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Research Article

## Prospects for EAEU Members' Cooperation with Crimea Following Its Disputed Accession to the Russian Federation

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**Abstract:** This study examines the status of the Crimean Peninsula within the frameworks of international law and the Eurasian Economic Union (EAEU) legal framework. The urgency of this issue is heightened by the ongoing war between Russia and Ukraine, which deepens the uncertainty surrounding Crimea's status. Currently, Crimea remains a disputed territory, posing significant legal and political challenges. The central question of this study is whether Crimea, given its undefined status, can fully exercise the rights and privileges associated with EAEU membership. The study explores potential implications and possibilities for Crimea's integration into the EAEU. Through a detailed analysis of legal intricacies and international legal instruments, the article highlights specific features of the EAEU's legal landscape. Despite its annexed status, Crimea operates within the framework of both the Russian Federation and the EAEU. Member states maintain a delicate balance by engaging with Crimea under de facto recognition while avoiding international sanctions. This dual approach reflects the complexities of the situation. The practical value of this research lies in its potential to inform broader policy development regarding Crimea's legal status amidst the ongoing conflict. By considering the impact of the current war, the study offers a timely and relevant analysis of the evolving geopolitical landscape and its effects on Crimea's legal standing.

**Keywords:** status of Crimea, international law, geopolitical implications, annexation, sanctions, disputed territory.

### Introduction

The accession of the Autonomous Republic of Crimea to Russia in the spring of 2014 sparked widespread discussion within the global community. The motives,

justifications, and implications of this event for Russia's national identity, foreign policy, and the international system have been widely debated. The Crimean Peninsula remains a disputed territory between the Russian Federation and Ukraine, raising numerous political and legal questions regarding Crimea's status and state affiliation.<sup>1</sup> Although the sense of an imminent crisis has diminished, many questions remain unanswered. Nevertheless, the Crimean Peninsula continues to function as a regional territory of the Russian Federation, despite widespread international condemnation of what is viewed as an annexation.<sup>2</sup> According to conventional realist theory, when one or more major powers do not recognize the legitimacy of the status quo, they are likely to seek its revision, making stable peace unattainable. This indicates the search for a new status quo that Russia would find acceptable. However, it remains unclear what terms might satisfy Russia or whether any agreement compromising Ukraine's sovereignty could align with Western standards of legitimacy.<sup>3</sup>

Over the years 2014 to 2020, Crimea has undergone considerable changes across multiple areas. A significant number of ethnic Ukrainians and Crimean Tatars, estimated at around 140,000, have left the peninsula.<sup>4</sup> In *Beyond Crimea*,<sup>5</sup> the author observes that the annexation of Crimea and the ongoing separatist conflict in eastern Ukraine have been gradually advanced through policies of soft power, the passport system, and information warfare. Russia has leveraged the citizenship of Russian-speaking "compatriots" living in the now-independent states of the former Soviet Union to further its foreign policy objectives. Although this issue is often politicized, it warrants legal examination to establish the rights and obligations of Crimea, which, as a de-facto part of Russia's territory, now has access to the benefits within the Eurasian Economic Union (EAEU).<sup>6</sup> However, Russia's foreign policy shift in 2014 and its altered international stance have undermined free trade as a fundamental principle of the EAEU.<sup>7</sup>

<sup>1</sup> Tuomas Forsberg and Sirke Mäkinen, "Russian Discourse on Borders and Territorial Questions – Crimea as a Watershed?" *Russian Politics* 4, no. 2 (2019): 211-241, <https://doi.org/10.1163/2451-8921-00402004>.

<sup>2</sup> Paul D'Anieri and Taras Kuzio, "Ukraine After Five Years of Conflict," *Eurasian Geography and Economics* 60, no. 1 (2019): 1-5, <https://doi.org/10.1080/15387216.2019.1635512>; Serhy Yekelchuk, "The Crimean Exception: Modern Politics as Hostage of the Imperial Past," *The Soviet and Post-Soviet Review* 46, no. 3 (2019): 304-323, <https://doi.org/10.1163/18763324-04603005>.

<sup>3</sup> D'Anieri and Kuzio, "Ukraine After Five Years of Conflict."

<sup>4</sup> Yekelchuk, "The Crimean Exception: Modern Politics as Hostage of the Imperial Past."

<sup>5</sup> Agnia Grigas, "Separatism and Annexation: Moldova, Georgia, and Ukraine," in *Beyond Crimea: The New Russian Empire* (New Haven, CT: Yale University Press, 2016), 94-135, <https://doi.org/10.12987/yale/9780300214505.003.0004>.

<sup>6</sup> Grigas, "Separatism and Annexation: Moldova, Georgia, and Ukraine."

<sup>7</sup> Maria Raquel Freire, "The Quest for Status: How the Interplay of Power, Ideas, and Regime Security Shapes Russia's Policy in the Post-Soviet Space," *International Politics* 56, no. 6 (2019): 795-809, <https://doi.org/10.1057/s41311-018-0164-y>.

Since the 2014 annexation, the situation in Crimea has become increasingly complex, especially with the outbreak of the broader war between Russia and Ukraine in 2022. While the core issues of Crimea's disputed status and integration into Russia persist, the ongoing war introduces additional concerns. These include the intensified militarization of the peninsula, risks of further escalation, and the humanitarian impact on Crimean residents. This evolving context underscores the need for a renewed assessment of Crimea's relationship with both the EAEU and the international community.

The EAEU was established to promote the free movement of goods, services, labor, and capital by removing trade barriers and pursuing a coordinated macroeconomic policy, with the eventual aim of transitioning to a single currency. The EAEU treaty outlines strict economic requirements, including a budget deficit cap of 3 % of GDP, a public debt limit of 50 % of GDP, and inflation kept below 5 %.<sup>8</sup> However, the war in Ukraine has strained these principles, affecting the economic stability and freedom of movement within the EAEU. Western sanctions on Russia have triggered effects across member states, disrupting trade and financial transactions. The economic pressures from the war, alongside the risk of secondary sanctions for countries cooperating with Russia, further hinder the EAEU's goals of unrestricted trade and services. Additionally, the divergence in economic conditions among member states complicates efforts to maintain a coordinated macroeconomic policy, making the prospect of a single currency increasingly remote in this climate of instability.<sup>9</sup>

It is, therefore, essential to assess the prospects for Crimea's cooperation with EAEU member states, given its unresolved status. This study attempts to determine the extent to which Russia's actions may constitute violations of international law and to clarify Crimea's status. It examines the international standing of the Crimean Peninsula through relevant legal frameworks in both international law and the EAEU's regulatory structure, considering the potential pathways for Crimea's continued participation and functionality within the EAEU.

