

Occupied Crimea: Europe's grey zone

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Russia annexed Ukraine's Crimean Peninsula in March 2014. The first forcible annexation of part of a European country since 1945, it has had a significant impact on Crimea and the Black Sea region more broadly. Crimea's economy has nose-dived under international sanctions. Human rights are in free-fall. Critics of the occupying authorities face harassment and incarceration.

By militarising Crimea, Russia has reinforced its position in the Black and Azov seas. It threatens both Ukraine's security and NATO's freedom to move within the region. Russian efforts to block the Kerch Strait are de facto imposing a sea blockade on Ukraine's freedom of navigation and commerce in the Sea of Azov.

While parallel crises may have drawn attention away from Crimea, the worsening of the security and human rights situation in and around the peninsula calls for a response. The European Union (EU) must uphold its refusal to recognise Crimea's annexation. It should adamantly enforce the sanctions and expand them to include human rights violations. Strengthening measures to counterbalance Russia in the Black Sea should also be a priority for both the EU and NATO.

BACKGROUND – A BRAZEN LAND GRAB

Crimea's annexation was swift and without bloodshed, taking just over three weeks. On 27 February 2014, a group of unidentified "little green" men seized the local parliament and government buildings. It was the beginning of a hybrid operation that involved both covert and overt activities, supported by a disinformation campaign.

Russian President Vladimir Putin claimed that Ukraine's pro-Western revolution threatened ethnic

Russians in Crimea. While Ukraine's governance in Crimea was deficient, it was little different from many other Ukrainian regions. There was never an oppressive policy toward Russian speakers. Moreover, in 2014, there was no mobilisation for reunification with Russia or regional independence.¹ Moscow took advantage of political turmoil in Kyiv to stoke tensions and spread disinformation.

At a hastily organised referendum on 16 March 2014, 96% of voters backed joining Russia with a reported 83.1% turnout. While the international community and the EU declared the vote illegal and invalid, on 21 March, the Russian parliament approved the annexation. In doing so, Russia broke several international agreements, including the UN Charter and the Helsinki Final Act. The Kremlin also overturned the pledge it had made in the Budapest Memorandum of 1994 to "respect the independence and sovereignty and existing borders of Ukraine" and to "refrain from the threat or use of force".

Few in the West had expected such a brazen move. A lesson Russia had taken from its 2008 war with Georgia was that the West was unenthusiastic about countering Russian military action in the neighbourhood. The fact that Moscow paid no price for its aggression in Georgia probably boosted its confidence in invading Ukraine.

With Crimea, the reaction was more robust. While military action was never on the cards, the West, including the EU, was quick in imposing sanctions. On 17 March 2014, the Foreign Affairs Council adopted sanctions against 21 officials and associated persons and

¹ <https://carnegieeurope.eu/2017/03/15/revisiting-2014-annexation-of-crimea-pub-68423>

entities involved in actions threatening the territorial integrity, sovereignty and independence of Ukraine.² Sanctions have been renewed and broadened over the past four years, most recently in July 2018. Besides a few exceptions (Afghanistan, Cuba, Nicaragua, North Korea, Syria and Venezuela), the world has not recognised Crimea as a part of Russia.

STATE OF PLAY – A GREY ZONE

The annexation has had profound economic, humanitarian and security consequences for Crimea, and carries broader implications for stability in the Black Sea.

