conflict resolution, international organizations will position themselves as mediators for the conflicting parties and get involved in the conflict. Conflict management is needed for conflict resolution starting from conflict prevention to conflict resolution. International or regional organizations use various diplomatic efforts to achieve the desired peace, one of which is a mediation.[157] The organization will clarify the position of the disputing parties, help define the problems experienced, become a mediator to carry out negotiations, and help formulate a conflict resolution.[158] The European Union has the 'European Union's Foreign and Security Policy' to improve the European environment and beyond, especially in the defense sector. This policy is designed to resolve crises or conflicts experienced by a country through diplomacy, humanitarian assistance, development cooperation, and trade. Based on this policy, the European Union

[157] Haris Rahmat Pratama, The Role of Third-Party Actors in Conflict Mediation: A Lesson-Learned from Rwanda and Aceh (Indonesia), *AEGIS*, Vol. I No. 2, March 2017, p 132.

[158] Ole Elgström and Carl Skau, *Regional Organisations and International Mediation*, https://www.accord.org.za/ajcr-issues/regional-organisations-and-international-mediation/, AJCR 2003/1, Accessed 28 May 2022.

actively contributes to diplomatic efforts to foster security, prosperity, democracy, human rights, and the rule of law at the international level.[159]

The first phase is a potential conflict, which is marked by the mobilization factor or the underlying cause of the conflict. In this phase, steps are taken to prevent structural conflicts from occurring. The second phase is the gestation of conflict, in which the mobilized actors move towards conflict and low-level repression occurs. Although the conflict has not yet arisen, mobilization continues to increase from the previous phase. The operational steps carried out focus on low-level strategies, such as weapons prevention, preventive peacekeeping, promoting press freedom, advocating for human rights, as well as promoting dialogue and cooperation. The next phase is the mobilization of conflict which is called the trigger of the conflict. This phase is marked by high tension and confrontation between the parties involved in the previous phases.[160] The conflict management steps taken are preventive criticism by regional and global organizations, international mediation, mediation through informal channels, security agreements, and observer placement. Then followed by the fourth phase, namely armed conflict, violence escalated into full-scale armed conflict, resulting in human rights violations, humanitarian crises, refugees, and warring factions. The conflict prevention measures used in this phase are mediation, the appointment of envoys by regional or international organizations, arms embargoes, demilitarized zones, intervention, and peace enforcement. The last phase is post-conflict or the phase

[159] Indah Puspasari, Peran Uni Eropa sebagai Institusi Supranasional dalam Krisis Ukraina Tahun 2014-2019, *Global & Policy* Vol.8, No.1, Januari-Juni 2020, p 78.

[160] Eric Brahm, *Conflict Stages*, https://www.beyondintractability.org/essay/conflict_stages, September 2003, accessed 1 august 2022.

after conflict. This phase will be vulnerable if the conflict reoccurs. International organizations must take action to prevent the re-occurrence of conflict through economic reconstruction, social reconciliation, and institutional capacity building.[161]

The European Union as a transnational regional organization has considerable power to be involved in conflict resolution. The European Union will assist the disputing parties in resolving crises and conflicts to maintain stability and security in this conflict between Russia and Ukraine. In the defense and security sector, the European Union is taking several steps to minimize violations against humanity and increase defense and security in the Ukraine-Russia conflict. These efforts are the Eastern Partnership Police Cooperation Program which focuses on providing training to the police in conflict management and police operations, the Support for Border Management Sector Policy in Ukraine, a project that supports military equipment for state security forces, and finally the activities of Europol and Frontex providing training to security forces.[162]

In terms of negotiation and mediation, the European Union as a regional supranational organization can carry out mediation efforts to resolve conflicts. The European Union can mediate in the Geneva Agreement which the European Union, Ukraine, and Russia participate in.[163] In an effort to defuse conflict, this agreement contains a request that both countries refrain from violence and intimidation in the

[161] *Ibid.* Indah Puspasari, Peran Uni Eropa sebagai Institusi Supranasional dalam Krisis Ukraina Tahun 2014-2019.

[162] *Ibid.* Indah Puspasari, Peran Uni Eropa sebagai Institusi Supranasional dalam Krisis Ukraina Tahun 2014-2019.

