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Luís Pereira Coutinho

9-11 Editorial

ESTUDOS DE ABERTURA

Lars Vinx

15-46 Radbruch's Legal Philosophy: From the Cultural Concept of Law to the Radbruch-Formula

A Filosofia do Direito de Gustav Radbruch: Do conceito cultural de direito à fórmula de Radbruch

Luís Greco

47-64 Identidade, autenticidade e culpabilidade – reflexões por ocasião dos novos processos contra “velhos nazistas”

Identity, Authenticity and Guilt – Reflections on the New Processes against “Old Nazis”

ESTUDOS DOUTRINAIS

Catarina Almeida Coelho

67-119 A redução da pena convencional em caso de atraso na execução da obra em contratos de construção internacionais. Análise de Direito Internacional Privado e de Direito Comparado dos ordenamentos jurídicos inglês, espanhol e português

Delay Damages Clause Reduction on International Construction Contracts. Analysis Of Private International Law and Comparative Law of the English, Spanish and Portuguese Legal Systems

Daniel Bessa de Melo

121-135 Do depósito do preço na ação de execução específica de contrato-promessa

On the Deposit of the Purchase Price in a Claim for the Performance of a Preliminary Contract

Herbert Küpper

137-197 The Effect of War on a Legal System – the Russian Example

O efeito da guerra numa ordem jurídica – o exemplo da Rússia

Manuel Barreto Gaspar

199-240 As idiossincrasias jus-administrativas do Estado Novo português e do Estado fascista italiano: Breve jornada pela evolução histórica do Direito Administrativo e pelo pensamento jurídico marcellista – Parte II

The Legal-Administrative Idiosyncrasies of the Portuguese Estado Novo and the Italian Fascist State: Brief Journey through the Historical Evolution of Administrative Law and the Marcellista Juridical Thought – Part II

-
- Pedro Gil Martins**
241-287 Os acordos informais da Administração Pública: a problemática da legalidade e vinculatividade
The Informal Agreements of the Public Administration: The Problems Concerning Their Legality and Bindingness

-
- Pedro Madeira de Brito**
289-335 Revisitando o conceito de subordinação jurídica à luz do trabalho em plataformas digitais e da presunção de laboralidade do artigo 12.º-A
Rethinking the Concept of Legal Subordination in Light of Work on Digital Platforms and the Presumption of Employment of Article 12-A

CONFERÊNCIAS E COLÓQUIOS

-
- Ana Rita Gil**
339 Conferência “Regulating Human Rights & Business”

-
- Jernej Letnar Čerňič**
341-357 The United Nations Guiding Principles on Business and Human Rights and its Contours
Os princípios orientadores das Nações Unidas sobre empresas e direitos humanos e seus contornos

-
- Ana Rita Gil | Thaís Leonel Magalhães**
359-381 The OECD’s Blueprint for Multinational Responsibility: Historical and Contemporary Perspectives
O plano da OCDE para a responsabilidade das empresas multinacionais: perspectivas históricas e contemporâneas

-
- Ricardo Fernandes**
383-402 The Road to Mandatory Due Diligence: Tracing the EU Directive’s Legislative Journey
O caminho para a obrigatoriedade do dever de diligência das empresas em matéria de sustentabilidade: traçando o percurso legislativo da diretiva da UE

JURISPRUDÊNCIA CRÍTICA

-
- Cláudia Madaleno**
405-423 Ainda o arrendamento *versus* hipoteca. Comentário ao Acórdão do Supremo Tribunal de Justiça de 25 de fevereiro de 2025
Yet Again on House Rental vs. Mortgage. Comment to the Decision of the Supreme Court of Justice of 25 February 2025

VIDA CIENTÍFICA DA FACULDADE

Gonçalo Sampaio e Mello

427-466 Presença de vultos históricos no acervo da Faculdade de Direito da Universidade de Lisboa

Presence of Historical Figures in the Faculty of Law of the University of Lisbon's Collection

