

Article 11 of the Italian Constitution and the war in Ukraine: The constant dialogue between Constitutional and International Law

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1. Introduction

Article 11 of the Italian Constitution (hereinafter ‘Article 11’) has always been at the core of an extensive and multifaceted doctrinal debate. This debate has evolved alongside a range of interpretive proposals put forward by both the political system and civil society, spanning the different historical phases since the establishment of the Republic in 1948.

The ongoing discussion surrounding Article 11 reflects its significance as a fundamental constitutional provision. Article 11 encompasses key principles related to Italy’s role in the international community and its commitment to promoting peace and justice among Nations.¹ Since the end of the Cold War, Italy has increasingly engaged in several military operations, often carried out under the aegis of international institutions. However, such participation has cyclically raised doubts from the standpoint of consistency with Article 11.²

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¹ For a short comment during the different phases of the Italian Republic, see for example L. Carlassare, ‘L’art. 11 Cost. nella visione dei Costituenti’ (2013) 1 Costituzionalismo.it 3; C De Fiores, «*L’Italia ripudia la guerra?* La Costituzione di fronte al nuovo ordine globale» (Ediesse 2002) 15; M Benvenuti, ‘Ripudio della guerra e Costituzione italiana’ in *Studi in onore di Vincenzo Atripaldi* (Jovene 2010) 3; U Allegretti, ‘Guerra del Golfo e Costituzione’ (1991) 2 Foro italiano 381-382; G de Vergottini, *Guerra e costituzione* (Il Mulino 2004) 35-36.

² See V Satta, ‘Guerra e Costituzione’ (2011) 3 Appunti di cultura e politica 29-32; V Onida, ‘Guerra, diritto, Costituzione’ (1999) 5 Il Mulino 958-962; N Lupo, ‘L’influenza dell’Alleanza atlantica nell’interpretazione della Costituzione economica: ovvero, sulla centralità dei principi dell’art. 11 Cost.’ (2020) 3 Rivista trimestrale di diritto dell’economia 425; U Allegretti, ‘La guerra, la Costituzione e le Nazioni Unite’ (2010) 3

More recently, the ‘special military operation’ conducted by the Russian army on Ukrainian territory prompted reflections upon Italy’s position in the international arena in light of the constitutional parameter of Article 11. In this dramatic situation, the Italian Government’s decision to support the Ukrainian resistance by providing defensive weaponry has faced strong criticism from some commentators who argue that this decision may be unconstitutional.³

To adequately address this issue, it is useful to revisit the steps that led to the adoption of Article 11 to accurately reconstruct the practical regulatory scope of this provision and its normative limits. This will allow grasping the relationship between the Italian Constitution and the international legal order, and assess in particular, how notions and categories of international law permeate the Italian domestic legal system.

2. A historical perspective

To adequately analyze the content of Article 11, it is essential to acknowledge an unquestionable historical fact: the Italian Constitution was adopted only two years after the end of the Second World War and the establishment of the United Nations. For the ‘Constituent Fathers’, the war represented an immediate historical reference, firmly ingrained in the collective memory of the men and women responsible for drafting the fundamental Charter. The brutality of that conflict had underscored the need for a stable and enduring peace as an essential condition –

Rivista dell’Associazione Incontri 1000 and G Azzariti, ‘Multiculturalismo e Costituzione’ (2016) 2 Politica del diritto 8-10.

³ For a preliminary overview, see G de Vergottini, ‘La Costituzione e il ritorno della guerra’ (2022) 3 Osservatorio costituzionale 71; A Algostino, ‘Pacifismo e movimenti fra militarizzazione della democrazia e Costituzione’ in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 67; M Cavino, ‘Il governo della guerra’ (2022) 4 Quaderni costituzionali 753; N Lupo, ‘L’art. 11 della Costituzione e l’appartenenza dell’Italia all’Alleanza atlantica’ (2022) 1 Il Filangieri 19; A Apostoli, ‘L’Italia è una Repubblica democratica fondata anche sul principio pacifista’ in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 141.

almost mandatory – for the future development of the Italian legal order and the restoration of peaceful and productive international relations.⁴

More than the mere confrontation between opposing ideologies, the Italian Constitution was forged by a universal spirit in which the collective experience of war served as a crucial element in establishing political consensus. This marked a profound departure from the past and a decisive rejection of totalitarianism, which relied on violence and the glorification of force.⁵ As stated by Togliatti, the Constitution should expressly reject war as an instrument of offensive and conquest policy for two reasons. Firstly, and from an internal perspective, to stigmatize a conflict that had ravaged the Nation; secondly, from an external perspective, to clarify the position of the Italian Republic in relation to the global political movement striving to outlaw war altogether.⁶

Article 11 is a provision that, more than any other, places the Italian Constitution in a context of shared values and pushes us to adopt a broader perspective going beyond national borders and historical events linked to anti-fascism.⁷ The violence and devastations caused by the world conflict had generated common reactions and aspirations among Western States, all yearning for a new world order. In the words of

⁴ See L Carlassare, ‘Costituzione italiana e partecipazione a operazioni militari’ in N Ronzitti (ed), *NATO, Conflitto in Kosovo e Costituzione italiana* (Milano 2000) 162 ff; L Chieffi, *Il valore costituzionale della pace. Tra decisioni dell'apparato e partecipazione popolare* (Liguori 1990) 61 ff; M Bon Valsassina, *Il ripudio della guerra nella Costituzione italiana* (Cedam 1955) 18 ff; M Benvenuti, *Il principio del ripudio della guerra nell'ordinamento costituzionale italiano* (Jovene 2010) 55-57; and G Negri, ‘La direzione e il controllo democratico della politica estera’ in M Bonanni (ed), *La politica estera della Repubblica italiana* (Edizioni di Comunità 1967) 763.

⁵ M Losano, *Le tre costituzioni pacifiste. Il rifiuto della guerra nelle costituzioni di Giappone, Italia e Germania* (Max Planck Institute for European Legal History 2020) 193 ff; L Paladin, *Per una storia costituzionale della Repubblica* (Il Mulino 2004) 204 ff; L Bonanate, *Art. 11* (Carocci 2018) 23-25.