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<sup>8</sup> Golam Mostafa and Monowar Mahmood, "Eurasian Economic Union: Evolution, Challenges and Possible Future Directions," *Journal of Eurasian Studies* 9, no. 2 (2018): 163-172, <https://doi.org/10.1016/j.euras.2018.05.001>.

<sup>9</sup> Yulii Sedliar, et al., "Political and Legal Assessment of the Budapest Memorandum: From Ukraine's Renunciation of Nuclear Weapons to the Annexation of the Crimean Peninsula," *Social and Legal Studies* 6, no. 3 (2023): 153-160, <https://doi.org/10.32518/sals3.2023.153>; Oleksandr Shubalyi, "Changing the Trajectory of the Transition of the Socio-Ecological-Economic System of Ukraine to Sustainable Development as a Consequence of the War," *Economic Forum* 12, no. 4 (2022): 20-26, <https://e-forum.com.ua/en/journals/tom-12-4-2022/zmina-trayektoriyi-perekhodu-sotsio-ekologo-ekonomichnoyi-sistemi-ukrayini-do-stalogo-rozvitku-vnaslidok-viyeni>. – in Ukrainian

## Method

This study primarily employs analysis of legal documents and agreements as its primary method. It incorporates general (philosophical) methods of scientific cognition, such as materialistic dialectics, the principle of universal connection, the principle of development, and the principle of the complexity of study. Additionally, general scientific methods of cognition, including analysis, synthesis, induction, deduction, and historical and logical approaches, are utilized alongside specific methods from the legal sciences. Several conclusions in this research are derived through a legal system-structural approach. The formal legal method is extensively used, along with the comparative legal method and other specific legal techniques. The theoretical foundation of this research draws on the work of scholars in international law, including Forsberg,<sup>10</sup> Yekelchyk,<sup>11</sup> Freire,<sup>12</sup> Kagan,<sup>13</sup> Bering,<sup>14</sup> and Malksoo,<sup>15</sup> among others.

Among the information sources for this study are the Constitution of Ukraine, the Constitution of the Russian Federation, and relevant international legal documents, such as treaties impacting relations between the Eurasian Economic Union (EAEU) member states.<sup>16</sup> Several key documents and international agreements were examined to explore possible boundaries for cooperation with the disputed territories discussed in this study, including Chapters 6-8 of the United Nations (UN) Charter and the UN General Assembly Resolution A/RES/68/262 on Ukraine's territorial integrity.<sup>17</sup> The analysis of these documents provides for a comparative examination of post-World War II territorial conflicts and the measures taken to address them. Within the framework of international agreements on sovereignty and territorial integrity of individual states, this study also

<sup>10</sup> Forsberg and Mäkinen, "Russian Discourse on Borders and Territorial Questions."

<sup>11</sup> Yekelchyk, "The Crimean Exception: Modern Politics as Hostage of the Imperial Past."

<sup>12</sup> Freire, "The Quest for Status: How the Interplay of Power, Ideas, and Regime Security Shapes Russia's Policy."

<sup>13</sup> Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Knopf, 2003).

<sup>14</sup> Juergen Bering, "The Prohibition on Annexation: Lessons from Crimea," *New York University Journal of International Law and Politics (JILP)* 49, no. 3 (September 2017): 747-832, <https://nyujilp.org/wp-content/uploads/2010/06/NYI302.pdf>.

<sup>15</sup> Lauri Mälksoo, "The Annexation of Crimea and Balance of Power in International Law," *European Journal of International Law* 30, no. 1 (February 2019): 303-319, <https://doi.org/10.1093/ejil/chz019>.

<sup>16</sup> "Constitution of Ukraine," 1996, <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>; "Constitution of the Russian Federation," 1993, <http://www.constitution.ru/>; "Treaty of Friendship, Cooperation and Partnership between the Russian Federation and Ukraine," May 31, 1997, <https://treaties.un.org/Pages/showDetails.aspx?objid=08000002803e6fae>.

<sup>17</sup> "Charter of the United Nations," June 26, 1945, <https://www.icj-cij.org/en/charter-of-the-united-nations#Chapter>; United Nations General Assembly, "General Assembly Resolution 68/262 'On the Territorial Integrity of Ukraine'," March 27, 2014, <https://undocs.org/A/RES/68/262>.

considered case studies on the establishment of dual governments in Cyprus,<sup>18</sup> the resolution of the Falkland Islands (Malvinas) sovereignty dispute,<sup>19</sup> the international legal status of Western Sahara,<sup>20</sup> and the Arab-Israeli conflict.<sup>21</sup> Additionally, data concerning territorial disputes involving the Russian Federation were analyzed to provide context relevant to this study. Specifically, Russia's involvement in Abkhazia and South Ossetia,<sup>22</sup> the Nagorno-Karabakh conflict,<sup>23</sup> and Transnistria<sup>24</sup> were considered and reviewed in detail.

For an in-depth analysis, relevant laws and specific provisions from international treaties—prior to and following the annexation of Crimea—were selected and examined.<sup>25</sup> These included the *Budapest Memorandum on Security Assurances* and the *Treaty of Friendship, Cooperation, and Partnership between Ukraine and the Russian Federation*.<sup>26</sup> Documents related to the legal basis for the decision of the Supreme Council of the Autonomous Republic of Crimea in Ukraine to organize a referendum on joining the Russian Federation were also reviewed. These include the Decree “On the Recognition of the Independence of the Republic of Crimea,” the constitutional law on the inclusion of the Republic of Crimea in the Russian Federation, and data on the referendum regarding Crimea's status.<sup>27</sup> Additionally, the study explores the unique aspects of Crimea's

<sup>18</sup> Elihu Lauterpacht, “The Turkish Republic of Northern Cyprus – The Status of the Two Communities in Cyprus,” *Republic of Türkiye Ministry of Foreign Affairs*, July 10, 1990, <https://www.mfa.gov.tr/chapter2.en.mfa>.