[163] BBC News, Ukraine crisis: *Deal to 'de-escalate' agreed in Geneva*, https://www.bbc.com/news/world-europe-27072351, April 2014, Accessed 28 May 2022.

current conflict. But this mediation may not be successful because Russia is worried that Ukraine violate the points of this agreement, as has happened before in the Crimea conflict that the media carried out in 2014.[164]

For the mediator (European Union), of course, the question is how to transform this belt of insecurity into a belt of security. And there are various ways to do that, all of which merit attention. As a professional mediator, one would also have a look at the formats offered by the conflict. according to the United Nations Mediation Guidelines, *"mediation is a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements".* It is established that, within a mediation process, relationships can be improved. However, this does not quite seem to be the case in Ukraine. To date, there have been two consecutive ceasefire agreements in Ukraine, co-managed by Germany and France, featuring Ukraine, Russia, Donetsk, and Luhansk as signatories; Russia seems to observe rather than act as a guarantor to the agreement. Seeing as no provision specifically refers to Russia's role, it arguably serves as one of the principal parties to be able to opt-out of or not be held accountable for the agreement at any time, giving this Russia superiority over others.

5. Conflict Resolution in Mediation

Although the impact of conflict resolution is so great, it seems that for both parties it is still difficult to find a bright spot in the conflict. Attempts to stop the fighting have so far failed. On February 28, high-level officials from Russia and

[164] Litra, L., Medynskyi, I., & Zarembo, K. *Assessing the EU's conflict prevention and peacebuilding interventions in Ukraine*. Institute of World Policy, March 2017, p 10.

Ukraine met at the Ukraine-Belarus border. On March 3, 2022, Russia continued to insist that a ceasefire required demilitarization and neutrality for Ukraine, but Ukraine just kept pushing for more military aid to the West as the European Union did, even going so far as to sign a European Union membership application amid the ongoing conflict. Thus, there is a need for a way to resolve the conflict. One of the best options in this two-state conflict is mediation.[165] Currently, Ukraine and Russia are already trying to ceasefire both sides are negotiating and conveying each other's demands, this process can be understood as peace-making in an effort to resolve the conflict There are always developments that lead to mutual agreement in every negotiation, but perhaps more negotiations are needed so that both parties are truly sure and agree with the decisions taken. In the first round of negotiations Russia presented its demands as a condition to stop the attack, Ukraine listened to the demands and did not immediately agree to them. However, in the second and third rounds of meetings Ukraine began to soften for the safety of the Ukrainian people so that both sides decided to carry out a temporary ceasefire to channel their needs, medicine and food assistance to refugees. It can be seen that in every meeting both parties soften and understand each other so that the peace process will be faster and smoother.[166]

Russia and Ukraine are heading to the next stage in the peace process, namely peacekeeping. after negotiating both parties will implement the decisions that have been taken by following the rules in the agreement. In fact, both parties have already

[165] Riza Andriani dan Jeanita Wismara Attata, *Upaya Resolusi Konflik Rusia-Ukraina*, Universitas Pembangunan Nasional "Veteran" Yogyakarta, 28 March 2022, p 10.

[166] *Ibid.* Riza Andriani dan Jeanita Wismara Attata, *Upaya Resolusi Konflik, Rusia-Ukraina.*p 11.

passed this stage after the Minsk Agreements I and II were signed in 2014 and 2015 in Minsk, Belarus. The agreement is part of efforts to resolve the conflict between Ukrainian government forces and Russian-backed separatists in eastern Ukraine. The agreement also lays out electoral procedures in the occupied territories of Luhansk and Donetsk, as well as plans to integrate the two territories into Ukraine. After the Minsk agreement was agreed upon, in its implementation this agreement was able to create peace between Russia and Ukraine, but not in the long term because Russia invaded Ukraine in 2022 and declared that the Minsk agreement was no longer valid. Russia also recognized the independence of Luhansk and Donetsk which means disintegrating the two territories from Ukraine and violating the Minsk agreement. Russia did it because Ukraine was considered to begin to threaten Russia's security and sovereignty. Therefore, the agreement that will be agreed upon now must be more in-depth so that in the future it does not fail. Russia and Ukraine have been in conflict for a long time, peace-making and peacekeeping efforts have been carried out many times but have not really reached a truly peaceful or peace positive stage. This is because the conflict is increasingly escalating as the causal factors of the conflict are not really resolved. If left unchecked, the conflict will get worse and can endanger other countries around Russia and Ukraine, Thus, currently it is very necessary to make peacebuilding efforts that reach the positive peace stage so that the two countries can make peace in the long term and the conflict does not escalate again. Reaching this stage, of course, requires cooperation and support from other actors as mediators, such as Turkey and Belarus.[167]

[167] Aditya Jaya Iswara, *Apa Itu Perjanjian Minsk dan Fungsinya dalam Konflik Rusia-Ukraina*. https://amp.kompas.com/internasional/read/2022/02/14/203700970/apa-itu-perjanjian-minsk-dan-fungsinyadalam-konflik-rusia-ukraina, 2022. accessed 2 august 2022.

