

Putin's 'couldn't care less' attitude towards Russia's international commitments

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The Budapest Memorandum of 5 December 1994 – officially the [Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons](#) – was signed by the Presidents of Ukraine, the Russian Federation and the US, and the Prime Minister of the UK to provide national security assurances to Ukraine. China and France joined its provisions at a later stage in the form of individual statements.

In return for the security assurances offered by the great powers, Ukraine decided to give up what was then the world's third-largest nuclear weapons stockpile and acceded to the Non-Proliferation Treaty.

The Memorandum consists of six provisions and is not restricted to threats or the use of nuclear weapons. Articles 1 and 2 impose clear-cut obligations on Russia to respect the political independence and territorial integrity of Ukraine, within its “existing borders” of 1994, and not to threaten it or use force by any means (“none of their weapons”).

By militarily invading and annexing Crimea, Russia has acted in breach of its obligations under the Budapest Memorandum. In spite of what its name suggests, the Memorandum qualifies as an international agreement under the terms of the 1969 Vienna Convention on the Law of Treaties. It thus creates legally binding obligations for the guarantor states and could become the object of inter-state litigation before the International Court of Justice. However, the chances of that happening are slim. Russia has not issued a declaration recognising as compulsory the jurisdiction of the Court. This means that Moscow retains the right to decide on a case-by-case basis whether the Court has jurisdiction. Under the present circumstances, it is unlikely that the Kremlin would accept the Court's jurisdiction to hear a dispute over the Budapest Memorandum filed by Ukraine or any of the other permanent members of the UN Security Council that have signed up to it.

In the same vein, Putin's Russia seems unfazed that it is violating general principles of international law underpinning the current world order, i.e. those contained in the UN

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Charter (Articles 2.4 and 2.7), and the 1975 Helsinki Final Act. Under the terms of the UN Charter, the use of force in another state's territory is only justified when mandated by the UN Security Council – quod non – or in case of self-defence. And nor can the latter exception be invoked either, since there was no prior armed attack from the Ukrainian Armed Forces against Russia.

The argument first advanced by Moscow to justify its military intervention was that it acted in defence of Russian speakers and passport holders whose human rights and fundamental freedoms were said to be violated by a fascist regime in Kyiv which seized power by unconstitutional means. However, in the absence of hard facts presented by Moscow to back up the claim of gross and persistent violations of Russian minority members' fundamental rights by the new Ukrainian authorities, the brief interruption of a law on regional languages by the Rada does not provide the legal cover to effectively invoke self-defence or the claim of 'Responsibility to Protect'. Ironically, the latter is a principle that Russia has fanatically sought to prevent from solidifying under international law.

A subsidiary argument presented at the UN Security Council by Ambassador Vitaly Churkin was that Russia had intervened upon the written invitation of Victor Yanukovich, the deposed yet 'legitimate' President of Ukraine, to establish peace and stability in his homeland. Moscow keeps repeating that Germany, France and Poland should honour the terms of the February 21st agreement (by which Yanukovich agreed with the opposition leaders of the Maidan movement to restore the Constitution of 2004, to form a national unity government, and hold early Presidential elections) which they signed. However, it strikes one as particularly odd for Russia to promote the application of an agreement that it refused to sign up to when it had the chance. What the Kremlin also seems to forget is that Yanukovich was subsequently abandoned by his own party and impeached by the Ukrainian Parliament.

Most damningly in the misguided justification for Russia's military intervention in Ukraine is Churkin's statement that Yanukovich's letter to President Putin was dated March 1st, whereas Russian troops had already taken up positions around strategic locations on the Crimean peninsula on February 28th. By Russia's own admission, therefore, it had already violated binding norms of international law.

The latter seems emblematic for the 'couldn't care less' attitude of Putin's Russia. So far, the Kremlin has not bothered to seriously rebut allegations by the US and the EU that it has violated the terms of the Budapest Memorandum. More worryingly, Moscow allows itself to be inconsistent with its own commitments and is reneging on its own words. This has all the trappings of a panicking dictatorship, which crushes dissent at home and projects confidence in winning a great battle with enemies abroad. Given this appalling record, how can anyone now trust what Putin's Russia says or commits to in the future?