



Invitée par l'Assemblée du Collège de France,
sur proposition de la Pr. **Samantha BESSON**.

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Soviet Union and International Law: Intellectual Origins of Russia's War against Ukraine

Salle 2, Site Marcellin Berthelot – de 11 h à 12 h

In its attempts to justify its war (or 'special military operation') against Ukraine, Russia has used multiple and partly contradictory legal or legally relevant arguments. This lecture explores some intellectual origins of these arguments and tropes, focusing in particular on the Soviet legacy in international law. How did the Soviet government and jurists understand international law and how did these understandings change over time (1917-1991)? The argument of this lecture is that understanding the Soviet legacy in international law helps us enormously to understand Russia's international legal positions in Ukraine as well. Although Putin says that the Bolsheviks put a 'ticking bomb' under 'historical Russia' and its territory, in many ways he also represents continuity of Soviet approaches and tropes. While the Soviet Union argued that Russia had solved the problem of self-determination of peoples after 1917, in reality the old Empire was reorganized. 'Dialectical' legal doctrines were used such as the claim that both the Soviet Union and Soviet republics were simultaneously sovereign. Another relevant feature of Soviet approaches to international law concerned treaties. Just as Tsarist jurists (Martens) had done, Soviet jurists (Pashukanis, Shurshalov et al) used extensive exceptions to the principle of *pacta sunt servanda* in international treaty law, mainly drawing from the controversial principle *clausula rebus sic stantibus*. To an extent, this 'honesty' about how treaties can be broken if political necessity so dictates helps us to even understand the Soviet conclusion of the Molotov-Ribbentrop Pact and its secret protocols (in sharp contradiction to many treaties which the USSR had concluded before 1939). Moreover, especially after 1945, the Soviet Union acted as great power (*velikaia derzhava*) in international law, particularly in Eastern and Central Europe. When suppressing the Hungarian (1956) and Czechoslovak (1968) uprisings, the concept of 'socialist international law' was used which legitimized a special sphere of Soviet influence in Eastern Europe in which the applicability of general (UN) international law was *de facto* constrained. In the Czechoslovak case this approach was sometimes also known in the West as 'the Brezhnev doctrine'.

The purpose of the lecture is to illuminate, with the help of the Soviet history in international law, where we are today, in Ukraine and elsewhere – and why.

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