6. European Security Arrangement

It is certain that the untreatable security in Europe has led to a hardening of security between the European Union and the "East". Hard security paradigms and policies are again on the rise at the expense of the human security approach. 25 years since the fall of the Iron Curtain and there is still no comprehensive understanding and arrangement of the security of European space. This needs to be relaunched with Russia as an important member. This might sound utopian to some, but it is clear that European security cannot be built on security arrangements around Russia, or with Russia fomenting regional conflicts to undermine certain European nations. a Conference should be formed to roll out ideas and regional conflict resolution should be part of the agenda. The host must be OSCE/EU/and even NATO.[168]

In the end, the effort to mediate the Russian-Ukrainian conflict is a desirable step because mediation is a flexible and peaceful dispute resolution that is reliable in conflicts between countries. The many benefits of mediation outweigh the potential risks of legitimizing past violations of international law. If the process is designed according to the problem at hand, mediation is also practically feasible. Peace in Ukraine can begin with mediation. The European Union must be the host in ensuring that it becomes a mediator in the conflict who might be able to restore the Minsk Protocol agreement[169] related to the Russia-Ukraine dispute.

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[168] Antje Herrberg, *Is Peace Mediation in Ukraine Possible, and How?,* https://www.c-r.org/news-and-insight/peace-mediation-ukraine-possible-and-how, February 2017. Accessed 26 May 2022.

[169] Minsk I: Ukraine and the Russia-backed separatists agreed on a 12-point ceasefire deal in September 2014. Its provisions included prisoner exchanges, deliveries of humanitarian aid and the withdrawal of heavy weapons. However, the agreement quickly broke down, with violations by

That way, to answer how the EU's role in responding to the Ukraine Crisis, the first method is consensus intervention, which can be seen in conflict resolution by means of interventions approved by both parties. The second is peace negotiations which can be seen through the settlement of conflict resolution by means of an agreement or peace agreement. It is evident from the EU's active role as a mediator to facilitate the mediation process and negotiations related to the settlement of the Ukraine conflict. the last one is forced intervention, when peaceful means no longer have an effect. It is proven by the EU being able to issue economic sanctions against Russia when the peace agreement is not kept by Russia, as what happened in the 2014 Crimea War.

B. Challenges And Opportunities of European Union to Settle the Dispute Between Russia and Ukraine

1. Russia-Ukraine Conflict Peace Process

Peace negotiations between Russia and Ukraine after the former's invasion of the latter on 24 February 2022 took place on 28 February[170], 3 March, and 7 March 2022, on the Belarus–Ukraine border, in an undisclosed location in the Gomel region of Belarus, with further talks, held on 10 March in Turkey prior to the fourth round of negotiations which began on 14 March 2022.[171] Ukraine and Russia have made significant progress on a tentative peace plan including a

both sides. Minsk II: Representatives of Russia, Ukraine, the Organisation for Security and Cooperation in Europe (OSCE) and the leaders of separatist-held regions Donetsk and Luhansk signed a 13-point agreement in February 2015.

[170] Valerie Hopkins, *Initial talks between Russia and Ukraine yield no resolution*. The New York Times. ISSN 0362-4331. Accessed 30 May 2022.

[171] Yuras Karmanau, *Russia keeps up attacks in Ukraine as two sides hold talks*, https://apnews.com/article/russia-ukraine-war-5229ea0b8bb56c10462ee0e00df61116, March 15, 2022, accessed 3 august 2022.

ceasefire and Russian withdrawal if Kyiv declares neutrality and accepts limits on its armed forces, according to five people briefed on the talks. Ukrainian and Russian negotiators discussed the proposed deal in full for the first time on Monday, said two of the people. The 15-point draft considered that day would involve Kyiv renouncing its ambitions to join NATO and promising not to host foreign military bases or weaponry in exchange for protection from allies such as the US, UK, and Turkey. However, the nature of western guarantees for Ukrainian security and their acceptability to Moscow could prove to be a big obstacle to any deal, as could the status of the country's territories seized by Russia and its proxies in 2014. A 1994 agreement underpinning Ukrainian security failed to prevent the Kremlin's aggression against its neighbor. Although Moscow and Kyiv both said they had made progress on the terms of a deal, skeptical Russia's President Vladimir Putin is fully committed to peace and worry that Moscow could be buying time to regroup its forces and resume its offensive.[172]

2. Challenges for The European Union Regarding the Russia-Ukraine Conflict

The challenges faced by the European Union regarding the Russia-Ukraine conflict are; *First*, the parties involved in the conflict in Ukraine must be reconciled by the European Union. In order to promptly provide security for its citizens, the European Union organized a summit aimed at reducing tensions between Ukraine and Russia. Here, the European Union asks the relevant parties, particularly

[172] Max Seddon, Roman Olearchyk, Arash Massoudi and Neri Zilber, *Ukraine and Russia explore neutrality plan in peace talks*, https://www.ft.com/content/7b341e46-d375-4817-be67-802b7fa77ef1, March 2022. Accessed 30 May 2022.