<sup>19</sup> “Decolonization Committee Says Argentina, United Kingdom Should Renew Efforts on Falkland Islands (Malvinas) Question,” Press Release GA/COL/3105, *United Nations*, June 18, 2004, <https://www.un.org/press/en/2004/gacol3105.doc.htm>.

<sup>20</sup> Adrianna Kalicka-Mikołajczyk, “The International Legal Status of Western Sahara,” *The Opole Studies in Administration and Law* 18, no. 4 (2020): 35-47, <https://doi.org/10.25167/osap.3429>.

<sup>21</sup> “Israel and the Palestinians: Can the Settlement Issue Be Solved?” *BBC News*, November 18, 2019, <https://www.bbc.com/news/world-middle-east-38458884>.

<sup>22</sup> Andre W.M. Gerrits and Max Bader, “Russian Patronage over Abkhazia and South Ossetia: Implications for Conflict Resolution,” *East European Politics* 32, no. 3 (2016): 297-313, <https://doi.org/10.1080/21599165.2016.1166104>.

<sup>23</sup> Stephen Blank, “US Policy, Azerbaijan, and the Nagorno-Karabakh Conflict,” *Mediterranean Quarterly* 26, no. 2 (2015): 99-114, <https://doi.org/10.1215/10474552-2914539>.

<sup>24</sup> John Beyer and Stefan Wolff, “Linkage and Leverage Effects on Moldova's Transnistria Problem,” *East European Politics* 32, no. 3 (2016): 335-354, <https://doi.org/10.1080/21599165.2015.1124092>.

<sup>25</sup> Adam Twardowski, “The Return of Novorossiia: Why Russia's Intervention in Ukraine Exposes the Weakness of International Law,” *Minnesota Journal of International Law* 24, no. 2 (2015): 351-385, <https://scholarship.law.umn.edu/mjil/351>.

<sup>26</sup> UN General Assembly Security Council, “Budapest Memorandums on Security Assurances,” December 19, 1994, [https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s\\_1994\\_1399.pdf](https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_1994_1399.pdf).

<sup>27</sup> “Federal Law of the Russian Federation No. 36-FZ ‘On the Ratification of the Treaty Between the Russian Federation and the Republic of Crimea on the Acceptance of the Republic of Crimea into the Russian Federation and the Formation of New Subjects

trade and political relations with EAEU member states, identifying potential connections, opportunities for future cooperation, and associated risks.

## The Status of Crimea in International Law

The prohibition of forced annexation is reinforced by the principle of state continuity, which rejects annexation and its resulting consequences. This principle is grounded in the fact that a state does not cease to exist, even if it no longer meets the conditions required for its existence. Notably, the principle of succession applies specifically to cases of annexation, highlighting that its primary purpose is not to safeguard the annexed state itself but rather to protect the international community from the consequences of the disappearance of one of its members. By doing so, it simplifies the issue of state succession.<sup>28</sup>

Italian jurisprudence acknowledges the right of governments in exile to maintain their own diplomatic missions, participate in international conferences and agreements, and engage in military action with their armed forces.<sup>29</sup> Similarly, the United States jurisprudence made provisions for the preservation of the legal personality of occupied states, as demonstrated in the case concerning Latvia. The U.S. court ruled that “the conquest of Latvia and the entry of the country into the USSR did not transfer the citizenship of the Republic of Latvia to the applicants. In example, according to a 1959 decision, “the Republic of Latvia, as it was formed before the Soviet invasion, is still recognized by the United States, and the Treaty between the United States and Latvia, which allows US citizens free access to Latvian courts, is still valid and applicable.” Thus, the jurisdiction

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within the Russian Federation’,” March 20, 2014, <https://www.prlib.ru/en/node/353764>; “Federal Constitutional Law of the Russian Federation No. 6-FKZ ‘On the Admission of the Republic of Crimea to the Russian Federation and the Formation of New Subjects – the Republic of Crimea and the Federal City of Sevastopol within the Russian Federation’,” March 20, 2014, <https://www.prlib.ru/en/node/353509>. – in Russian; “Resolution of the Constitutional Court of the Russian Federation No. 6-P ‘On the Case of Checking the Constitutionality of an International Treaty That Has Not Entered into Force Between the Russian Federation and the Republic of Crimea on the Acceptance of the Republic of Crimea into the Russian Federation and the Formation of New Subjects Within the Russian Federation’,” *Garant.ru*, March 20, 2014, <http://www.garant.ru/hotlaw/federal/531935/>. – in Russian; Aleksandr Fisher, “Trickle Down Soft Power: Do Russia’s Ties to European Parties Influence Public Opinion?” *Foreign Policy Analysis* 17, no. 1 (January 2021), oraa013, <https://doi.org/10.1093/fpa/oraa013>; Parliamentary Assembly of the Council of Europe, “Reconsideration on Substantive Grounds of the Previously Ratified Credentials of the Russian Delegation,” April 10, 2014, <http://assembly.coe.int/nw/xml/XRef/Xref-XML2HTML-en.asp?fileid=20882>.

<sup>28</sup> Lauterpacht, “The Turkish Republic of Northern Cyprus.”

<sup>29</sup> “Sovereign Order of Malta v. Soc. An. Commerciale,” Roman Court, Decision of November 3, 1954, *International Law Reports* 22 (1958): 1-5, <https://doi.org/10.1017/CB09781316151495.003>.

of the U.S. court was acknowledged.<sup>30</sup> This highlights that, in cases of state annexation, legality takes precedence over efficiency, preventing the annexed state's legal personality from disappearing. Even after the annexation, the continued existence of the annexed state remains fully effective in both public and private law domains.

