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FOREWORD

THE RUSSIAN WAR AGAINST UKRAINE AND THE LAW OF THE EUROPEAN UNION

*Edited by Charlotte Beaucillon, Teresa Cabrita, Melanie Fink,
Stefano Montaldo and Jed Odermatt*

THE RUSSIAN WAR AGAINST UKRAINE AND THE LAW OF THE EUROPEAN UNION. AN INTRODUCTION

On 24 February 2022, the Russian Federation launched an invasion of Ukraine, a move that was soon widely condemned as a blatant violation of Ukraine's territorial integrity and a serious breach of peremptory international law prohibiting the use of force in international relations.¹ The European Union and its Member States took part in the collective denunciation on the day of the invasion.² Since then, the EU and the Member States have adopted wide-ranging legal and political measures to support Ukraine. This has included political support, as well as financial, military and humanitarian assistance in solidarity with Ukraine and its people.

In the face of the tragic devastation, suffering and loss of human life, there have been multiple legal and institutional reactions from the EU. The European Parliament, Commission and Council rapidly agreed on a candidate status for Ukraine. The Union swiftly adopted a series of wide-ranging sanctions. The European Peace Facility (EPF) was adopted to assist the Ukrainian military forces with equipment, platforms and weapons designed to deliver lethal force. The Council recently agreed to deploy 1 billion euro from the EPF to partially reimburse the Member States for deliveries of ammunition and measures were taken to secure joint procurement of military supplies from the EU and the Norwegian industries. Such efforts have given rise to internal challenges within the EU, legally and politically. For example, the conflicting priorities of the EU Member States have led to significant hurdles, including the development of a common response to imports of Russian

¹ Art. 2(4) UN Charter; UN General Assembly, Report of the International Law Commission (71th session) of 20 August 2019, A/74/10.

² European Council Conclusions of 24 February 2022 on Russia's unprovoked and unjustified military aggression against Ukraine.



oil and natural gas or the identification of the items to be targeted by economic restrictive measures. Beyond their immediate impact on the war, these and other measures raise important questions for the EU's role in international politics and under EU law, human rights law, and various branches of public international law.

The purpose of the *Special Focus* is to bring together discussions about these multifaceted issues that arise from Russia's invasion of Ukraine, and to understand both how the EU is shaping the war and how this conflict is transforming the EU. This *Special Focus* therefore brings together contributions from different disciplines and backgrounds, including EU law, international law, human rights law, and political science.

From an international law perspective, the war in Ukraine gives rise to multiple legal issues for the EU and its Member States. Contributions within this *Special Focus* discuss the international legality of the EU's military aid to Ukraine, the law of neutrality and the law of armed conflict, including instances of gender-based violence and attacks on civilian infrastructure. Other contributions focus on the EU and its Member States' support for Ukraine in international litigation, by examining the EU's support of efforts before the International Court of Justice (ICJ), the International Criminal Court (ICC) and the European Court of Human Rights (ECtHR), and the EU's involvement in discussions towards the establishment of a Special Tribunal for the crime of aggression against Ukraine. The EU has backed efforts to support Ukraine in fields that relate to international humanitarian law, human rights law, migration and refugee law, and cultural heritage law.

From an EU law perspective, the war, and the EU's response to it, had a significant effect on the very structure of the Union. The war will reshape the EU's security and defence policy, its approaches to the accession and integration process and cooperation among national military forces. It gives rise to questions related to Ukraine's EU membership and the possibility of accession by other candidate countries. Contributions within this *Special Focus* discuss how the war impacts the future of the European Political Community (EPC) and Permanent Structured Cooperation (PESCO), EU Neighbourhood Policy, the Eastern Partnership and other structures.

Beyond these structural changes to the EU's institutional architecture, the war in Ukraine also gives rise to policy challenges to the EU and its Member States, and the EU's response to the war in Ukraine has sparked legal and political interest in the EU's sanctions policy. Contributions therefore discuss some key challenges the EU faces in the fields of food security, industrial policy, procurement, the supply of energy and gas, human rights protection, and the rule of law in the EU Member States. Other contributions critically examine the implications of the new arsenal of sanctions adopted by the EU in relation to Russia's invasion of Ukraine, including sanctions against pro-Russian media, the confiscation of property, the impact of sanctions on investment law, and on the EU's own decision-making processes.

Overall, the contributions in this *Special Focus* address a broad range of topics, from international humanitarian law and justice, to issues of investment law and energy supply.

They all demonstrate how the war in Ukraine, and the EU's reaction to it, is having transformative effects on the EU in terms of its very structure. The outcome of the war in Ukraine is still uncertain. The contributions in this *Special Focus* show how, no matter what the outcome, the war has brought about fundamental shifts that will permanently shape the Union and its Member States. How the Union and its Member States respond to Russia's invasion of Ukraine will thus not only have an impact on the war, but also on the Union itself.

Contributions to the *Special Focus* are based on the EP call for papers on "The Russian War Against Ukraine and the Law of the European Union" as well as the ESIL "EU as a Global Actor" interest group conference and PhD workshop on "The EU's Response to Russia's invasion of Ukraine: International and European Perspectives" organised on 22-23 June at Leiden University, with the support of the University of Leiden (Europa Institute, Europe Hub, and Ukraine Hub), City Law School, City, University of London, and KU Leuven (Institute for European Law and Reshuffle project).

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