Ukraine and Russia, to show restraint so that the use of force and military from both sides can be stopped. In addition, the European Union must insist that Russia remove its troops from the Ukrainian border and revoke its authorization to use force against Ukrainian citizens. Regarding Ukraine, it is suggested that a law offering amnesty to rebels willing to leave Ukrainian land peacefully be submitted right away. It is hoped that Russia and Ukraine will carry out the recommendations made by the European Union to terminate this conflict. Russia continues to be unwilling to grant the European Union's request in the meantime.[173]

Second, as a backup measure, the European Union may issue and apply penalties on Russia, which is anticipated to encircle its position until it is compelled to abide by the prior agreement. Russia's "freezing" of international agendas and meetings was the first consequence. This is evident by the European Union's decision to postpone all sorts of bilateral meetings and discussions with Russia, particularly those involving visas and new agreements. Since the European Union and its member states were Russia's principal allies during the initial sanctions, this was deemed adequate. In addition, the European Union might support the postponement of talks on Russia's potential membership in the OECD and the International Energy Agency (IEA). The European Union may re-impose sanctions on Russia to punish individuals it holds accountable for Moscow's activities that violate the territorial integrity and sovereignty of Ukraine. Officials close to President Putin are included in this. Travel restrictions, ban on making funds, and,

[173] European Council, *Statement of the heads of state or government, meeting in Versailles, on the Russian military aggression against Ukraine, 10 March 2022*, https://www.consilium.europa.eu/en/press/press-releases/2022/03/11/statement-of-the-heads-of-state-or-government-on-the-russian-aggression-against-ukraine-10-03-2022/, March 2022, Accessed 28 May 2022.

asset freezes are three ways that these sanctions, which are directed at groups accused of actions that endanger Ukraine's integrity, sovereignty, and independence, can be implemented.[174]

Third, the European Union can again make a coercive move by giving authorizations through restricting the European Union's monetary relations with the domain of Ukraine added by Russia. These actions include a boycott for the products and imports of merchandise with Ukraine, limitations on exchange and venture from European Union organizations to Ukraine and a restriction on the arrangement of the travel industry administrations in the Ukrainian region. With the boycott, it is trusted that Russia will open a harmonious exchange or truce and consent to intervention with Ukraine worked with the European Union.[175]

Fourth, it's far too tough to overstate the move that the European Union and its member states have taken in reaction to the Russian aggression. Known for slow, timid overseas coverage choice-making, frequently hindered by complicated procedure and internal division, the 27-member bloc reacted quickly, beginning by means of levying in opposition to Moscow the most powerful sanctions in its records and sending a surge of direct bilateral army help to Kyiv. Right as the eve of the invasion, with Russian troops massed close to the Ukrainian border, member states had been divided over the risk emanating from Moscow, what extra sanctions in opposition to Russia would possibly entail, and what sort of army useful resource to offer to Ukraine. Indeed, had European governments agreed upon and been

[174] European Council, *Timeline - EU restrictive measures against Russia over Ukraine*, https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/history-restrictive-measures-against-russia-over-ukraine/, Accessed 28 May 2022.

[175] *Ibid.* European Council, *Timeline - EU restrictive measures against Russia over Ukraine*.

capable of talking ahead of the dimensions in their reaction, that would have as a minimum performed into the Kremlin's calculations, though of course, whether or not it might have surely deterred Moscow is a way from clear. After the invasion, however, the response got here at a scale and pace not often visible before. With the protracted and extended choice-making concerning the Russia-Ukraine crisis, it turns into a totally large assignment for the European Union to open a talk with the warring parties.[176]