José Luís Bonifácio Ramos

467-475 Arguição da dissertação apresentada para provas de doutoramento por Cláudia Alves Trindade, *A Livre Convicção do Juiz e a Fundamentação da Decisão sobre Matéria de Facto no Processo Civil*, Faculdade de Direito da Universidade de Lisboa, 21 de Novembro de 2024

Argument presented on occasion of the doctoral examinations of Cláudia Alves Trindade on the thesis The Free Conviction of the Judge and the Basis of the Decision on Matters of Fact in Civil Procedure Law, Faculty of Law, University of Lisbon, November, 21, 2024

LIVROS & ARTIGOS

José Maria Cortes

479-488 Recensão a *Das lacunas da lei, no Direito português: maxime, do disposto no art. 203.º da CRP* de João Pedro Charters de Azevedo Marchante

Review of the Work Das lacunas da lei, no Direito português: maxime, do disposto no art. 203.º da CRP, by João Pedro Charters de Azevedo Marchante

The Effect of War on a Legal System – the Russian Example

O efeito da guerra numa ordem jurídica – o exemplo da Rússia

Herbert Küpper*

Abstract: The war against Ukraine has discernible effects on the Russian legal system. These effects can be divided into two periods. First, prior to the war, the constitutional amendments of 2020 made the state fit for its aggressive neo-imperial role. Second, since 2022, the war has caused numerous modifications in many fields of law from social provisions for invalids to the criminalisation of criticism of the war, and to the militarisation of the economy. Some effects are caused by special features of that war. Officially, Russia is not at war but conducts a ‘special military operation’. The war must not be called a war. Furthermore, Russia expected its invasion to be a ‘blitzkrieg’ with a quick victory, but it turned into a full-fledged war binding all military resources. It took Russian law some time to adapt to this reality.

Keywords: War, legal system, Russia, hyperpresidentialism, imperialism.

Resumo: A guerra contra a Ucrânia produz efeitos discerníveis no sistema jurídico russo. Estes efeitos podem ser divididos em dois períodos. Em primeiro lugar, ainda antes da guerra, as alterações constitucionais de 2020 tornaram o estado apto a assumir o seu papel neo-imperial agressivo. Em segundo lugar, desde 2022, a guerra determinou numerosos efeitos em muitos domínios do direito, desde provisões sociais para inválidos à criminalização da crítica à guerra e à militarização da economia. Alguns efeitos são causados por características especiais desta guerra particular. Oficialmente, a Rússia não está em guerra mas conduz uma “operação militar especial”. Ninguém pode nomear a guerra como guerra. Acresce que a Rússia esperava que a sua invasão fosse uma guerra-relâmpago com uma vitória rápida, mas verificou-se tratar-se na verdade de uma guerra de grande escala que vinculou todos os recursos militares. Foi necessário algum tempo para a Rússia e a sua ordem jurídica se adaptar a esta realidade.

Palavras-chave: Guerra, sistema jurídico, Rússia, hiperpresidencialismo, imperialismo.

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Summary: 1. Introduction; 2. The war which must not be called a war; 3. Making the state fit for the war: hyperpresidentialism, neo-imperialism, and self-isolation; 3.1. Strengthening the power vertical ; 3.2. Isolating Russia from the outside world; 3.3. Neo-imperialism; 3.4. The war and defence law; 3.4.1. Formal permission to invade Ukraine; 3.4.2. Mobilising soldiers without a general mobilisation; 3.4.2.1. Compulsory military service; 3.4.2.2. Alternative ways to recruit fighters; 3.4.3. Social aspects; 3.5. Criminal law to protect the war efforts; 3.6. The incorporation of the conquered territories into the Russian state; 4. Making the people fit for the war: the militarisation of public and private life; 4.1. Introducing elements of militarisation into Russian everyday life; 4.2. Isolating the Russian public from 'undesirable' opinions; 4.2.1. Against domestic civil society: the legislation on so-called 'foreign agents'; 4.2.2. Against foreign civil society: the legislation on so-called 'undesirable organisations'; 4.2.3. Additional restrictions against the media; 4.2.4. Restrictions of communication rights; 4.3. Tightening the criminal law; 5. Making the economy fit for the war: sanctions and war economy; 5.1. Command economy to cover the needs of the state and the army; 5.2. De-coupling and autarky: adjusting the domestic economic structures; 5.3. Sanctions and countersanctions: foreign trade; 5.4. Sanctions but no countersanctions: the financial sector; 5.5. Sanctions and countersanctions: freezing and expropriation of foreign investments; 6. Conclusions.