Economic depression

Despite Putin's promises, there has been no economic miracle. Following the sanctions, international investors have fled, and Crimea has become increasingly dependent on financial aid from Moscow, so far receiving over USD 7.5 billion.³ Key assets have been stolen. Over 500 properties and enterprises owned by the Ukrainian state and private businesses, as well as some 18 onshore and offshore hydrocarbon fields, have been seized.⁴

Only a few privileged individuals, including state bureaucrats, military and law enforcement officials, have seen their quality of life improve. While Russia increased salaries and pensions, the rise in food and utility prices, resulting from the cost of transporting goods from Russia and the Rouble's depreciation, has left the majority of people struggling to survive. According to a ZOiS public survey, just 26.5% of the people in Crimea "have enough money, but only for the most necessary things". Only 1% said that "they can afford anything they want".⁵

Tourism and agriculture, previously the engines of the Crimean economy, have been devastated. A severe water crisis has further exacerbated the situation of the farming sector. Before annexation, 86% of Crimea's freshwater came from Ukraine via the Dnieper-Crimea canal. The Ukrainian authorities cut it off in April 2014.

The newly constructed Kerch Bridge connecting Russia to Crimea may help reduce prices, by cutting transportation costs, but it is unlikely to bring about any significant improvement in living conditions. Instead, the bridge allows Moscow to expand its control of the Sea of Azov, which jeopardises the commercial attractiveness of the large Ukrainian ports of Mariupol and Berdyansk.⁶ The bridge's low height prevents large vessels above 33-metres tall from passing. Furthermore, patrols of Russia's Federal Security Service are stopping both Ukrainian and international cargo vessels trading with the Ukrainian ports. They search the ships for hours, causing thousands of Euros in losses for shipping companies. The situation in the Sea of Azov thus risks becoming a new regional flashpoint. On 5 September, the EU issued a statement calling on Russia to ensure unhindered access to Ukrainian ports in the Sea of Azov. It was ignored.

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A human rights black hole

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The Office of the UN High Commissioner for Human Rights (UNHCHR) accuses Russian authorities of numerous human rights violations, including arbitrary arrests and torture.⁷ Ukrainian film director Oleg Sentsov is an example. A vocal critic of annexation, he was arrested in May 2014 and sentenced to 20 years in prison, following an unfair trial on politically-motivated terrorism charges. Since 14 May 2018, he has been on a hunger strike.

Crimean Tatars are victims of intimidation, intrusive and unlawful searches of their homes, physical attacks, and disappearances.⁸ Thousands of Tatars have been arrested and taken into custody based on bogus terrorist-related charges. In 2014, their representative body, the Mejlis, was seized. Banned as an extremist group, it relocated to Kyiv. Its incumbent chairman, Refat Chubarov, and Tatar leader Mustafa Dzhemilev were expelled from Crimea, along with other Mejlis members and supporters from local organisations.

Journalists are also systemically harassed. Russia has created an information ghetto by cutting telecommunications links between Crimea and mainland Ukraine; silencing critical media and making Internet service providers operate under Russia's repressive media laws. Bloggers have become the primary source of objective information. They frequently face persecution.

² <https://www.consilium.europa.eu/en/meetings/fac/2014/03/17/>

³ <https://themoscowtimes.com/news/crimea-asks-moscow-financial-aid-hail-drought-costs-62100>

⁴ <https://www.nytimes.com/2015/01/11/world/seizing-assets-in-crimea-from-shipyard-to-film-studio.html> & <https://mfa.gov.ua/en/press-center/comments/4747-statement-by-the-ministry-of-foreign-affairs-of-ukraine-with-regard-to-gross-violation-by-the-russian-federation-of-the-untied-nations-convention-on-the-law-of-the-sea>

⁵ https://www.zois-berlin.de/fileadmin/media/Dateien/ZOiS_Reports/ZOiS_Report_3_2017.pdf

⁶ http://www.pism.pl/files/?id_plik=24734

⁷ <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=22140>

⁸ <https://www.hrw.org/news/2017/11/14/crimea-persecution-crimean-tatars-intensifies>

Freedom of religion is under attack too. Religious organisations had to reregister post-annexation under Russian law.⁹ The Kharkiv Human Rights Protection Group reports that while there were over 2000 registered organisations in 2013, by September 2017, there were only 818. Mosques associated with the Crimean Tatars were denied permission to register. The Ukrainian Orthodox Church-Kyiv Patriarchate refused to reregister. In what appears as a strategy to eradicate all links to Ukraine, the Church is being pushed to the brink of oblivion.