In the end, amid a war that has become Europe's biggest in decades, the European Union and member states have thrown several long-standing policies overboard and taken steps that under normal circumstances would have met with strong opposition from various corners. These include decisions for the European Union to finance for the first time the delivery of lethal weapons to a third country, to boost its defense cooperation in the face of new threat perceptions, to send (somewhat mixed) signals of openness to European Union membership for the bloc's eastern neighbors after years of enlargement fatigue, and to trigger, also for the first time, its 2001 Temporary Protection Directive, granting temporary residency to Ukrainian refugees. The European Union's move into new territory over Ukraine could create momentum toward a bolder European Union foreign policy that lasts beyond the immediate response to this crisis.[177]

However, for that to happen in a positive way, the European Union will have to answer complex questions, which have thus far been largely brushed aside while

[176] International Crisis Group, *The War in Ukraine Raises New Questions for EU Foreign Policy*, https://reliefweb.int/report/world/war-ukraine-raises-new-questions-eu-foreign-policy, 5 Apr 2022, accessed 2 august 2022.

[177] *Ibid.* International Crisis Group, *The War in Ukraine Raises New Questions for EU Foreign Policy.*

the European Union is operating in crisis mode. These include dilemmas about the scale and purpose of its defense plans, the strategic use of large-scale sanctions, the necessary safeguards for the provision of lethal equipment, and the pros and cons of further European Union enlargement. The European Union will have to tackle these questions head-on if it wants to develop a more effective European foreign policy. At the same time, the European Union will have to find ways to use the limited leverage that sanctions offer to best effect and develop ways to mitigate as much as possible their global fallout, linked to trade disruptions and the impact on energy and commodity prices, for example by leaning up food aid and providing targeted financial assistance to affected sectors in vulnerable countries. It should weigh the possible knock-on effect of not only its unprecedented measures to punish Russia but also foreign policy actions it may take elsewhere. In a world of greater geopolitical competition and a possible long-term standoff with Moscow and its allies, the European Union may be inclined to double down on the use of sanctions, which may appear as one of the few tools at their disposal.[178]

3. Opportunities of the European Union to Settle the Dispute Between Russia and Ukraine

The European Union's chance to provide a peaceful way out of the Russian-Ukrainian conflict will be very difficult because; *First*, the European Union has condemned Russia's unprecedented military aggression against Ukraine. With its unwarranted and unjustified military actions, Russia is in gross violation of international law and undermining European and global security and stability. The

[178] *Ibid.* International Crisis Group, *The War in Ukraine Raises New Questions for EU Foreign Policy.*

European Union also condemned Belarus' involvement in this aggression against Ukraine and asked Belarus to comply with its international obligations. Meanwhile, the European Union demands that Russia immediately stop military action, unconditionally withdraw all troops and military equipment from all parts of Ukraine and fully respect the integrity, sovereignty, and independence of the territory of Ukraine. Such use of force and coercion has no place in the 21st century.[179] The European Union will meet with an agenda to discuss this blatant aggression and in principle agree to further restrictive measures which will have grave and severe consequences on Russia for its actions, in close coordination with the transatlantic partners. The European Union and its Member States are better equipped to respond immediately to humanitarian emergencies. The European Union calls on Russian and Russian-backed armed formations to respect international humanitarian law. The European Union stands firm with Ukraine and its people as they face this war. The European Union will provide further political, financial, and humanitarian assistance. The European Union will coordinate its response with the European Union's international neighbours and partners, including NATO and the G7 whose leaders will meet soon.[180]

Second, The European Union can also suspend the European Investment Bank's signing of the sustainability of new financial operations in Russia as a form of disapproval of Russia's actions against Ukraine. Here, the European Union member states agreed to postpone the financing of new economic cooperation

[179] European Council, *Joint statement by the members of the European Council*, https://www.consilium.europa.eu/en/press/press-releases/2022/02/24/joint-statement-by-the-members-of-the-european-council-24-02-2022/, February 2022, Accssed 28 May 2022.

[180] *Ibid.* European Council, *Joint statement by the members of the European Council*.

operations with Russia. The European Union also reviewed bilateral and regional cooperation programs with Russia which ended with several programs being suspended. With the sanctions issued by The European Union as a supranational institution with considerable strength and influence, these sanctions are considered quite influential for Russia, as The European Union is Russia's main market and vice versa.[181]

On the settlement of the peaceful way, the European Union opens up for the parties to the conflict to propose a peace stated in Article 9 of the European Convention for the Peaceful Settlement of Disputes:

> "Article 9: 1. Disputes shall be brought before the Special Conciliation Commission by means of an application addressed to the President by the two parties acting in the agreement or, in default thereof, by one or other of the parties. 2. The application, after giving a summary account of the subject of the dispute, shall contain the invitation to the Commission to take all necessary measures with a view to arriving at an amicable solution. 3 If the application emanates from only one of the parties, the other party shall, without delay, be notified of it by that party".[182]

Explained in the article, that one party may submit a request for peace to the European Union, and this will be followed up by the European Union. Article 23 also states: "Article 23: The parties must make a special agreement which determines the subject of the dispute and the details of the procedure."[183]

So, if Ukraine wants to conclude a peace treaty with Russia, the European Union Commission will still make a special agreement that determines such a dispute as well as a detailed procedure regarding the main issues in the dispute. in

[181] European Council, *EU restrictive measures against Russia over Ukraine (since 2014),* https://www.consilium.europa.eu/en/policies/sanctions/restrictive-measures-against-russia-over-ukraine/, Accessed 28 May 2022.

