



### **THE INTERNATIONAL COMMUNITY, ITS PERFECT ENEMY AND THE «INHERENT RIGHT» TO CONTEND WITH IT: CRITICAL REMARKS ON THE RESORT TO SELF-DEFENCE AGAINST TERRORISM**

The global dimension that the so-called «Jihadist» terrorism has taken on for almost two decades, other than engaging the International community in a prolonged counteraction, has contributed to a change of the relevant rules and principles applicable to relations between States and non-State actors, with specific reference both to the legal conditions of use of armed force and the attribution of responsibility for internationally unlawful acts. There can be noticed a dual trend indeed, widely debated among International Law scholars and confirmed by the relevant practice, aimed at extending the scope of Article 51 of the UN Charter beyond its traditional limits of exception to the general prohibition of the use of force established by Article 2, para. 4, in order to justify an armed reaction against non-State actors responsible of terrorist attacks and, correspondingly, to admit a creeping modification of the criteria regulating the attribution of responsibility for internationally unlawful acts committed by them. Notwithstanding, it cannot be denied that the fight against terrorism certainly meets a collective need, with respect to which the interest of single States – both those directly affected and those who decide to intervene in others' help – should coincide with that of the International community as a whole to combat such phenomenon. Therefore, the reported trend to extend the legal paradigm of the self-defence to encompass armed intervention against terrorist groups finds a limit in the need to respect other general norms, namely that which protect the territorial sovereignty of the host State. On this point, it remains uncertain whether the «unwilling or unable test» is suitable to legitimate an armed intervention on the territory of States which, while not providing any material and/or moral support to terrorists, are unable to exercise an effective control over their territory in order to prevent new attacks. In these cases, the lack of consent to an external military intervention would lead to exclude its lawfulness if such an intervention should be based exclusively on the principle of self-defence.