⁶ Against this background, see P Togliatti, ‘Speech at the session of the 1st Subcommittee’ December 3, 1946, available at <www.nascitacostituzione.it/01principi/011/index.htm>. These two topics intersect and recur: the repudiation of war serves both to mark the detachment from the past, and to unite Italy with other Countries in the common aspiration for a world of peace.

⁷ See U Allegretti, ‘Una ricerca su Costituzione e nuove armi’ (1986) 2 Democrazia e Diritto 108; M Cartabia, ‘Art. 11’ in R Bifulco, A Celotto, M Olivetti (eds), *Commentario alla Costituzione* (UTET 2006) 277; M Lugato, *L'articolo 11 della Costituzione e le Nazioni Unite* in N Ronzitti (ed), *L'articolo 11 della Costituzione. Baluardo della vocazione internazionale dell'Italia* (Editoriale Scientifica 2013) 137.

President Roosevelt these States sought not only the reaffirmation of traditional rights, but also freedom from fear and from misery⁸. The memory of war events was still too fresh in the collective consciousness, superseding partisan conceptions and pushing newly reborn political parties to find a common agreement that transcended narrow interests or strategies.⁹

Such was the consensus that, during the deliberations of the Constituent Assembly, only two Deputies opposed to the current wording of Article 11, and not for reasons substantial in nature. The arguments presented by Nitti and Russo-Perez, indeed, primarily centred around the difficulty of distinguishing *sic et simpliciter* between ‘just wars’ and ‘unjust wars’. Moreover, they considered it redundant to include a similar assertion in the Constitution of a country now disarmed and under the aegis of the Allies.¹⁰

However, all the Constituents converged on the need to build a shared system of values firmly opposed to the warlike concepts of the authoritarian State and designed to avert future wars, in accordance with the provisions of the Atlantic Charter. Within this cultural context, the rejection of the use of force represented the prerequisite for creating a new global order based on the principles of collective security and self-determination.¹¹

⁸ F Roosevelt, ‘Annual Message to Congress’ January 6, 1941 available at <<http://docs.fdrlibrary.marist.edu/od4frees.html>>. Within this framework see also U Damiani, ‘Speech at the session of the 1st Subcommittee’ March 8, 1947, available at <www.nascitacostituzione.it/01principi/011/index.htm>. By recalling the four fundamental freedoms proclaimed in the Atlantic Charter, the author underlines that art 11 represents, realizes, and conforms to the principle of ‘freedom from fear’.

⁹ From this standpoint, see A Cassese, ‘Art. 10-11’ in G Branca (ed), *Commentario della Costituzione* (Zanichelli 1975) 462. See also L Paladin, ‘I principi fondamentali della Costituzione repubblicana: una prospettiva storica’ (1997) 4 Giurisprudenza costituzionale 3056 and G Dossetti, *La Costituzione. Le radici, i valori, le riforme* (Edizioni Lavoro 1996) 24-25.

¹⁰ To this end, see especially G Russo-Perez, ‘Speech at the session of the 1st Subcommittee’ March 14, 1947, available at <www.nascitacostituzione.it/01principi/011/index.htm> and FS Nitti, ‘Speech at the session of the 1st Subcommittee’ March 14, 1947, available at <www.nascitacostituzione.it/01principi/011/index.htm>.

¹¹ See, for example, M Fiorillo, *Guerra e diritto* (Laterza 2009) 100; N Ronzitti, ‘Politica di difesa, Costituzione e norme internazionali’ (1984) 1 Politica internazionale 75; S Andò, ‘Ripudio della guerra e neutralità nel mondo del dopoguerra’ in *Una facoltà nel Mediterraneo. Studi in occasione dei trent'anni della Facoltà di scienze politiche dell'Università di Catania* (Giuffrè 2000) 33.

Hence, all the constitutional provisions relating to war embraced a collective pacifist stand as a ‘supreme principle’ endowed with a strong normative value.¹² As Bobbio acutely observed, the Constitution embodies a system of values in which the concept of ‘peace’ is so closely intertwined with that of ‘war’ that the two terms must be understood as antithetical. The Italian Constituent employs this semantic dyad in an axiological-prescriptive and not merely descriptive or classificatory manner, with the clear intent of promoting peace and condemning the use of war.¹³

In this regard, the binding nature of the constitutional precept is apparent. Political forces with different orientations and backgrounds agreed almost unanimously to introduce and uphold the fundamental ‘pacifist principle’, articulating it in the clearest way possible.¹⁴ The wording of Article 11 leaves no room for ambiguity of any kind:

‘Italy rejects war as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes. Italy agrees, on conditions of equality with other States, to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations. Italy promotes and encourages international organizations furthering such ends’.¹⁵

The principle of catholic universalism rooted in Christian-democratic traditions, was flanked by the internationalist goals of communists and socialists. These shared values found correspondence in the federalist ideals espoused by the republican and actionist parties.¹⁶

¹² See L Chieffi, ‘Art. 11’ in R Bifulco, A Celotto, M Olivetti (eds), *Commentario alla Costituzione* (UTET 2006), 268-269; S Labriola, ‘Difesa nazionale e sicurezza dello stato nel diritto pubblico italiano’ (1979) 3 Rivista trimestrale di diritto pubblico 904; F Rigano, ‘La guerra: profili di diritto costituzionale’ in *La guerra profili di diritto internazionale e di diritto interno* (Editoriale Scientifica 2002) 19.

¹³ N Bobbio, ‘voce Pace’ in *Enciclopedia del Novecento, I Supplemento* (1989)

¹⁴ See G de Vergottini, ‘Guerra, difesa e sicurezza nella costituzione e nella prassi’ in (2017) 2 Rivista AIC 4-5; R Bin, ‘Art. 11’ in V Crisafulli, L Paladin (ed), *Commentario breve alla Costituzione* (Cedam 1990) 69; G Severini ‘Realtà internazionale e art. 11 della costituzione italiana’ in (2004) 1 Rassegna Parlamentare 65

¹⁵ Official translation by the Senato della Repubblica (Italian Senate) available at <www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf>.