[182] Article 9 of the European Convention for the Peaceful Settlement of Disputes 1957.

[183] Article 23 of the European Convention for the Peaceful Settlement of Disputes 1957.

other words, the European Commission will pave the way for the parties to the dispute by way of peace. Nevertheless, the opportunity still exists and can be obtained by agreement for both parties who want something as follows:[184]

a) "Neutrality: For Russia, the insistence on Ukraine's neutrality is perhaps the most important demand. The war is rooted in Ukraine's desire to join the West, and aspires to prosperity and self-determination through membership in NATO and the European Union. A thriving democracy on Russia's borders with the West, especially one filled with as many Russian speakers as Ukraine, can serve as a tempting model for the Russian people, jeopardizing Putin's autocratic grip. However, Putin has publicly claimed that Kyiv's move to the West poses a security threat to Moscow, even though Washington and its allies have put the Ukrainian club's membership on a slow track.
b) Western security guarantees: For Ukraine, any promise of neutrality while still surviving on the battlefield is likely to be accompanied by a promise, recognized by Russia, that Western powers will help it if Kyiv is threatened again. This is perhaps the most difficult point for Moscow, as it would be tantamount to accepting allied forces, if not NATO itself, to engage in the defense of Ukraine in the future. One way to make it more suitable for Russia is a clause that limits the types of weapons stored within Ukraine's borders.
c) Crimea, Luhansk, and Donetsk: The war in Ukraine really started almost a decade ago, when, after a public uprising that ousted the incumbent president, Ukraine signed an association agreement with the European Union and refused a loan deal with Russia. The angry Kremlin responded by invading and annexing the Crimean Peninsula, while sponsoring and sending proxies to take over Luhansk and Donetsk in Ukraine's eastern Donbas region. As a prelude to the invasion, Putin officially recognized the independence of the two separatist provinces. As a condition of settlement, Russia might demand recognition by Kyiv and the international community of its annexation of Crimea, as well as Russia's de facto control of the Donbas, things Ukraine promised it would never do."[185]

The prospect of any peace deal is predicated on Putin's understanding that he has done more than he can handle, and it's huge at this point. Some argue that he would even switch to low-level nuclear weapons before risking defeat in Ukraine. But Russia is not ruling out a deal, especially if Russia is pushed to its limits on the

[184] Anthony Faiola, *What a Russia-Ukraine peace deal might look like*, https://www.washingtonpost.com/world/2022/03/18/peace-deal-russia-ukraine-putin-negotiation/, March 18, 2022, accessed 2 august 2022.

[185] *Ibid.* Anthony Faiola, *What a Russia-Ukraine peace deal might look like.*

battlefield, and if the West maintains its sanctions resolve and raises the stakes on military equipment for Ukraine.

4. The Main Focus on Russia-Ukraine Peace Opportunities

After months of international relations crisis have not precluded what should properly be Europe's largest battle in a generation, focus now switches to limit the damage. All significant obligation lies with Moscow, which preferably could go back to talks with Kyiv and Western powers and certainly should nevertheless gain from negotiations over the European union protection. But with the Kremlin seemingly inclined to a greater unfavorable path, others need to do what they can maximize to cost Russia, to prevent future aggression and.[186]

For western powers, the demanding situations might be of a unique nature. Most have reacted with anger to what they describe as an unjustified assault on European balance and the worldwide order. Western state is also reportedly getting ready for a UN Security Council decision condemning Russia's action, despite the fact that Moscow is expected to veto when the veto time comes. The query is what can they do aside from using robust rhetoric that is meaningful and aware about the want to keep away from a doubtlessly catastrophic escalation. Its main attention is on enforcing and implementing hard sanctions that Western leaders were threatening for weeks, considered a good way if the bloc's threats are viewed as a reputable deterrent force in the future. Ultimately, the US, European Union, and others along with the United Kingdom, Japan, and Australia have imposed

[186] International Crisis Group, *War in Europe: Responding to Russia's Invasion of Ukraine*, https://reliefweb.int/report/ukraine/war-europe-responding-russia-s-invasion-ukraine, Feb 2022, Accessed 28 May 2022.

restricted sanctions in reaction to Russia's popularity in Ukraine's separatist territories. The measures hit Russian banks and individuals and took steps to cut Russia off from world financial markets,[187] and are expected to slightly threaten the Russian economy and its currency circulating on the currency market, thereby weakening Russia and opening the way for mediation.