The ‘russification’ of Crimea had intensified. Prior to annexation Crimea has a population of some 2 million: 60% ethnic Russian, 25% ethnic Ukrainian, 12% ethnic Tatar. Following annexation, thousands of Ukrainian citizens automatically became Russian citizens whether they wanted to or not. All schools offering a full Ukrainian curriculum were closed. The number of students receiving their education in Ukrainian has plummeted from 13,589 to 371. Some 247,000 Russians have reportedly moved to Crimea since the annexation, while at least 140,000 people, mostly Ukrainians and Tatars, have left.¹⁰ Forcibly shifting the demographic composition of an occupied territory is a war crime under the Geneva Convention.

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Militarisation of the peninsula

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Russia has expanded its military infrastructure and troop presence, now estimated at some 32,000. Moscow has upgraded its Black Sea Fleet in Sevastopol. Russia has moved naval vessels including warships from its Caspian Flotilla to the Sea of Azov.¹¹ New ships and submarines can fire Kalibr and anti-ship cruise missiles. The fleet has also received an array of new aircraft.

Russia is also setting up a medium-range surface-to-air missile system. Two-battalions of S-400 long-range air defence systems have been deployed, in addition to the existing S-300 long-range and Pantsir-S medium-range

surface-to-air missiles. Russia has also enhanced coastal defences with S-400, and Bastion and Bal coastal defence missiles.¹² They allow Russia to establish an anti-access or area-denial zone (A2/AD) covering most of the Black Sea, the aim being to limit NATO’s ability to act. Provocative acts such as large-scale military exercises, air manoeuvring and cyber-attacks are happening on a regular occurrence.

The EU’s response

The EU has repeatedly condemned Russia’s actions in Crimea, upholding a non-recognition policy and maintaining sanctions. Asset freezes and visa bans have been applied to 155 persons and 44 entities. On 31 July 2018, the EU imposed sanctions against six more Russian organisations for being involved in the construction of the Kerch Bridge.

Measures also include an import ban on goods from Crimea and Sevastopol, an export ban on certain products and technologies, the prohibition of EU-based foreign direct investments and the prohibition of tourism services such as European cruise ships docking at Crimean ports.¹³ However, there are weak spots in the sanctions regime, and tighter implementation is required.¹⁴ Vessels from several EU member states (e.g. Greece, Bulgaria and Romania) have infringed the sanctions by docking in Crimean ports. Other Western companies have also been accused of trying to circumvent the sanctions regime including Siemens some Dutch companies.

Sectoral sanctions (including those related to Russian aggression in the Donbas) have proven painful for Russia, aggravating an economic downturn triggered by falling oil prices, from which the country has only just begun to recover.¹⁵ However, Moscow’s policy has remained unchanged. Strategic objectives have proven more important than economic costs. Russian adventurism remains in full swing. The attempted murder of former Russian spy Sergei Skripal and his daughter on 4 March 2018, which two Russian intelligence officials are accused of, was a particularly brazen act. Russia has calculated that sanctions represent the strongest response the West can collectively agree on and has so far decided that they are survivable.

⁹ Ibid.

¹⁰ <https://www.rferl.org/a/russia-accused-of-reshaping-annexed-crimea-demographics-ukraine/29262130.html>

¹¹ <https://eurasianet.org/russia-transfers-five-warships-out-of-caspian-sea>

¹² <https://warontherocks.com/2018/07/is-a-new-russian-black-sea-fleet-coming-or-is-it-her>

¹³ <https://www.consilium.europa.eu/en/press/press-releases/2018/06/18/illegal-annexation-of-crimea-and-sevastopol-eu-extends-sanctions-by-one-year/>

¹⁴ <http://www.atlanticcouncil.org/blogs/ukrainealert/us-and-eu-need-to-take-on-crimea-sanction-sneaks>