¹⁶ F Bonini, ‘Tra partiti e blocchi contrapposti: il biennio 1947-49’ in S La Porta (ed), *NATO e Costituzione* (Giuffrè 2020) 1 ff; L Cortesi, A Liberti, 1949: *il trauma della*

3. The systematic interpretation of Article 11 and its normative meaning

On the exegetic ground, Article 11 is an organic provision characterized by logical unity and internal coherence. Its formal construction, with precise punctuation marks, requires a unitary and systematic interpretation and not partial or separate readings of every single proposition.¹⁷

Hence, Article 11 must be read in light of its *ratio* and the significance attributed to the unequivocal rejection of war within the framework of the 1948 Constitution. Since these are strictly functional requirements, each individual part of Article 11 must be understood both as intimately linked to and as an indispensable precondition to the others. Each part mutually complements and reinforces the normative significance of the provision.¹⁸

3.1. The ‘rejection’ of war

From this standpoint, the absolute rejection of war ‘as an instrument of aggression against the freedom of other peoples and as a means for the settlement of international disputes’ represents the inspiring principle of the entire provision. This principle reflects a shared political project, which serves as a guiding force in the interpretation of Article 11.

The first line of Article 11 sets forth the normative impact of the provision. First, it prohibits the use of military force with the exclusive or prevalent aim of violating the freedom of other peoples (the so-called

NATO. *Il dibattito alla Camera sull’adesione dell’Italia al Patto atlantico* (Edizioni Cultura della Pace) 1989; F Sorrentino, ‘Riflessioni su guerra e pace tra diritto internazionale e diritto interno’ (2004) 1 Rivista di Diritto Costituzionale 153.

¹⁷ Above all see L Carlassare, ‘Costituzione italiana e guerra umanitaria’ in M Doglioni, S Sicardi (eds), *Diritti umani e uso della forza* (Giappichelli 1999) 23; A Barone, ‘La difesa nazionale e la Costituzione’ (1987) 2 Diritto e società 643; T Mazzarese, ‘Guerra e diritto. Note a margine di una tesi kelseniana’ (2003) 19 Teoria politica 25-26.

¹⁸ B Pezzini, ‘Per un ordine della sovranità disarmata’ (2022) 3 Osservatorio AIC 4; M Fiorillo, *Guerra e diritto* (Laterza 2009) 100; C De Fiore, ‘Le radici della nazione repubblicana. Fondamenti teorici e profili costituzionali’ (2019) 1 Costituzionalismo.it 77-78; D Zolo, Chi dice umanità. Guerra, diritto e ordine globale (Einaudi 2000) 61; S Scagliarini, ‘Il ripudio della guerra nella Costituzione italiana. Brevi note sull’art. 11 della Carta costituzionale’ (2002) 1 Revue internationale de langues juridiques et de droit comparé 61-62.

‘war of aggression’).¹⁹ Second, it unequivocally condemns any attempt to resolve international disputes through anything other than peaceful economic or diplomatic means.²⁰ The regulatory scope of Article 11 also prevents our legal system from adopting attitudes that, while not military in nature, threaten the independence of other States. This includes the supplying of weapons or the harbouring in ports and airports of the armed forces of a State engaged in a war of aggression.²¹

Yet, the repudiation of war is not expressed in absolute terms.²² Since its first drafting, the Constitution acknowledges that any dispute – however severe and harsh – may always be resolved through peaceful means. At the same time, the Constitution admits the use of armed force in order to safeguard the territorial integrity of a State suffering ‘unjust aggression’.²³ Hence, the constitutional rejection of war prevents any type of oppression, but it is not entirely pacifist, in the sense that it recognizes

¹⁹ See *ex multis* C De Fiores, ‘Costituzione e guerre di globalizzazione. Interpretazione evolutiva o violazione dell’art. 11 Costituzione?’ (2003) 1 Questioni giustizia 1004-1005; M Cecchetti, ‘Il “ripudio della guerra” contenuto nella carta costituzionale alla luce del diritto e della prassi internazionale’ (1993) 1 Comunità internazionale 284; and P Carnevale, ‘L’Italia, l’attuale vicenda della guerra irachena e l’art. 11 della Costituzione’ in P Carnevale (ed), *La Costituzione va alla guerra?* (Editoriale Scientifica 2013) 142.

²⁰ G Motzo, ‘Costituzione e guerra giusta alla periferia dell’impero’ (1999) 3 Quaderni costituzionali 373.

²¹ N Bobbio, *Il problema della guerra e le vie della pace* (Il Mulino 1997) 2-3; M Dogliani, ‘Il divieto costituzionale della guerra’ (2003) Costituzionalismo.it 1; E Bettinelli, ‘Guerre e operazioni di polizia internazionale’ (1991) 5 Foro italiano 377-378; GU Rescigno, ‘Riflessioni di un giurista sulla guerra e sulla pace’ (1999) 2 Quaderni costituzionali 376; and G Ferrara, ‘Ripudio della guerra, rapporti internazionali dell’Italia e responsabilità del Presidente della Repubblica’ (2003) Costituzionalismo.it 1.

²² From a comparative perspective see, for example, Article 9 of the national Constitution of Japan, come into effect on 3 May 1947. In its text, Japan outlaws war as a means to settle international disputes involving the state and formally renounces the sovereign right of belligerency and aims at an international peace based on justice and order. According to this provision: 1) Aspiring sincerely to an international peace based on justice and order, the Japanese people forever renounce war as a sovereign right of the nation and the threat or use of force as means of settling international disputes. 2) In order to accomplish the aim of the preceding paragraph, land, sea, and air forces, as well as other war potential, will never be sustained. The right of belligerency of the state will not be recognized’.

²³ PP Portinaro, ‘Introduzione. Diritto internazionale, guerra giusta e nemico ingiusto’ in O Eberl, P Niesen (eds) *Nessuna pace col “nemico ingiusto”? Se sia lecito imporgli la democrazia dopo averlo sconfitto* (Edizioni Trauben 2014) 7; U Allegretti, ‘La pace e il suo statuto’ (2001) 6 <www.forumcostituzionale.it> 1.

the right and duty to defend the independence of one's territory, freedom, and Constitution.²⁴

In this sense, the content of Article 11 is strictly linked with Articles 52, 78 and 87, para 9 of the Italian Constitution. Article 78 indeed provides that 'The Parliament has the authority to declare a state of war and vest the necessary powers into the Government'. Similarly, Article 87, para 9, establishes that the President of the Republic 'shall make declarations of war as have been agreed by Parliament'. These two provisions are qualified by Article 52, according to which the military defence of the Country is 'a sacred duty for every citizen'. Therefore, it is to be presumed that the 'state of war' deliberated by the Parliament and formally declared by the President of the Republic must have eminently defensive characteristics.²⁵ The only constitutionally permitted war is the one aiming to protect the fundamental rights of citizens and safeguarding the integrity of the democratic institutions through a controlled and measured use of military force, in compliance with the principle of self-defence enshrined in the Charter of the United Nations and the inalienable right of each State to defend its political community from any external aggression.²⁶ From this perspective, Article 11 clarifies the regulatory meaning of all remaining provisions of the Constitution that, in various ways, mention war.