1. Introduction

Russia has been at war with Ukraine since 2014. In that year, Russia annexed Crimea although it had accepted Ukrainian sovereignty over that peninsula in the so-called 'Budapest memorandum' of 1994.¹ Russia started to deploy irregular troops in the Eastern parts of Ukraine in the same year and escalated its efforts in early 2022 from an informal aggression into an open war. Soon after that, Russia

¹ The Memorandum on security assurances in connection with Ukraine's accession to the Treaty on the Non-Proliferation of Nuclear Weapons (Budapest Memorandum) of 5 December 1994, Treaty Collection of the UN vol. 3007, I-52241, was an international agreement in which Ukraine and Belarus agreed to deliver the Soviet nuclear arms on their territory to Russia while Russia accepted, and Great Britain and the US guaranteed, the existing borders between the three former Soviet republics.

On the illegality of the annexation of Crimea in international law UN GENERAL ASSEMBLY, *Territorial integrity of Ukraine*, resolution 68/262 of 27 March 2014; CHRISTIAN MARXSEN, *The Crimea Crisis. An International Law Perspective*, *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 74 (2014), pp. 367-391; the papers of the symposium 'The Incorporation of Crimea by the Russian Federation in the Light of International Law', published in *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 75 (2015), pp. 1-231.

annexed more Ukrainian territory by converting these areas into new federal entities of the Russian Federation (abbreviated: RF). All these lands including Crimea continue to be Ukrainian territory in international law² but are considered Russian provinces in domestic Russian law.

This discrepancy between international and Russian law is just one example of the effects the war has on Russia's legal system. This paper explores some major impacts of the war on the law of the warring country. In doing so, it will not only look at the 'classic' war-related fields of law such as constitutional or defence law but will take into account the effects of the war on regulations as diverse as, e.g., social law, criminal law, school law, or currency law.

2. The war which must not be called a war

Before starting to analyse what the war does to Russia's legal system, we need to look at a peculiar trait of the Russian aggression against Ukraine. This war must not be called a war. For reasons of its own, the Russian regime circumscribes its warfare as a limited 'special military operation' (in Russian: spetsoperatsiya). Everybody who calls the war a war faces serious consequences, which may even amount to imprisonment.

The official Russian narrative is that there is no Ukrainian language and culture, no Ukrainian people and no Ukrainian nation,³ and those who confess to being Ukrainian are either insane or seduced resp. bribed by foreign, preferably Western agents into negating their 'true', i.e. Russian nature. On a factual basis, this is wrong because there has been a public debate on a distinct Ukrainian identity in the Southern parts of the Russian Empire since the ideas on the ethno-nation reached that part of the world in the 18th century. Since then, Ukrainians have identified themselves as somehow distinct from Russian.⁴ The second part of the Russian narrative is that Ukraine allegedly is governed by a fascist regime. This is why Russia has to 'liberate' the country. Again, this argument is not corroborated

² PAUL GRAGL, *The Oxymoron of Annexation: An Illegal Act of Law*, Review of Central and East European Law 50 (2025), pp. 8-27.

³ Set out in detail by VLADIMIR PUTIN, *Ob istoricheskom edinstve russkikh i ukraintseev*, 12 July 2021, originally published on Kreml.hu. The English translation *On the historical unity of Russians and Ukrainians* is also published on the Kremlin's official website: <https://www.prlib.ru/en/article-vladimir-putin-historical-unity-russians-and-ukrainians> (last visit 26 May 2025).