Russia's 2014 annexation of Crimea sparked the most significant East-West crisis since the end of the Cold War. The international community faced the challenge of determining the legal characterization of such an action: was it merely the use of force, an act of aggression, or an armed attack? The Charter of the United Nations distinguishes between these three scenarios, though it is not always easy to draw a precise line between them.<sup>31</sup> The annexation of Crimea represented the first forcible annexation of European country territory since 1945 and the first forcible alteration of Europe's borders. By violating numerous international agreements, Russia disregarded repeated appeals from the UN General Assembly and refused the entry of international human rights observers to the peninsula.<sup>32</sup>

The referendum held in Crimea on March 16, 2014, was declared illegal by most European governments, as it violated both the Ukrainian Constitution and international law. According to the Constitution of Ukraine,<sup>33</sup> any territorial changes must be approved by a referendum of the entire Ukrainian population, which aligns with the general principles of international law. International law emphasizes the preservation of state territorial integrity, often limiting the right of minorities to self-determination. If such groups are allowed to act without restrictions, they may not represent the majority of the population and could destabilize the international system.<sup>34</sup> Despite this, the day after the Crimean referendum, Putin signed a decree recognizing Crimea as a sovereign state. On

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<sup>30</sup> "Zalcmanis *et al.* v. United States," Supreme Court of the United States, June 3, 1959, *International Law Reports* 28 (1963): 95-97, <https://doi.org/10.1017/CBO9781316151556.021>.

<sup>31</sup> Antonello Tancredi, "The Russian Annexation of the Crimea: Questions Relating to the Use of Force," *Questions of International Law*, Zoom out 1 (May 11, 2014): 5-34, <http://www.qil-qdi.org/the-russian-annexation-of-the-crimea-questions-relating-to-the-use-of-force/>.

<sup>32</sup> Foreign & Commonwealth Office and The Rt Hon Boris Johnson, "Four Years since the Illegal Annexation of Crimea: Article by Boris Johnson," *Government of the United Kingdom*, February 22, 2018, <https://www.gov.uk/government/speeches/four-years-since-the-illegal-annexation-of-crimea-article-by-boris-johnson>.

<sup>33</sup> "Constitution of Ukraine."

<sup>34</sup> Christian Marxsen, "The Concept of Territorial Integrity in International Law – What Are the Implications for Crimea?" *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht (Heidelberg Journal of International Law)*, 2015, <https://ssrn.com/abstract=2515911>.

March 18, an agreement was signed in Sevastopol formalizing Crimea's admission into the Russian Federation.<sup>35</sup>

On March 27, 2014, the UN General Assembly adopted a resolution urging states not to recognize the transfer of Crimea to the Russian Federation or the results of the illegally held Crimean referendum.<sup>36</sup>

The most serious challenges emerged from regions that seceded from the Soviet Union due to political and military conflicts and sought recognition of their sovereign status. In this context, issues regarding the application of the law in unrecognized states are particularly significant.<sup>37</sup> For instance, the Federal Notary Chamber of the Russian Federation has received requests regarding the recognition of various documents from these regions, such as civil status registrations, identity certificates, and documents verifying the legal standing of entities from unrecognized states like Abkhazia, Artsakh, Transnistria, and South Ossetia. In response to these requests, the Federal Chamber often consults the Ministry of Foreign Affairs (MFA) of the Russian Federation, which has clarified that international law does not contain any provisions explicitly prohibiting the recognition of the legitimacy of legal documents from unrecognized states.<sup>38</sup>

The International Court of Justice (ICJ) addressed the legality of accepting the acts of unrecognized states in its advisory opinion on Namibia.<sup>39</sup> Following World War I, Namibia, a former German colony, was transferred to the United Kingdom but under the administration of South Africa. In 1966, the UN assumed direct responsibility for the territory, although South Africa continued its *de facto* rule. This situation was challenged at the ICJ, which declared South Africa's administration of Namibia to be illegal and invalid. However, the Court clarified that this invalidity did not extend to legal actions such as the registration of births, deaths, and marriages, as disregarding these actions would harm the territory's inhabitants. Consequently, the ICJ established that legal regulations and actions of *de facto* unrecognized state entities should not be disregarded, especially when doing so would negatively impact the people under their jurisdiction.

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<sup>35</sup> "Agreement between the Russian Federation and the Republic of Crimea on the Admission of the Republic of Crimea to the Russian Federation and the Formation of New Subjects Within the Russian Federation," April 18, 2014, <http://kremlin.ru/events/president/news/20605>. – in Russian

<sup>36</sup> "General Assembly Adopts Resolution Calling upon States not to Recognize Changes in Status of Crimea Region," *United Nations*, March 27, 2014, <https://www.un.org/press/en/2014/ga11493.doc.htm>.

<sup>37</sup> Yoko Hirose, "Unrecognized States in the Former USSR and Kosovo: A Focus on Standing Armies," *Open Journal of Political Science* 6, no. 1 (January 2016): 67-82, <https://doi.org/10.4236/ojps.2016.61007>.

<sup>38</sup> James Ker-Lindsay, "Engagement Without Recognition: The Limits of Diplomatic Interaction with Contested States," *International Affairs* 91, no. 2 (March 2015): 267-285, <https://doi.org/10.1111/1468-2346.12234>.

<sup>39</sup> Rosalyn Higgins, "The Advisory Opinion on Namibia: Which UN Resolutions Are Binding Under Article 25 of the Charter?" *The International and Comparative Law Quarterly* 21, no. 2 (April 1972): 270-286, <https://www.jstor.org/stable/757586>.



The European Court of Human Rights (ECHR) supported the ICJ's approach regarding the status of unrecognized states. The ECHR noted that "this decision is confirmed by authoritative authors about the existing entities in international law and decisions of courts of various countries regarding the *de facto* status of unrecognized states." This position is reinforced by legal precedents across various jurisdictions. For instance, the UK Court of Appeal, in *GUR v. Trust Bank of Africa*,<sup>40</sup> addressed the status of the Ciskei Government, an entity established by South Africa during apartheid, which the British government did not recognize. Nonetheless, the Court considered Ciskei's actions as attributable to South Africa, which the United Kingdom still formally recognized. This case, along with others, contributed to the doctrine that unrecognized states may be "recognized" to a limited degree in certain legal contexts.

Similarly, in the United States, only recognized states can typically act as plaintiffs in American courts. However, exceptions allow limited access to justice for unrecognized states on a case-by-case basis. For example, in *Transportes Eros de Angola v. Ronair*,<sup>41</sup> the U.S. courts permitted access after the U.S. State Department asserted that the plaintiff's access to American courts served U.S. foreign policy interests.