During the discussions in the Constituent Assembly, a cautious approach prevailed, aiming to maintain an efficient military apparatus to be used solely in response to unjustified armed aggression against the

²⁴ See for example M Benvenuti, *L'Italia, la Costituzione e la (seconda) guerra di Libia* (2011) 1 Costituzionalismo.it 1; G de Vergottini, 'La Costituzione e l'intervento NATO nella ex-Yugoslavia' (1999) Quaderni costituzionali 122; M Franchini, 'Brevissime note a proposito dei nuovi impegni militari italiani in Afghanistan' in *Studi per Giovanni Motzo*, (Giuffrè 2003) 207-208.

²⁵ See P Carnevale 'Guerra, Costituzione e legge: qualche riflessione sul trattamento costituzionale della guerra anche alla luce della recente legge sulle missioni internazionali' (2019) 1 Diritto e società 149; A Giardina, 'Art. 78' in G Branca (ed), *Commentario della Costituzione* (Zanichelli 1978) 99-100; F Modugno, D Nocilla, 'Problemi vecchi e nuovi sugli stati di emergenza nell'ordinamento italiano' in *Scritti in onore di Massimo Severo Giannini* (Giuffrè 1988) 538.

²⁶ See A Vedaschi, 'Guerra e Costituzione: spunti dalla comparazione' (2022) 3 Osservatorio costituzionale 6; C De Fiore, 'Una guerra contro la Costituzione' (2003) 1 Costituzionalismo.it 7-8; M Podetta, 'Uso della forza nella comunità internazionale e Costituzione' in V Onida (ed), *Idee in cammino: il dialogo con i costituzionalisti bresciani* (Cacucci 2019) 256.

independence and territorial integrity of the State. War remained the last resort, to be resorted to only after all the necessary attempts at a peaceful solution to the dispute were exhausted.²⁷ The use of military force was justified only when a ‘just cause’ existed, arising from a real ‘state of necessity’. In this case, the attacked State – and potentially other States willing to assist it pursuant to mutual agreements for international cooperation – would respond proportionately to the aggression suffered. The armed response would be limited to ‘strict defensive needs’.²⁸

In compliance with Article 51 of the Charter of the United Nations, the Italian Constitution excludes, however, that the threat brought to the territorial integrity of a State by a potential enemy (for example, through progressive rearmament or with movements of troops on the border) can justify preventive defence actions. In such circumstances, at most, only non-coercive actions, such as embargoes, the freezing of economic resources or a block of funding, would be allowed.²⁹ The defensive intervention – individual or collective – must therefore be limited to restoring the violated right by rejecting the aggression. The total destruction of the enemy or the replacement of the Government responsible for the armed attack falls outside the scope of the provision. These would indeed turn a legitimate war into an unlawful act of retaliation, contrary to the intentions of the Constituent Fathers.³⁰

According to Article 11, therefore, security means protection from external invasions, such as armed attacks coming from third States, international organizations, or terrorist groups. In this respect, the notion of security must guarantee protection from aggressions, including predominantly armed actions, and may imply the protection of territorial

²⁷ Carlassare, ‘L’art. 11 Cost. nella visione dei Costituenti’ (n 1).

²⁸ See A Apostoli, ‘Preservare la democrazia senza ricorrere alla guerra’ in G Brunelli, A Pugiotto, P Veronesi (eds), *Scritti in onore di Lorenza Carlassare. Il diritto costituzionale come regola e limite al potere* (Editoriale Scientifica 2009) 1749; C Zanghì, ‘Il Kosovo fra Nazioni Unite e diritto internazionale’ (1999) 2 Quaderni costituzionali 379; and G de Vergottini, ‘Difesa nazionale e guerre ripudiate’ in S Labriola (ed), *Valori e principi del regime repubblicano. Sovranità e democrazia* (Laterza 2006) 403.

²⁹ See for example L Chieffi, ‘Art. 11’ (n 12) 268-269; Labriola, ‘Difesa nazionale e sicurezza dello stato nel diritto pubblico italiano’ (n 12) 904; Rigano, ‘La guerra: profili di diritto costituzionale’ (n 12) 19.

³⁰ Benvenuti, *Il principio del ripudio della guerra* (n 4).

integrity through intelligence and military activities.³¹ The Italian Constitutional Court has clearly endorsed the lawfulness and the dutifulness of this interpretation. In a number of cases, by providing a combined interpretation of Article 11 and Article 52 of the Constitution, the Constitutional Court has established that the security of the Country is presumed to axiologically prevails over other constitutional values.³²

3.2. Article 11 as an ‘opening’ clause and the problem of sovereignty

Having firmly abandoned fascist nationalism and imperialism, and embracing a predominantly irenic perspective, the Republican Constitution recognizes transnational solidarity an essential precondition for establishing a new coexistence between peoples based on positive friendships and not on bloody oppositions.³³ With this renewed approach, the Italian Constitution identifies a set of fundamental values which take priority over State sovereignty. It also accepts, ‘on conditions of equality with other States’, all ‘the limitations of sovereignty’, to ensure ‘peace and justice among the Nations’. Accordingly, it ‘promotes and encourages international organizations furthering such ends’.³⁴

The text of the Constitution neither mentions the European Union nor refers to the United Nations. Nonetheless, references to the aspiration to take part in the UN and to comply with the provisions of its

³¹ G de Vergottini, ‘Profili costituzionali della gestione delle emergenze’ (2001) 2 Rassegna parlamentare 291; M Frau, ‘La guerra difensiva e il contrasto al terrorismo internazionale alla luce dell’articolo 11 della Costituzione italiana’ in M Frau, E Tira (ed), *Il contrasto al terrorismo negli ordinamenti democratici* (BUP 2022) 93; M Cecchetti, ‘Il “ripudio della guerra” contenuto nella Carta costituzionale, alla luce del diritto e della prassi internazionali’ (1993) 2 La comunità internazionale 284.