For now, diplomacy and the countermeasures that the 'west' has organized are not going to extrude the temper in Moscow, and matters ought to properly worsen earlier than they get better. War in Ukraine and an army build-up in Eastern Europe all however lead to new crises; these are likely to create more instability. Meanwhile, Ukraine without a doubt means so much to Moscow, and to Putin himself. As Western states run out of financial punishments, the burden to respond militarily will increase. The growing hazard means that continued talks relating to European security and arms control, nuclear and conventional, are necessary, even if, for now, the talks seem to be away from reach. Unless and until matters certainly increase to exceptional levels, the U.S. and the European Union should resume speaking with Russia faster or later, each to make sure that everybody is aware completely of the outcomes of the direction they may be on and to perceive approaches to keep away from similar disaster.[188]

C. Future Plan for The Peace

There should be a way to reorganize relations between the European Union and Russia and agree on security guarantees and mechanisms to allow peaceful

[187] *Ibid.* International Crisis Group, *War in Europe: Responding to Russia's Invasion of Ukraine.*

[188] *Ibid.* International Crisis Group, *War in Europe: Responding to Russia's Invasion of Ukraine.*

coexistence to hold again. This will surely be a very difficult and lengthy process. The Russian leadership must first understand that its own security cannot and will not be achieved at the expense of the wider security of Europe and the security of its neighbors.[189]

In fact, things that Russia has achieved during the last years to "guarantee" its security has been completed simply the opposite. By growing a mechanism of unsolved conflicts, Russia has poisoned the affected countries undermined trust among the European Union and Russia. Peace in Europe can be constructed and need to be constructed on stable ground, taking into account the respective security interests and concerns, but respectful of national sovereignty and territorial integrity. What Putin decided to invade Ukraine should have been avoided. The European Union, US, and NATO responded cautiously to Russian proposed treaties and letters. European Union is ready to speak about all components of protection, consisting of the Russian references to "indivisibility" of protection. But this cannot be achieved at the same time as military actions are taken, towns are bombarded and civilians are killed and weapons are literally pointed at one's, or one's friends, heads. This aggression should be prevented first.[190]

[189] Josep Borrell, *Russia's war against Ukraine: where do we stand and what can the future bring?,* https://www.eeas.europa.eu/eeas/russia%E2%80%99s-war-against-ukraine-where-do-we-stand-and-what-can-future-bring_en, 04.2022, Accessed 28 May 2022.

[190] *Ibid.* Josep Borrell, *Russia's war against Ukraine: where do we stand and what can the future bring?*.

CHAPTER IV

CONCLUSION AND RECOMMENDATION

A. Conclusion

This section presents a conclusion consisting of 2 (two) points,

1. In resolving disputes involving Russia-Ukraine in conflict, the European Union can use 2 ways of settlement, namely alternative ways, and legal path, but the author focuses on alternative routes whereby the European Union becomes a mediator for the disputing parties. To answer the European Union's role in responding to the Ukraine Crisis, the first intervention method is a convention, which can be seen from conflict

resolution through interventions agreed upon by both parties. Second, peace negotiations can be seen through the conflict resolutions through agreements or peace agreements. This can be seen from the active role of the European Union as a mediator to facilitate the mediation process and negotiations related to the settlement of the Ukraine conflict. the last one is forced intervention, that is, forced intervention during peacetime means that it no longer has any effect. It is proven that the European Union issued economic sanctions against Russia when the peace agreement was not complied with by Russia, as what happened in the 2014 Crimean War. In the end, mediating the Russian-Ukrainian conflict is a desirable step because mediation is a flexible and peaceful dispute resolution that is reliable in conflicts between countries. The many benefits of mediation outweigh the potential risks of legitimizing past violations of international law. If the process is designed according to the problem at hand, mediation is also practically feasible. Peace in Ukraine can begin with mediation. The European Union should be the host in ensuring it mediates in a conflict that might bring back the Minsk Protocol agreement on the Russia-Ukraine dispute.