In *Parent v. Singapore Airlines*,<sup>42</sup> the Canadian Department of Foreign Affairs stated that under the One-China policy, Canada recognizes the People's Republic of China (PRC) and maintains no official diplomatic relations with Taiwan. Nevertheless, the court ruled that Taiwan fulfills the criteria for statehood under the Montevideo Convention and acknowledged Taiwan's "effective political independence."

Regarding unrecognized states, one of the most significant cases in Japan is the *Kokario case (Republic of China v. Yu-Ping Huang)*.<sup>43</sup> The court ruled that the government of the Republic of China (Taiwan) did not have the right to defend the disputed property in Japan. However, the Osaka Supreme Court acknowledged the trade relations between Taiwan and Japan, ultimately concluding that it would be "most reasonable" to recognize Taiwan's position in private legal disputes.

<sup>40</sup> "Gur Corporation v. Trust Bank of Africa Ltd. and the Government of the Republic of Ciskei," *Lloyd's Law Reports* 2 (1986): 451, <https://www.i-law.com/ilaw/doc/view.htm?id=149023>.

<sup>41</sup> "Transportes Aereos De Angola v. Ronair, Inc.," US District Court for the District of Delaware – 693 F. Supp. 102 (D. Del. 1988), August 17, 1988, <https://law.justia.com/cases/federal/district-courts/FSupp/693/102/2357580/>.

<sup>42</sup> "Parent and Ors v. Singapore Airlines Ltd and Civil Aeronautics Administration," Decision of Superior Court of Quebec, 2003 IIJ Can 7285 (QC CS), ILDC 181 (CA 2003), Canada, Quebec, Superior Court [QCCS], *Oxford Public International Law*, October 22, 2003, <https://opil.oupilaw.com/view/10.1093/law/ildc/181ca03.case.1/law-ildc-181ca03>.

<sup>43</sup> Chun-i Chen, "Kuang Hua Liao (Kokaryo) Case," in *Chinese (Taiwan) Yearbook of International Law and Affairs*, Volume 25, ed. Ying-jeou Ma (The Chinese (Taiwan) Society of International Law – The Chinese (Taiwan) Branch of the International Law Association, 2007), 139-160, [https://doi.org/10.1163/9789004424975\\_008](https://doi.org/10.1163/9789004424975_008).

It is important to acknowledge this ICJ interpretation, as the court's decision was based solely on preserving human rights and recognizing legal personality, regardless of the status of an unrecognized state. The judicial decisions reviewed suggest that, in certain cases, *de facto* states are also recognized. Such a principle, limited to recognizing the legal personality of citizens of unrecognized states, could be applied to Crimea until its status is determined definitively.

If Russia's legal rhetoric in Georgia largely failed to convince the international community, it holds even less credibility in the context of Ukraine. However, the internal cohesion of the European Union (EU) and the transatlantic consensus on key legal issues regarding Ukraine are part of a broader historical framework. This is not merely a reaction to Russia's threat to the eastern borders of the European Union and NATO – although the threat is undeniable. More importantly, the three Baltic republics, each with significant ethnic Russian minorities, are directly threatened by Russia's claim to an unlimited right to protect its "compatriots" abroad. Yet, given Germany's historical experience with mistreating its ethnic German neighbors before World War II, after it, the United States, Europe, and the wider international community have consistently resisted the idea that a state can unilaterally use military force to protect its ethnic kin on foreign soil. While there were no clear grounds to challenge this consensus, various European treaties on minority protection and institutional mechanisms within the European Union and the Organisation for Security and Cooperation in Europe (OSCE) are based on rejecting this notion. Notably, after World War II, the United States, European states, and their institutional predecessors consistently opposed any attempts to alter state borders.

The United States and European countries have also opposed changes to territorial borders, even when carried out by friendly nations, including formal and informal allies. Notable examples include the annexation of East Timor by Indonesia (1975), Israel's annexation of East Jerusalem (1980) and the Golan Heights (1981), Argentina's attempt to reclaim the Falkland Islands (1982), the declaration of independence of Northern Cyprus (1983) following Turkey's invasion and occupation of part of the Republic of Cyprus, Morocco's annexation of Western Sahara (1976), and Morocco's occupation of Perejil Island (2002). In one case—Israel's military actions in 1967—the majority of Transatlantic Alliance states accepted the initial occupation as a justified measure. In contrast, the response to Turkey's initial use of force in Northern Cyprus was more ambiguous. However, in all these cases, the United States and European countries have unanimously rejected the legality of violent territorial changes. Furthermore, these countries have supported the policy of territorial integrity and the inviolability of recognized state borders through consistent diplomatic, economic, and military efforts.

Given this history, the legal unity between the United States and the European Union on Crimea and Eastern Ukraine is not surprising. The stance of the Transatlantic Alliance countries—that Russia's actions in Ukraine represent an unlawful use of force and the so-called independent republics declared within its

territory are a result of coercion—is also understandable. Since 1945, prohibitions on unilateral use of interstate force on behalf of ethnic kin and forcible territorial acquisition between states have been universally recognized as fundamental principles of international law.

The fact that the United States and the EU have condemned Russia's actions in Ukraine should not come as a surprise. Since World War II, attempts at forcible territorial expansion have sharply declined, with none resulting in a recognized transfer of territory. Although opposition to the use of force on behalf of ethnic kin is a more recent principle, it is no less resolute. The United States and the European Union would undermine the historical order if they suddenly approved actions in Ukraine that they have consistently opposed in other cases. International law places high value on the territorial integrity of states, expecting that both states and non-state actors uphold this fundamental principle.<sup>44</sup>

Disagreements over the interpretation of international law occasionally arise, even though EU member states generally share fundamental values in upholding the global order. Individual provisions are often broadly formulated, and their relationships to other provisions are rarely precisely defined. The complex statutory and factual realities of international politics often allow for diverse interpretations shaped by different conscientious evaluations and conflicting interests. Legal disagreements within the Transatlantic Alliance are likely to continue. However, it is equally important to recognize the alliance's capacity for strong, lasting consensus and the ability of the United States and the European Union to align their diplomatic efforts toward this end.<sup>45</sup> In Ukraine, the coordinated EU-US diplomacy successfully prevented Russia's claims regarding the protection of "compatriots," the right of peoples to self-determination, and state recognition from becoming accepted global precedents. This effort helped preserve the integrity of relevant international legal provisions. Moreover, the non-recognition policy pursued by the United States and the European Union has stripped Russia of any legitimacy in its claim over Crimea, thereby reinforcing the principle of territorial integrity and prohibiting violent territorial revisionism in interstate relations.