³² See for example the reasoning developed in Constitutional Court of Italy, Judgment no 110/1998. From a similar perspective, see also Constitutional Court of Italy, Judgment nos 24/2014, 106/2009, 86/1977, 82/1976 and Constitutional Court of Italy order 86/1977.

³³ See L Ferrajoli, *Perché una Costituzione della Terra?* (Giappichelli 2021); A D’Andrea, ‘Solidarietà e Costituzione’ (2008) 1 Jus: Rivista di scienze giuridiche 1827; A Golia, ‘Il principio di solidarietà nell’ordinamento costituzionale italiano’ in R Bifulco, M Benvenuti (eds), *I diritti e i doveri costituzionali* (Giappichelli 2022) 268; M Ross, ‘Solidarietà: un nuovo paradigma costituzionale per l’Unione europea?’ (2009) 2 Rivista del diritto della sicurezza sociale 239; G Teubner, Il costituzionalismo della società transnazionale (2014) 1 Quaderni costituzionali 191-192.

³⁴ For a comparison see above all M Losano, *Le tre costituzioni pacifiste* (n 5).

Charter were implicit in the Constituent Assembly. Similarly, the Assembly took into account also the European perspective. The fact that the text of Article 11 does not explicitly mention it is because, especially after the war events, the link of solidarity between European States was taken for widely accepted and considered implicit in the drafting of the provision. It is no coincidence that the Italian Constitutional Court, with decision no 14 of 1964 and with decision no 183 of 1973, has grounded the legitimacy of Italy's accession to the EU on Article 11.³⁵

To the extent that peace and justice between Nations are priority values, State sovereignty must be self-limited in order to guarantee such values. As emphasized by Dossetti's speech in the Constituent Assembly at the end of the session of 3 December 1946, the ruins caused by war were largely the result of States arrogantly asserting their sovereignty in absolute and unlimited ways.³⁶ In order to ensure a long and lasting period of peace among peoples, modern States must instead be willing to submit to international rules. This would be the only way to build modern Constitutions, breaking the cycle of pride and nationalism, accepting limitations in the interest of peace, and recognizing a higher authority to resolve disputes.³⁷

As the Constitutional Court underlined in its judgment no 170 of 1984, not all Treaties justify a limitation of sovereignty. Self-limitation of sovereignty is essential only to ensure the rejection of war and contribute to the creation of a system of solidarity among peoples. As a result, international Treaties promoting peace and justice among Nations justify limitations of State sovereignty. Conversely, Treaties that do not pursue the objectives enshrined in Article 11 may not be enforced in the domestic

³⁵ See, above all, Cartabia, 'Art. 11' (n 7). See also R Mastroianni, 'L'art. 11 Cost. preso sul serio' (2018) 3 Diritto pubblico comparato ed europeo 5 and N Lupo, 'L'art. 11 come "chiave di volta" della Costituzione vigente' (2021) 3 Rassegna parlamentare 379.

³⁶ From this point of view, see G Dossetti, 'Speech at the session of the 1st Subcommittee' December 3, 1946 available at <www.nascitacostituzione.it/01principi/011/index.htm>.

³⁷ L Ferrajoli, 'Diritti fondamentali e democrazia costituzionale' (2003) 2 Analisi e diritto 331; U Allegretti, 'La guerra, la Costituzione e le Nazioni Unite' (n 2); P Cacciari, 'L'articolo 11 della nostra Costituzione dice che la guerra va bandita' in A Genovese (ed) *Intercultura e nonviolenza: possibili strade di pace* (CLUEB 2008) 4-5; C De Fiores, 'Costituzione e guerre di globalizzazione' (n 9) and *passim* L Carlassare, *Nel segno della Costituzione* (Feltrinelli 2012).

legal system. The question of statehood also comes as a direct corollary of the repudiation of war.³⁸

Accordingly, sovereignty undergoes a genetic transformation. It is no longer invoked as a justification for absolute power but as a limit to the arbitrary exercise of political authority.³⁹ The idea is that fundamental principles of the constitutional order reflect the identity, legal culture and self-understanding of the society, and preserving them means preserving the very identity of the *polis*, rooted in the historical experience of a people and articulated in the Constitution.⁴⁰

It is within this legal framework that the relationship between the domestic legal order and the international legal system is established. International legal institutions complement and uphold constitutional stability. Indeed, the Italian Constitution clearly limits State sovereignty through the creation of a transnational order that mutually protects such principles. Furthermore, the ‘opening’ that the Constitution accords to the rules of international law goes beyond the institutional dimension, and it is content-related. Such opening allows us to understand the very scope of the clauses contained in the fundamental Charter.

4. *The ‘internationalist principle’ as a supreme principle*

The Constitution does not provide a definition of the term ‘war’, leaving room for international law to clarify its notion and understanding. This highlights the dynamic interaction between the domestic legal order and the international legal framework. The constitutional reference to

³⁸ See Italian Constitutional Court, judgment no 170 of 1984, especially para 5 conclusions on point of law. Among the scholars, from a more general perspective see M Calamo Specchia, ‘Un prisma costituzionale, la protezione della Costituzione: dalla democrazia “militante” all’autodifesa costituzionale’ (2021) Diritto pubblico comparato ed europeo 91; S Cassese, ‘Ordine giuridico europeo e ordine nazionale’ (2010) 4 Giornale di diritto amministrativo 419; D Tega, ‘La Corte nel contesto’ (2020) 4 Questione giustizia 5-6.

³⁹ G de Vergottini, *Guerra e costituzione* (n 1).