2. The challenges And Opportunities:
    a. The challenges faced by the European Union in dealing with and also as a mediating bridge for the Russia-Ukraine conflict can be described by the author in 4 (four points) which are: *First*, the European Union must be without parties to the conflict in Ukraine. This meeting was facilitated by the European Union with the aim

of minimizing security and security between Ukraine and Russia so that the people in it can be reached immediately. Here, the European Union asks the relevant parties, namely Ukraine and Russia, to show restraint so that the use of force and military from both sides can be stopped. *Second*, with a backup effort that the European Union can take, it can issue and impose sanctions on Russia, which is expected to push it to follow the agreement that has been formed previously. The first sanctions measure is the 'freezing' of Russia's international meetings and agenda. *Third*, the European Union can again take coercive action by issuing sanctions in the form of the European Union's economic relations with the territory of Ukraine annexed by Russia. These measures include a ban on the export and import of goods with Ukraine, trade, and investment from European Union companies to Ukraine, and a ban on the provision of tourism services on Ukrainian territory. *Fourth*, it is difficult to overestimate the leap that the European Union and its member states have taken in response to Russian aggression. Known for its slow and timid foreign policy decision-making, often hampered by complicated procedures and internal divisions. On the other hand, in the greater geopolitical world of competition and a possible long-term stalemate with Moscow and its allies, the European Union may be inclined to double up on its use of sanctions, which may appear to be one of the few tools at their disposal.

b. As for the opportunities that are found, it is quite difficult to do because the European Union has strongly condemned and also imposed many sanctions on Russia's actions, but there are opportunities even though they are very difficult and they are; neutrality because for Russia, Ukraine's insistence on neutrality is the most important requirement. The war has its roots in Ukraine's desire to join the West, and aspires to prosperity and self-determination through membership in NATO and the European Union. Further, Western security guarantees For Ukraine, any promise of neutrality while still surviving on the battlefield is likely to be accompanied by a promise, acknowledged by Russia, that Western powers will help it if Kyiv is threatened again. This is perhaps the most difficult point for Moscow, as it would be tantamount to accepting allied forces, if not NATO itself, to engage in the defense of Ukraine in the future. Finally, giving freedom to the Crimea, Luhansk and Donetsk regions; The war in Ukraine really started almost a decade ago, when, after a public uprising that toppled the incumbent president, Ukraine signed an association agreement with the European Union and rejected a deal with Russia.

B. Recommendation

In the recommendation section, the author will explain in 2 (two) parts:

1. The recommendation that can be given in this regard is the role of the European Union, which must be able to place more emphasis on Russia and Ukraine in terms of facilitating and providing a way for peace between the two sides because the war has claimed many lives and damage. If this happens, the European Union should not only impose sanctions, but together with other countries or other third parties such as the United States and Britain as a mediator, should be able to determine what proposals should be approved by both. the parties and strive to continue to take the middle ground in negotiations, because Peace in Europe can be built and must be built on a solid foundation, taking into account each other's interests and security concerns, but also respecting national honor and territorial integrity.
2. In terms of challenges and opportunities, the European Union should be able to fulfill, if necessary, all the demands of the conflicting parties so that it is hoped that a meeting will be held for negotiations, and perhaps in a peaceful way if Kyiv declares neutrality and accepts limits on its armed forces. Ukrainian and Russian negotiators discussed the proposed deal in full. However, the nature of Western guarantees for Ukraine's security, and its acceptance of Moscow, could prove to be a major obstacle to any agreement, as did the territorial status of the country seized by Russia and its proxies in 2014. The 1994 agreement in favor of Ukraine's security failed to deter Kremlin aggression against his neighbor. Although Moscow and Kyiv both say they have made progress on a deal, Ukrainian officials are skeptical Russian President Vladimir Putin is fully committed to peace

and worry that Moscow could buy time to regroup its troops and continue its offensive.

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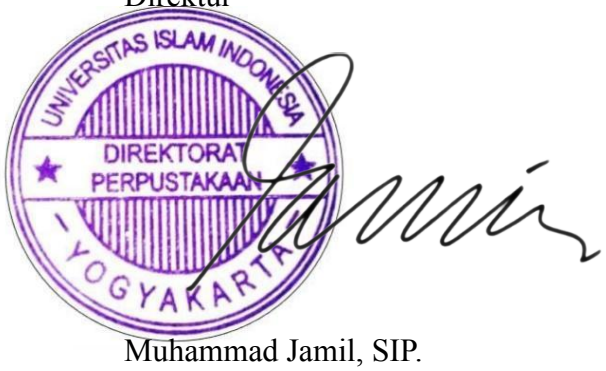

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