Russia's illegal use of force not only violated fundamental principles of international law but also breached numerous international, regional, and bilateral agreements. Following the collapse of the Soviet Union, Russia and Ukraine concluded 377 bilateral agreements grounded in the principles of sovereignty, territorial integrity, partnership, and friendship across various fields. Moreover, the ongoing war in Ukraine further undermines the international legal framework

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<sup>44</sup> Simone F. van den Driest, "Crimea's Separation from Ukraine: An Analysis of the Right to Self-Determination and (Remedial) Secession in International Law," *Netherlands International Law Review* 62 (2015): 329-363, <https://doi.org/10.1007/s40802-015-0043-9>.

<sup>45</sup> Urban Jakša, "EU Policy Options Towards Post-Soviet De Facto States," *Center for Security Studies – ETH Zürich*, November 22, 2017, <https://css.ethz.ch/en/services/digital-library/articles/article.html/315482b8-87d1-4d00-8175-253c7fc597d0>.

and casts a shadow over the future of peaceful relations between the two countries. This blatant disregard for international law raises serious concerns about Russia's commitment to fulfilling its obligations under existing treaties and agreements. The international community has overwhelmingly condemned Russia's actions in Crimea and continues to demand the restoration of Ukrainian sovereignty over the peninsula. Furthermore, the situation was further exacerbated by Russia's annexation of Donetsk, Kherson, Luhansk, and Zaporizhzhia oblasts on September 30, 2022. This expansion of occupied territories further complicates the geopolitical landscape and intensifies the urgency for a resolution that respects Ukraine's territorial integrity and adheres to international law.

### Crimea within the EAEU Legal Framework

The EAEU operates within the scope of competence granted by its member states under the *Treaty on the Eurasian Economic Union*.<sup>46</sup> The legal personality of the EAEU is defined in this constituent act of 2014, which establishes the Union as an international organization for regional economic integration with international legal personality.<sup>47</sup> According to international law, the EAEU possesses an international legal personality, meaning it can be a subject of international relations and law, exercise rights, bear obligations, and, in some instances, be held accountable for its obligations. The legal framework of the Union includes the Treaty on the EAEU, agreements within the EAEU, agreements between the EAEU and third parties, and decisions and orders issued by the Supreme Eurasian Economic Council, the Eurasian Intergovernmental Council, and the Eurasian Economic Commission.<sup>48</sup> It is important to note that decisions by the EAEU Court do not alter or annul existing provisions of Union or member states' legislation, nor do they create new legal provisions.<sup>49</sup> Therefore, court decisions are not considered part of the EAEU's legislative framework.

The EAEU was established with the goals of comprehensive modernization, enhanced cooperation, increased competitiveness of national economies, and fostering sustainable development to improve the standard of living for the populations of member states.<sup>50</sup> Its primary privileges include the free movement of goods, services, capital, and labor, as well as the pursuit of a coordinated, consistent, and unified economic policy.<sup>51</sup>

<sup>46</sup> Tony van der Togt, "EU & Eurasian Economic Union: A Common Chinese Challenge," *Clingendael Institute*, April 30, 2020, <https://www.clingendael.org/publication/eu-eurasian-economic-union-common-chinese-challenge>.

<sup>47</sup> "Treaty on the Eurasian Economic Union," May 29, 2014, [https://www.wto.org/english/thewto\\_e/acc\\_e/kaz\\_e/WTACCKAZ85\\_LEG\\_1.pdf](https://www.wto.org/english/thewto_e/acc_e/kaz_e/WTACCKAZ85_LEG_1.pdf).

<sup>48</sup> "Treaty on the Eurasian Economic Union."

<sup>49</sup> Chen, "Kuang Hua Liao (Kokaryo) Case."

<sup>50</sup> Chen, "Kuang Hua Liao (Kokaryo) Case."

<sup>51</sup> Gaziza Shakhanova and Jeremy Garlick, "The Belt and Road Initiative and the Eurasian Economic Union: Exploring the 'Greater Eurasian Partnership'," *Journal of Current Chinese Affairs* 49, no. 1 (2020): 33-57, <https://doi.org/10.1177/1868102620911666>.

Following a popular referendum held in Crimea, in which the majority of Crimean residents expressed a desire to join the Russian Federation, the Republic of Crimea and the federal city of Sevastopol were annexed and merged with the Russian Federation on March 18, 2014. Based on constitutional amendments, the Republic of Crimea, including Sevastopol, is considered a subject of the Russian Federation.<sup>52</sup> According to paragraphs 1 and 2 of Article 2 of the Customs Code of the Customs Union, the common customs territory of the Customs Union includes the territories of the Republic of Armenia, the Republic of Belarus, the Republic of Kazakhstan, the Kyrgyz Republic, and the Russian Federation, as well as artificial islands, installations, structures, and other objects outside the territories of member states of the Customs Union, over which they exercise exclusive jurisdiction. The borders of this customs territory constitute the customs border of the Customs Union. Thus, the Republic of Crimea, including the federal city of Sevastopol, is considered an integral part of the Russian Federation and, therefore, part of a Customs Union member state within the Customs Union borders. Consequently, importing goods from the Republic of Crimea, including Sevastopol, is considered an import from the Russian Federation.