⁴⁰ A Guazzarotti, ‘Sovranità e integrazione europea’ (2017) 3 Rivista AIC 1; G Palombella, *Costituzione e sovranità: il senso della democrazia costituzionale* (Edizioni Dedalo 1997) 64-65; I Valia, ‘Sovranità e diritti umani’ (2016) 1 Rivista di scienze della comunicazione e di argomentazione giuridica 83; L Ferrajoli, ‘Diritti fondamentali e democrazia costituzionale’ (2003) 2 Analisi e diritto 331; M Fioravanti, *Costituzionalismo: percorsi della storia e tendenze attuali* (Laterza 2014) 161 ff.

war acquires a marked semantic value since the notion of war under international law shapes the interpretation of the Italian Constitution.⁴¹

Treaties, the case-law of international courts and State practice have indeed gradually changed the classical meaning of ‘war’, replacing it with the notion of ‘armed conflict’, which presents different nuances and intensities. Especially in the last three decades, the concept of ‘war’, understood essentially as an interstate conflict aimed at the *debellatio* of another State, has often proved insufficient to describe a diversified range of conflicts. Against this background, war, in its traditional meaning, is only an option and not even the most frequent one.⁴²

In sum, the concepts and terms of Article 11 must not be considered fixed at the time the Constituent Fathers adopted them. They undergo continuous adjustments in light of evolving legal and political relationships established at the international level.⁴³ Institutional, parliamentary and governmental practices have adapted domestic regulation to the concepts established in international law, integrating them into the interpretation of constitutional provisions. In other words, the Italian Constitution no longer embraces the merely defensive logic emerging immediately after the end of the Second World War and aimed at preventing possible aggressions (at that time expected mostly from the so-called ‘communist bloc’), but is opened to the developments of international conflicts. Hence, the Constitution may be deemed to provide indirect legal coverage also for those specific forms of recourse to armed force – far from infrequent in current international practice – which consist of military

⁴¹ See for example De Vergottini, ‘Profili costituzionali della gestione delle emergenze’ (n 31) 275. According to the author if the relevant definition under international law changes, even the concept adopted by State law changes at the same time. See also G Azzariti, ‘La guerra in Libia e la Costituzione’ (2011) 3 Costituzionalismo.it 1; F Armao, ‘voce Guerra’ in *Enciclopedia tematica aperta della Società internazionale* (1997).

⁴² *Ex plurimis*, see G Battaglini, C Fioravanti, ‘Nazioni Unite e NATO negli interventi armati’ (1999) 1 Politica del diritto 259 ff; E Cannizzaro, ‘La nuova dottrina strategica della NATO e l’evoluzione della disciplina internazionale sull’uso della forza’ in N Ronzitti (ed), *Nato, conflitto in Kosovo e Costituzione italiana* (Giuffrè 2000) 43 and A Barbera, ‘Le vicende del Trattato del Nord Atlantico: revisione de facto o interpretazione evolutiva?’ (1999) 4 Rassegna parlamentare 815.

⁴³ MR Saulle, ‘I cinquant’anni della NATO’ (1999) 3 Affari Esteri 605; FP Fulci, ‘Il permanente ruolo della NATO nel nuovo quadro geo-strategico mondiale’ (1992) 1 La comunità internazionale 128; D Mortellaro, *I Signori della guerra. La NATO verso il XXI secolo* (Manifestolibri 1999).

missions operating outside national territory under international authority.⁴⁴

In conclusion, even the constitutional provision establishing the repudiation of war must be consistently re-interpreted in an evolutionary manner, by considering the role played by international treaties and institutions. Article 11 indeed provides that ‘Italy agrees [...] to the limitations of sovereignty that may be necessary to a world order ensuring peace and justice among the Nations’.⁴⁵ The interpretation of this provision should therefore balance two fundamental principles, the repudiation of war and participation in international organizations that guarantee peace and security. As mentioned above, the Constituents wished to prevent Italy from venturing into future wars, while at the same time guaranteeing its inclusion in international organizations responsible for collective security, mainly the United Nations.⁴⁶

The decision not to include the principle of neutrality in the Constitution can be seen as an attempt to avoid isolation at the international level after the Second World War. Had the repudiation of war a truly absolute meaning, it would have been illogical to include in the Italian Constitution an ideologically strong yet vague statement, devoid of

⁴⁴ See for example L Ferrajoli, ‘I crimini di sistema e il futuro dell’ordine internazionale’ (2009) 9 *Teoria politica* 402; G Gaja, ‘L’organizzazione internazionale’ in G Amato, A Barbera (eds), *Manuale di diritto pubblico* (Il Mulino 1984) 1093; M Mancini, *Stato di guerra e conflitto armato nel diritto internazionale* (Giappichelli 2009) 243. Additional evidence that Italian domestic legal system integrates and applies the hermeneutic principles related to Article 11 – and in particular the clauses concerning war – as they are expressed in International law, can be also observed in a statement made by the. The Supreme Court stated that armed conflicts are classified as such by international law, even if they involve internal civil wars. To this end, see Italian Court of Cassation, Judgment no 1072 October 11, 2006 – January 17, 2007 para 2.

⁴⁵ C De Fiores, Il principio internazionalista in M Della Morte, FR De Martino, L Ronchetti (eds), *L’attualità dei principi fondamentali della Costituzione dopo settant’anni* (Il Mulino 2020) 229 ff; U Villani, ‘Guerre giuste, difesa preventiva e interventi umanitari alla luce della Carta delle Nazioni unite’ in V Possenti (ed), *Pace e guerra tra le Nazioni* (Guerini e associati 2006) 147; P Carnevale, ‘Il ruolo del Parlamento e l’assetto dei rapporti tra Camere e Governo nella gestione dei conflitti armati. Riflessione alla luce della prassi seguita in occasione delle crisi internazionali del Golfo Persico, Kosovo e Afghanistan’ in P Carnevale (ed), *Guerra e Costituzione* (Giappichelli 2004) 94.

⁴⁶ See M Iovane, Il conflitto ucraino e il diritto internazionale: prime osservazioni (2022) 3 *Osservatorio costituzionale* 14; C Mortati, *Istituzioni di diritto pubblico* (Cedam 1975) 158; G Battaglini, C Fioravanti, ‘Nazioni Unite e NATO negli interventi armati’ (1999) 1 *Politica del diritto* 264.

normative significance. To definitively prevent Italy from being involved in military conflicts, the most suitable option would have been the adoption of a permanent neutrality clause.⁴⁷

Neutrality would have ensured that the Italian Republic would not be part of any war, except for conflicts of a purely defensive nature. This way, the Constitution would have promoted more directly that ideal of peace.