¹⁵ [http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI\(2018\)614665](http://www.europarl.europa.eu/thinktank/en/document.html?reference=EPRS_BRI(2018)614665)

The Kremlin is playing for time, in the expectation that EU unity will eventually collapse. While some political leaders, including from Bulgaria, Italy, and Greece, have called for sanctions to be lifted, their views have not resonated in official decision-making. For member states, the political cost of challenging EU unity on a highly visible matter outweighs the economic benefits of increased trade with Russia. The EU has also avoided falling into the trap of trading Crimea for imaginary concessions from Russia in other areas, including in the Donbas and Syria. Striking such a deal would undermine the bedrock of the international order, namely the sovereignty and territorial integrity of states.

PROSPECTS – EXPANDING THE SANCTIONS REGIME

As the world's attention has been shifting to other crises, Russia has tightened its grip on Crimea. It is becoming a fortress where opponents to Russian rule either have to flee or are bullied into silence.

The return of Crimea to Ukraine seems impossible for the foreseeable future. There is currently no framework to discuss the future of the peninsula, and there is unlikely to be one before the end of Putin's rule. When asked whether Russia would ever make concessions regarding Crimea, Putin replied that "there are no such circumstances and there never will be".¹⁶ Whether this could change in a post-Putin era remains to be seen. Support for Russia also remains high in Crimea. In a recent ZOiS survey, 78% of those polled said they supported Moscow's rule. Given the high level of disinformation, the lack of independent media and the growing isolation of Crimea, such a result is not surprising.

Sanctions have done little to change the situation, which makes it more difficult to maintain interest in Crimea among international stakeholders. However, accepting that annexation is irreversible would send the wrong message. Crimea's occupation is not merely about Ukraine's territorial integrity. It is also about the future and the legitimacy of the European security order as well as European values that cannot be forgotten or abdicated.

Crimea needs to remain on the international agenda. Those Crimeans that strongly opposed Russian annexation must feel that their cause is not lost, particularly regarding human rights. The EU should remain steadfast in its approach and adamant in enforcing sanctions. In particular, the EU should:

1 - introduce a rapid response mechanism for sanctions breaches to ensure that companies circumventing

sanctions face the consequences and address any loop-holes in the sanctions regime;

- 2 - introduce individual sanctions against those responsible for violations of human rights as recommended in the European Parliament's 5 October 2017 resolution. The EU has already done so in other countries, such as Belarus, Uzbekistan, and Iran;
- 3 - insist that international monitors be granted unobstructed access to the peninsula to address the human rights situation in Crimea urgently;
- 4 - support legal claims for compensation against the theft and illegal exploitation of Ukrainian economic assets including off-shore hydrocarbons in Crimea;
- 5 - contend Russian disinformation by increasing its support to independent media or NGOs broadcasting to Crimea;
- 6 - insist that Russia stops restricting the freedom of navigation in the Azov Sea;
- 7 - continue to raise the Crimean issue with President Putin and Foreign Minister Lavrov to avoid giving the impression that the annexation is a *fait accompli*, which is what Russia wants.

More broadly, counterbalancing Russia in the Black and Azov seas remains crucial. NATO should invest more in situational awareness, including by boosting air and sea patrol missions and increasing the rotation of naval ships in the Black Sea (within the limits of the Montreux Convention). NATO should also give priority to the implementation of the decisions of its 2016 and 2018 summits and the strengthening of the alliance's Black Sea presence.

The EU's sanctions and non-recognition policy translates its commitment to international law. Sanctions must stay in place until Russia fully restores Ukrainian sovereignty over Crimea. The price Russia has paid for occupying Crimea has been small. Russia should not be granted legitimacy in Ukraine as long as it remains in flagrant breach of international law.

The views expressed in this Policy Brief are the sole responsibility of the authors.

¹⁶ <https://tass.ru/politika/5020759>