On the seventh anniversary of the adoption by the UN General Assembly of Resolution 68/262 on the "Territorial Integrity of Ukraine," which declared the Crimean referendum invalid, the UN General Assembly reiterated that "it strongly condemns Russia's ongoing destabilization of Ukraine, especially Russia's actions in certain areas of Donetsk and Luhansk regions, ignoring the commitments it has undertaken in accordance with the Minsk Protocol."<sup>53</sup>

Armenia, Belarus, Bolivia, Venezuela, Zimbabwe, Cuba, Nicaragua, Syria, North Korea, and Sudan have recognized the Crimean referendum as legitimate. Kazakhstan, however, abstained from voting. In its statement regarding the situation in Crimea, Kazakhstan stated that it views the referendum as a "free expression of the will of its population" and "understands the decision of the Russian Federation in the current conditions." The President of Kazakhstan also clarified in an interview that the Kazakh authorities do not consider Crimea's accession to Russia an act of annexation.<sup>54</sup> Does this imply that Kazakhstan will continue to recognize Crimea as an autonomous entity within the Russian Federation? This issue is not new, as questions about Crimea's status within Russia have

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<sup>52</sup> "Federal Constitutional Law of the Russian Federation No. 6-FKZ 'On the Admission of the Republic of Crimea to the Russian Federation and the Formation of New Subjects – the Republic of Crimea and the Federal City of Sevastopol Within the Russian Federation'."

<sup>53</sup> Ministry of Foreign Affairs of Ukraine, "Joint Statement on the Occasion of the Seventh Anniversary of Adoption of UN General Assembly Resolution 68/262 'Territorial Integrity of Ukraine'," *Government of Ukraine Portal*, March 26, 2021, [www.kmu.gov.ua/en/news/spilna-zayava-z-nagodi-somoyi-richnici-shvalennya-generalnoyusamableyeyu-oon-rezolyuciyi-68262-teritorialna-cilisnist-ukrayini](http://www.kmu.gov.ua/en/news/spilna-zayava-z-nagodi-somoyi-richnici-shvalennya-generalnoyusamableyeyu-oon-rezolyuciyi-68262-teritorialna-cilisnist-ukrayini).

<sup>54</sup> "Adviser to the President of Kazakhstan Clarified Tokayev's Words about the Annexation of Crimea," *RBC*, December 6, 2019, <https://www.rbc.ru/rbcfreenews/5dea46cc9a79470347fc6f3e>. – in Russian

arisen before. There are precedents for the non-application of Customs Union procedures to goods imported from Crimea by local authorities. Therefore, the territorial tax authorities responsible for import-export matters in the Customs Union need to assess previous court rulings in Kazakhstan regarding Crimean goods imported into its territory.

The International Treaty on the Establishment of EAEU, effective May 29, 2014, stipulates that goods imported from one EAEU member state to another are subject to indirect taxes. Specifically, imposing value-added tax (VAT) on goods imported in mutual trade among member states follows the Treaty and the Tax Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget.”<sup>55</sup> The tax authority in the member state receiving the imported goods is responsible for collecting indirect taxes. According to Kazakhstan’s Tax Code, taxpayers must file a declaration and pay VAT when importing goods from other EAEU member states. Following these regulations, the applicant submits an application to the Restricted Stock Units (RSU) “Department of State Revenue in Ust-Kamenogorsk” to declare the import and payment of indirect taxes for companies registered in Crimea.

On November 20, 2017, RSU issued reasoned refusals for four applications, declining to consider the taxes paid by the applicant. After receiving these four refusals, the applicant submitted a request to RSU to clarify which rules had been violated. On December 7, 2017, RSU responded that the applicant had not violated any rules regarding the completion and submission of the applications. Instead, RSU’s refusal was based on the classification of goods produced and delivered from the Republic of Crimea as foreign goods (specifically as goods from Ukraine) that are subject to customs declaration and customs clearance under the Code “On Customs Affairs in the Republic of Kazakhstan,”<sup>56</sup> pending Kazakhstan’s official recognition of Crimea’s international legal status. In response to a follow-up request for clarification submitted on January 12, 2018, RSU reiterated on January 26, 2018, that the import of goods by the applicant was treated as an import from a third country. However, under the Constitution of the Russian Federation and the Federal Constitutional Law, the Republic of Crimea is considered a constituent entity of the Russian Federation.<sup>57</sup>

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<sup>55</sup> “Code of the Republic of Kazakhstan ‘On Taxes and Other Mandatory Payments to the Budget (Tax Code),’” December 25, 2017, [https://online.zakon.kz/Document/?doc\\_id=36148637](https://online.zakon.kz/Document/?doc_id=36148637).

<sup>56</sup> “Code of the Republic of Kazakhstan ‘On Customs Regulation in the Republic of Kazakhstan,’” December 26, 2017, <https://adilet.zan.kz/rus/docs/K1700000123>.

<sup>57</sup> “Federal Law of the Russian Federation No. 36-FZ ‘On the Ratification of the Treaty Between the Russian Federation and the Republic of Crimea on the Acceptance of the Republic of Crimea into the Russian Federation and the Formation of New Subjects within the Russian Federation.’”

On October 14, 2014, the Parliament of the Republic of Kazakhstan adopted the Law "On Ratification of the Treaty on the Eurasian Economic Union."<sup>58</sup> The issuance of unjustified refusals to confirm VAT payment on goods imported from the Russian Federation, a member state of the EEC, results in unfavorable consequences for the applicant – specifically, the recognition of a tax obligation when submitting an application and declaration. As a result, the applicant, now regarded as a defaulting party, is subject to an unwarranted obligation to undergo customs declaration and clearance procedures for goods imported from the Republic of Crimea into the Republic of Kazakhstan, despite both regions being within the EEC member states' territories.

The legality and legitimacy of Crimea's accession to Russia continue to be a subject of intense disagreement, particularly after the large-scale aggression launched on February 24, 2022. This war has sharply escalated tensions between Russia and the West, further complicating Crimea's status. Undoubtedly, resolving the issue of Crimea remains crucial, as differing interpretations of its status are a persistent source of contention. These unresolved issues could lead to even greater challenges in the future, especially as the war continues.<sup>59</sup>

The ongoing war in Ukraine adds a new layer of complexities to Crimea's relationship with EAEU. With severe sanctions imposed on Russia, the core EAEU principles of free movement face substantial strain. Trade flows and financial transactions have been disrupted, and member states are now tasked with navigating these sanctions while fulfilling their EAEU commitments. A key risk involves the implicit recognition that could arise from allowing the free movement of Crimean citizens, goods, services, and capital within the EAEU. Such actions could be interpreted as indirect recognition of Crimea as Russian territory, which would benefit Russia by gaining a degree of recognition through the EAEU. However, this would likely provoke further condemnation and sanctions from the international community, potentially harming the economies of all EAEU member states. The unresolved status of Crimea also creates legal loopholes, such as Kazakhstan's legislation not accounting for the declaration of goods from Crimea. This inconsistency could lead to future conflicts within the EAEU regarding the movement of goods, services, and capital from territories with disputed status. Additionally, the ongoing conflict between Ukraine and Russia further strains relations within the EAEU. Member states may be pressured to choose sides, potentially fracturing the EAEU if they are forced to choose between maintaining economic ties with Russia and upholding international law regarding Crimea's

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<sup>58</sup> "Law of the Republic of Kazakhstan No. 240-V ZRK 'On Ratification of the Treaty on the Eurasian Economic Union'," October 14, 2014, <https://adilet.zan.kz/rus/docs/Z1400000240>.