If this did not happen, it is precisely because the Constituents were determined to place Italy among the active participants of international politics. The Constituents left room for participation in armed conflict situations with the view of enforcing the principles enshrined in the Charter of the United Nations.⁴⁸ This means that a derogation from the mandatory principle of ‘rejection of war’ is possible in two scenarios. First, the case where it is necessary to defend the State from external aggressions. Second, the circumstance where the domestic legal system must conform to a decision made by UN, NATO, or EU allowing for the use of force in accordance with the terms and conditions provided by the Charter or the Treaties establishing the European Union, ie in a solidaristic perspective.

In any case, the admissibility of possible armed interventions will be assessed against all the clauses that compose Article 11. Therefore, it is entirely possible that a conflict may arise between the rejection of war, included in the first part of the provision, and a decision of a military intervention taken by international bodies or allied States, which may not be inspired by clear defensive needs or in line with the values protected by the UN Charter or the Italian Constitution.⁴⁹

⁴⁷ See especially C De Fiores, ‘Il principio costituzionale pacifista, gli obblighi internazionali e l’invio di armi a Paesi in guerra’ in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 29; G Battaglini, ‘Usi della forza e diritti umani nel sistema delle Nazioni Unite’ in M Dogliani, S Sicardi (ed), *Diritti umani e uso della forza* (Giappichelli 1999) 12; L Cremonesi, *Guerra infinita. Quarant’anni di conflitti rimossi, dal Medio Oriente all’Ucraina* (Solferino 2022)

⁴⁸ E Cannizzaro, ‘NATO’ in *Digesto delle discipline pubblicistiche* (1995); N Ronzitti, *Diritto internazionale dei conflitti armati* (Giappichelli 2006) 101; F Dal Canto, ‘Il cammino del sacro dovere di difesa della patria, dalla guerra contro l’aggressione alla solidarietà sociale’ (2003) 1 Rivista di diritto costituzionale 295; G Ferrari, ‘Guerra – Stato di guerra (diritto costituzionale)’ in *Enciclopedia del diritto* (1970) and P De Sena, ‘Neutralità’ in *Enciclopedia filosofica* (2006).

⁴⁹ de Vergottini, ‘La Costituzione e il ritorno della guerra’ (n 3).

5. The specificities of the Ukrainian case

Since war is repudiated as an ‘instrument of aggression’ and as ‘a means for the settlement of international disputes’, a problem may arise when war is invoked in defence of other States. To this end, Article 11 suggests a case by case approach inspired by the principles of solidarity and international cooperation.

First of all, the ‘special military operation’ undertaken by the Russian Federation against Ukraine has been considered a real ‘war of aggression’. The term ‘war’ in its classical meaning is entirely appropriate, since, from the very beginning of the conflict, the intention of the invading army to achieve the *debellatio* of the invaded country has been clear.⁵⁰ According to the plans of the Russian High Command, the military intervention in Ukraine aimed at conquering the predominantly Russian-speaking territories of Donbass – with the consequent destruction of population and economy – and denazifying Ukraine, with related regime change in Kyiv. In this context, the legal institution of ‘war’ is not affected in its essence, while the objective circumstances in which it is placed and the motivations at the basis of the conflict appear largely changed.⁵¹

Secondly, the invasion of Ukraine, which began on February 24, 2022, not only was a case of clear non-compliance with customary international law on the use of force and self-defence, but also openly violated treaty obligations mandatory for the Russian Federation. In particular, the violation of Article 2 of the UN Charter is apparent. Correlatively, the victim State, Ukraine, is legitimately entitled to armed self-defence under Article 51, which reaffirms ‘the inherent right of individual or

⁵⁰ About the term ‘war of aggression’, see *ex multis* LR Blank, GP Noone, *International Law and Armed Conflict: Fundamental Principles and Contemporary Challenges in the Law of War* (Aspen Publishing 2018); Y Dinstein, *War, Aggression and self-defense* (OUP 2017) 117 ff; C Greenwood, ‘The Concept of War in Modern International Law’ (1987) 36 ICLQ 283; YM Lootsteen, ‘The Concept of Belligerency in International Law’ (2000) 166 Military L Rev 109; M Byers, *War Law: Understanding International Law and Armed Conflict* (Open Road Grove 2007).

⁵¹ See M Dogliani, ‘La guerra in Ucraina tra tabù nucleare e oltranzismo politico-mediatico’ (2022) 1 Democrazia e diritto 7; M Benvenuti, ‘Le conseguenze costituzionali della guerra russo-ucraina. Prime considerazioni’ (2022) 3 Osservatorio costituzionale 7; G Azzariti, ‘La Costituzione rimossa’ (2022) 1 Costituzionalismo.it 2; L Sandri, ‘La guerra in Ucraina: cronaca di un conflitto (anche) religioso’ (2022) 2 Quaderni di diritto e politica ecclesiastica 281; V Coralluzzo, ‘L’aggressione russa all’Ucraina: genesi di una guerra annunciata’ (2022) 2 Rivista di politica 10.

collective self-defence if an armed attack occurs against a Member of the United Nations', at least until the Security Council has taken measures necessary to maintain international peace and security.⁵²

In this sense, the reading of Article 11 of the Italian Constitution must be linked to the Charter of the United Nations. The interpretative categories of international law allow us to understand more clearly what is meant by the term 'defensive war', since the *ius consuetudinis* recognizes the right to collective self-defence, thus justifying armed intervention by third States in aid of an attacked country.⁵³ Therefore, generally recognized principles of international law legitimize such aid. These principles hold a constitutional rank, according to the automatic modifier mentioned in the first paragraph of Article 10 of the Constitution. A combined reading of Article 2, second paragraph – which states that 'the Republic expects that the fundamental duties of political, economic and social solidarity be fulfilled' – and Article 11 indicates that military intervention for assisting an attacked State reacting to a foreign invasion is admissible.⁵⁴

A fortiori, insofar as the military support consisting of sending weapons to the attacked State is seen as a legitimate act of collective self-defence under international law, it should not be considered contrary to the provisions of the Constitution. In other words, sending weapons or providing logistical support to a regular army, which operates exclusively

⁵² M Volpi, 'La guerra in Ucraina e il costituzionalismo democratico' (2022) 1 Costituzionalismo.it 13; K Ambos, 'Will a state supplying weapons to Ukraine become a party to the conflict and thus be exposed to countermeasures?' EJIL: Talk! (2 March 2022); M Dogliani, 'Amica Ucraina, sed magis amica veritas' (2022) 1 Costituzionalismo.it 8; G Bucci, 'Ragione del diritto e follia del potere di guerra' in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 175; E Diodato, 'La guerra russo-ucraina e la politica estera e di difesa dell'Italia' (2022) 2 Rivista di politica 34.