⁴ ANDREAS KAPPELER, *Kleine Geschichte der Ukraine*, 8th ed., Munich, 2022; RICARDA VULPIUS, *Konkurrenz, Konflikt, Repression. Russland und die ukrainische Nationsbildung*, Osteuropa 2022/6-8, pp. 105-116.

by facts because the fascist parties in Ukraine have not made it into parliament for several parliamentary cycles, whereas in the Russian parliament there has been an openly national-socialist party, the Liberal Democratic Party of Russia, since 1993 without interruption. The argument of the liberation from fascism links the war against Ukraine to the Soviet victory over Nazi Germany in 1945 which is one of the major sources of legitimacy for Putin's regime. The connection of these two invented arguments becomes clear in Timothy Snyder's quote that 'a Nazi is a Ukrainian who refuses to recognise himself as a Russian'.⁵

The fact that Russia does not accept its aggression to be a war in the legal or in any other sense means that it cannot declare a state of war. In principle, Article 87(2) Russian Constitution⁶ authorises the president to declare a state of war over the entire territory or parts of it. The prerequisite is not a war in the formal sense but an aggression or attack against Russia.⁷ It would be constitutionally possible to declare a state of war in the present situation, which allegedly is limited to a so-called 'special military operation'. This would, however, be contrary to the official narrative that Russia merely undertook a limited campaign. As a consequence, the only areas under a state of war are the territories annexed from Ukraine where the state of war allows an even more direct presidential rule than in the rest of the country.⁸

Short of declaring war, President Putin requested the 'upper house' of the bicameral Russian parliament, the Council of the Federation, on 22 February 2022, to authorise the deployment of Russian troops beyond the borders, which is the proper procedure pursuant to Article 102(1) lit. g) of the Russian Constitution. Unsurprisingly, the upper house granted authorisation on the same day.⁹

⁵ TIMOTHY SNYDER, *Russia's genocide handbook*, Thinking About, 8 April 2022, <https://snyder.substack.com/p/russias-genocide-handbook?s=r> (last visit 25 May 2025).

⁶ Constitution of the Russian Federation of 12 December 1993.

⁷ The details are laid down in the Federal Constitutional Law of 30 January 2002 no. 1 FZK 'On the state of war'; HERBERT KÜPPER, *Notstandsverfassungen in Osteuropa*, *Jahrbuch für Ostrecht* 62 (2021), pp. 181-231 (191-205).

⁸ On martial law in the four new territories see point 3.6. In Ukraine, on the other hand, Russia's military aggression is called, and qualified as, a war in the sense of the international law on warfare. The state of war was declared on the day of the attack, on 24 February 2022: YULIIA TSURKALENKO, *Einführung des Rechtsregimes des Kriegszustands in der Ukraine und seine Rechtsfolgen*, *Wirtschaft und Recht in Osteuropa* 2023, pp. 43-51.

⁹ Resolution of the Council of the Federation of 22 February 2022 no. 35-SF.

3. Making the state fit for the war: hyperpresidentialism, neo-imperialism, and self-isolation

The agent or institution conducting a war is the state, more particularly the state's armed forces. This is also true for Russia's war against Ukraine, although Russia did not admit that the troops it sent into Ukraine between 2014 and 2022 were its own military forces. The open war developing since 2022 is being fought by official as well as unofficial Russian combat units. Since the state and its army are the central institutions for fighting a war, the state must be fit for this task. The legislative steps to prepare the Russian state for warfare were taken before 2022.

The traditional and modern Russian answer to any political challenge is the hypercentralisation of state power in the strong-man leader at the top: the tsar, the secretary-general of the Communist party, the President of the Federation. The lands inhabited by Russians have no natural borders such as mountains or big rivers but lie more or less open to every possible invader – a fact very much present in the public consciousness since the Mongol rule from the 13th to the 15th centuries.¹⁰ This led to the Russian perception that the Russian lands need a strong state to protect them, that this strong state should control a buffer zone of non-Russian territories where potential aggressors can be fought off, and that the state can only be strong if it is led by a strong man (not: strong woman) at the top. This classical-modern Russian worldview wants a strong man to guarantee a strong state (hypercentralism) and a safety cordon of dependent territories (imperialism).¹¹ Such understanding, lying at basis of the absolute autocracy of the tsars, was modified in some periods of the Communist era which wanted a 'collective leadership' for ideological reasons, and was later restored by Yeltsin and even more so by Putin. One has to take into account this traditional Russian attitude in order to understand the measures preparing the state for the war Putin wishes to fight against Ukraine.