<sup>59</sup> Zakhar Tropin, "Lawfare as Part of Hybrid Wars: The Experience of Ukraine in Conflict with Russian Federation," *Security and Defence Quarterly* 33, no. 1 (2021): 15-29, <https://doi.org/10.35467/sdq/132025>; "U.S. Treasury Department Fines Amazon for Supplying Goods to Annexed Crimea," *Censor.net*, July 9, 2020, <https://censor.net/en/n3207084>.

annexation. Another significant risk involves sanctions. Private organizations within the EAEU, and even those from other countries, risk prosecution if they engage in commercial activities with Crimea, as evidenced by U.S. fines against Amazon for its dealings in Crimea.<sup>60</sup>

These risks and consequences underscore the urgency of addressing Crimea's status within the EAEU's legal framework. The war in Ukraine has significantly raised the stakes, making it even more critical to find a solution that prevents further economic hardship and political instability for the EAEU member states. Strengthening the EAEU's legal framework to manage the movement of goods and services from unrecognized states while ensuring a firm commitment to upholding international law could be crucial steps toward mitigating these risks.

## Conclusions

In summary, several conclusions can be drawn from the analysis. The conflict in Ukraine transcends territorial disputes and constitutional challenges. The ongoing war between Russia and Ukraine, which escalated in 2022, adds significant complexity to the status of Crimea, further exacerbating political and legal tensions both regionally and internationally. The legal personality of annexed territories is preserved through the personal sovereignty of the state, as even if a state's territorial integrity is lost, its sovereignty remains under the regime of an exiled government.

The status of Crimea under international law remains unresolved due to its ongoing politicization. In limited cases, de facto states are recognized regarding the legal personality of their citizens or through ad hoc recognition of certain facts. A similar approach could be applied to Crimea until its status is finally resolved. Despite its annexed status within the EAEU, Crimea's position within the Russian Federation and the Union remains fluid. Member states seeking to avoid international sanctions are compelled to navigate a delicate balance, cooperating with the Crimean authorities under a framework of de facto recognition.

The referendum held on March 16, 2014, faced several significant issues:

1. *Illegality*: The Ukrainian Constitution, specifically its Article 73, in effect at the time, prohibits local referenda on territorial matters. Despite this, no nationwide referendum was conducted, thus making the local referendum in Crimea constitutionally invalid.
2. *Monitoring*: Monitoring of the referendum was limited to representatives of far-right parties, including the Alternative for Germany (AfD),

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<sup>60</sup> Oleh Semenenko et al., "Analysis of Ukraine's External Military-Economic Relations During the War with Russia," *Scientific Bulletin of Mukachevo State University. Series "Economics"* 11, no. 1 (2024): 71-82, <https://doi.org/10.52566/msu-econ1.2024.71>; Alla Kyrydon and Serhiy Troyan, "The Russian-Ukrainian War 2014-2023: Interference Factors of the War," *Foreign Affairs* 33, no. 6 (2023): 30-39, [https://doi.org/10.46493/2663-2675.33\(6\).2023.30-39](https://doi.org/10.46493/2663-2675.33(6).2023.30-39).



the National Front, Golden Dawn, and Jobbik. Following the referendum, Ukraine imposed visa bans on these individuals.

3. *Questionable Results*: The reported results showed an overwhelming 96.77 percent in favor of joining Russia, with only 2.51 percent voting against it. These results have been widely questioned and regarded as falsified, particularly considering that 30 % of Crimea's population was ethnically Ukrainian (12 % Tatar, 58 % Russian).
4. *Self-Determination and Occupation*: The right to self-determination is compromised when a territory is occupied by a foreign military, a referendum is organized under such conditions, and the occupying state then declares the territory—along with Sevastopol, considered a separate entity within the Russian Federation—as part of its own territory. This scenario constitutes an act of annexation, not legitimate self-determination.

Given the principle of non-recognition concerning Crimea's status, any ultimate resolution will likely remain *de facto* rather than *de jure*. Notably, Crimea has continued to develop trade relations with other states despite international non-recognition. However, a consistent and comprehensive policy of non-recognition may require additional actions by states. The EAEU member states should take proactive steps to ensure that Crimean goods do not enter their markets through Russia. One approach could be to demand certification from Russian authorities confirming that goods are not sourced from Crimea. If Russia refuses to provide such certification, EAEU member states may decide to impose restrictions on certain categories of goods with a high probability of originating in Crimea. Furthermore, states might introduce guidelines for national companies regarding the legal implications of conducting business or investing in Crimea. This includes the legality of transactions with enterprises that own or use assets expropriated by Russian or Crimean authorities.

The ongoing war in Ukraine has had a profound impact on the geopolitical landscape, intensifying the complexities surrounding the status of Crimea. This conflict raises the stakes for EAEU member states as they attempt to balance their commitments within the union with the consequences of international sanctions and the broader instability caused by the war. This context highlights the urgent need to address Crimea's status within the EAEU's legal framework to prevent further economic strain and political instability for the member states.

This study serves as a foundation for a broader examination of the evolving position regarding the status of Crimea in international law. It is essential to assess the global consequences of the events in Crimea, whose territorial transition remains contentious, and to consider Russia's standing within the framework of international law.

## Disclaimer

The views expressed are solely those of the author and do not represent official views of the PfP Consortium of Defense Academies and Security Studies Institutes, participating organizations, or the Consortium's editors.

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