⁵³ Cf M Cavino, 'Il governo della guerra' (2022) 4 Quaderni costituzionali 753; S Riondato, 'Missioni militari internazionali italiane c.d. di pace all'estero. Novità giuspenalistiche nella legge di riforma 21 luglio 2016, n. 145' (2017) 5 Diritto penale contemporaneo 287; G Brunelli, 'Scelta atlantica e centralità del Parlamento nella politica costituzionale degasperiana' (2022) 3 Quaderni costituzionali 577; Iovane, 'Il conflitto ucraino e il diritto internazionale' (n 46) 11-12.

⁵⁴ For example, see G Marazzita, 'Guerra vietata, legittima e necessaria' (2022) 12 Federalismi.it 52 ff.; G Cansacchi, *Nozioni di diritto internazionale bellico* (Giappichelli 1963); G De Vergottini, 'La Costituzione e l'intervento NATO nella ex-Jugoslavia' (1999) 1 Quaderni costituzionali 122; D Cabras, 'Il «ripudio della guerra» e l'evoluzione del diritto internazionale' (2006) 2 Quaderni costituzionali 297.

within its territory, would not qualify as an unlawful use of force. It should be construed as effective support for the legitimate exercise of individual self-defence by the attacked State. In the case of Ukraine, the UN General Assembly has confirmed that an unlawful aggression from the point of view of international law is underway: therefore, it can be assumed that Ukraine is reacting to such aggression in self-defence⁵⁵. Hence, constitutional law matches international law.

Lastly, Article 11 includes a general directive to the Italian political and institutional bodies in their international relations, requiring them to actively pursue a pacifist policy and absolutely prohibiting any involvement in wars of an offensive nature or as means ‘for the settlement of international disputes’.⁵⁶ Yet, this does not exclude participation in wars waged to defend the homeland and the territory of another State. The Constitution does not explicitly clarify whether or not it is allowed to participate in wars to defend other States, thus opening up the space for the identification of an implicit authorization through international law.⁵⁷

In the silence of the Constitution, the concept of ‘defensive warfare’ should be defined in light of the international rules governing the use of force and those provisions regulating the exercise of individual or collective self-defence. The ‘opening’ of the Constitution to international law allows for an integrative interpretation of its provisions, like the recognition of the ‘natural right’ to self-defence or defensive support in certain

⁵⁵ L Ventura, V Pupo, *Osservazioni sui problemi internazionali e interni conseguenti alla guerra in Ucraina*, (2022) 3 Forum di Quaderni Costituzionali 1; I Massa Pinto, ‘La solidarietà conflittuale come dovere di comprendere le ragioni dell’Altro, anche nella guerra Nato-Russia in Ucraina’ in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 257; M Chiaruzzi, ‘Ucraina, guerra d’Europa’ (2022) 2 Rivista di politica 6.

⁵⁶ A Ciervo, ‘Critica delle armi. L’articolo 11 della Costituzione, la legge n. 185/1990 e l’invasione dell’Ucraina da parte della Federazione Russa’ in G Azzariti (ed), *Il costituzionalismo democratico moderno può sopravvivere alla guerra?* (Editoriale Scientifica 2022) 195; C De Fiore, ‘Il principio pacifista, la ratifica dei Trattati internazionali e la questione della NATO’ (2020) 2 Democrazia e diritto 66; A Ruggeri, ‘La pace come bene assoluto, indisponibile e non bilanciabile, il diritto fondamentale a goderne e il dovere di preservarla ad ogni costo’ Consulta online (27 February 2022).

⁵⁷ See M Benvenuti, ‘Luci ed ombre della l. n. 145/2016 in tema di partecipazione dell’Italia alle missioni internazionali’ (2017) 1 Rivista AIC 50 ff; A Cantaro, ‘Interpretazioni della guerra’ (1999) 33-34 I quaderni. Trimestrale dell’Istituto Gramsci 31; A Guazzarotti, ‘Articolo 11’ in F Clementi, L Cuocolo, F Rosa, GE Vigevani (eds), *La Costituzione italiana* (Il Mulino 2021) 87

circumstance.⁵⁸ What is more, in the present geopolitical situation, defence of the Homeland under Article 52 of the Constitution as ‘a sacred duty for every citizen’, cannot but include defensive alliances between States, with all the related consequences in terms of mutual assistance in the event of an invasion by a third country.⁵⁹

6. Some concluding remarks

The way in which the debate about Article 11 unfolded during the Constituent Assembly offers important insights for understanding its normative meaning. By examining the historical context and the discussions leading to the adoption of Article 11, we can reach a more nuanced and complete understanding of its implications. Rather than interpreting this provision in a limited or narrow way, a thorough analysis of its origins suggests a comprehensive approach that takes into account three key principles: the principle of peaceful coexistence, the principle of internationalism, and the principle of solidarity.

When it comes to applying this provision, it is important to carefully balance all of its different components in each specific case and assess the constitutionality of any military intervention directly or indirectly involving Italy. This means that none of the different principles outlined in Article 11 can simply and unequivocally override the others, and that the norm must be applied on a case-by-case basis, taking into account the specific circumstances of each individual conflict. By doing so, we can ensure that the constitutional legitimacy of any military intervention is evaluated in a context-specific and nuanced way.

Within this context, the categories of constitutional law and international law intersect and complement each other, enriching our domestic legal system with the requirements of geopolitical cooperating brought by Italy’s involvement in supranational organizations promoting peace and justice among Nations.

⁵⁸ Iovane, *Il conflitto ucraino e il diritto internazionale* (n 46).

⁵⁹ See G Bascherini, *Il dovere di difesa nell’esperienza costituzionale italiana* (Jovene 2017) 100 ff; P Cecchinato, ‘La Costituzione, la guerra e le Patrie degli altri’ *lacostituzione.info* (8 April 2022); F Bocchini, ‘Contributo allo studio della difesa civile della Patria’ (2014) 3 *Giurisprudenza costituzionale* 776; A Celotto, ‘L’Italia, l’art. 11 della Costituzione e la guerra’ *Giustizia insieme* (8 March 2022).