¹⁰ CHARLES HALPERIN, *Russia and the Golden Horde. The Mongol Impact on Medieval Russian History*, Bloomington, 1985.

¹¹ GERHARD SIMON, Die Russen und die Demokratie: Zur politischen Kultur in Rußland, in *Politische und ökonomische Transformation in Osteuropa*, Georg Brunner (ed.), 3rd ed., Berlin, 2000, pp. 133-152.

3.1. Strengthening the power vertical

The Russian Constitution of 1993 established a presidential system structured in accordance with a horizontal, combined with a vertical, separation of powers (federalism, local autonomy).¹² President Boris Yeltsin (1991-1999) started, in line with the Russian tradition of a strong-man leader, to overcome some restrictions of formal constitutional law by concentrating certain powers in his hands. Putin, who has come into power in 2000 as Yeltsin's successor, accelerated and intensified this process, establishing the so-called power vertical (Russian: vertikāl' vlasti): power was taken away from the federal units and the local governments and concentrated at the federal level; at the federal level, power was taken away from the parliament and the courts and concentrated in the executive; within the executive, power was taken away from the government and administrative structures and concentrated in the president. The comprehensive constitutional amendments of 2020¹³ constitutionalised many powers the president had usurped earlier,¹⁴ making

¹² JULIA BAUMANN – PETRA STYKOV, *Das politische System Russlands*, Baden-Baden, 2023; JULIA BAUMANN – PETRA STYKOV, Russland: Präsidialistisches System und ko-konstruierter Autoritarismus, in *Die politischen Systeme im östlichen Europa. Institutionen, Akteure und Prozesse*, Sonja Priebus – Timm Beichelt (eds.), Wiesbaden, 2025, pp. 297-324 (299-302); HERBERT KÜPPER, *The Concept of Multilayered Statehood in the System of the Russian Federalism*, Review of Central and East European Law 38 (2013), pp. 239-266.

¹³ Federal Constitutional Law of 14 March 2020 no. 1-FKZ on amending the Constitution of the RF 'On perfecting the regulation of certain issues of the organisation and functioning of public power'.

¹⁴ On the shifts within the power architecture that the constitutional amendments of 2020 have produced in the law on the books and the law in action see SUREN ADIBEKOVIČ AVAK'AN, *Das Wort "Macht" sollte nicht erschrecken*, Jahrbuch für Ostrecht 62 (2021), pp. 13-26; J. BAUMANN – P. STYKOV in PRIEBUS – BEICHELT, cit. (nt. 12), pp. 313-319; EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION), *Russian Federation Interim Opinion on Constitutional Amendments and the Procedure for their Adoption (19–20 March 2021)*, CDL-AD(2021)005 Or. Engl.; ELENA V. GRITSENKO, Federalism and Local Self-Government in the Light of Russia's 2020 Constitutional Reform, in *Dynamics of Contemporary Constitutionalism in Eurasia. Local Legacies and Global Trends*, Aziz Ismatov – Herbert Küpper – Kaori Obata (eds.), Berlin, 2022, pp. 99-115; OTTO LUCHTERHANDT, *Präsident Putins Wandlung zum Autokraten und die Folgen für Russland*, Jahrbuch für Ostrecht 63 (2022), pp. 13-64; WILLIAM PARTLETT, *Russia's 2020 Constitutional Amendments: A Comparative Analysis*, Cambridge Yearbook of European Legal Studies 23 (2021), pp. 311-342; JOHANNES SOCHER, *Farewell to the European Constitutional Tradition: The 2020 Russian Constitutional Amendments*, Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 80 (2020), pp. 615-648 (639-646); IGOR VASEV, *Evolution des russischen Rechtssystems und der russischen Staatlichkeit seit der Jahrtausendwende*, Osteuropa Recht 69 (2023), pp. 56-64; RAINER WEDDE (ed.), *Die Reform der russischen Verfassung*, Berlin, 2020; Idem, *Russland: Die jüngsten Verfassungsänderungen und die Gewaltenteilung*, Jahrbuch für Ostrecht 62 (2021), pp. 55-64.

the President of the Russian Federation a ‘crown-president’.¹⁵ Furthermore, the new Article 81(3.1) of the Constitution set the counting of Putin’s presidencies back to zero (‘obnulenie’ in Russian). This ‘obnulenie’ was important because the same person can only be president twice; not counting his former terms of office allowed Putin to run for president in 2024 and to remain in office until 2036. The fact that an effort was made to amend the constitution to enshrine the widened powers of the President and discount previous presidencies shows another thing: in the early 21st century, a tsar-like autocracy above the constitution and all formal ties¹⁶ is no longer possible. Even the crown-president has to create the outer appearance of constitutionality which, *mutatis mutandis*, serves him as a source of formal legitimacy.¹⁷

The constitutional amendments of 2020 are the culmination of a long process during which Russia returned to the hypercentralised arbitrary autocracy typical for the tsars and Stalin. This not only changed the internal power structure but had an effect on foreign politics as well. Putin has reiterated since he came into power that he wanted to restore Russia’s lost colonial empire, and since round 2010 he has formulated his neo-imperialist ambitions quite clearly. The strengthening of the ‘power vertical’ not only created a ‘satisfactory’ internal state structure but also equipped the state with the form that, according to traditional Russian thinking, is the prerequisite for the ‘satisfactory’ fulfilment of its role in foreign politics, one which implies to subjugate and control a sufficiently large buffer zone and to play a prominent role in world politics. The re-establishment of a hypercentralised presidentialism was taken as a *conditio sine qua non* for the attack on Ukraine, it prepared the state for its wartime tasks.¹⁸

¹⁵ This term was coined by WILLIAM PARTLETT, *Crown-Presidentialism*, International Journal of Constitutional Law 20 (2022) pp. 204-236.

¹⁶ Article 4 Constitution of the Russian Empire of 23 April 1906: ‘The Supreme Autocratic Power belongs to the Emperor of All-Russia. To obey His power not only out of fear but also out of a duty of conscience is a command of God Himself.’ (translation by the author of this paper). Since the constitution did not strive to bind the tsar but subordinated to his power, Max Weber qualified that constitution as ‘pseudo’: MAX WEBER, *Rußlands Übergang zum Scheinkonstitutionalismus*, Archiv für Sozialwissenschaft und Sozialpolitik 1906, pp. 165-401.

¹⁷ J. BAUMANN – P. STYKOV in PRIEBUS – BEICHELT, cit (nt. 12); WILLIAM PARTLETT, *Why the Russian Constitution Matters. The Constitutional Dark Arts*, Oxford, 2024. More generally on the double nature of autocratic practice as a ‘measure state’ and a ‘norm state’ EUGENIA KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, Wirtschaft und Recht in Osteuropa 2023, pp. 202-209 (202-203).

¹⁸ BENEDIKT HARZL, *Russian Foreign Policy: The Return of Great Power Politics*, Review of Central and East European Law 37 (2012), pp. 147-150; HERBERT KÜPPER, *Fit für den Neo-Imperialismus? Postkoloniale Verfassungstheorie als Erklärungsansatz der russischen Verfassungsänderungen von 2020*,

The war itself hardly added more powers to the president's portfolio, partly because the president has possessed all relevant powers and instruments of control¹⁹ since the constitutional amendments of 2020. There was neither the need nor the possibility to strengthen the President's position much more. The most conspicuous increase of formal presidential competences is the state of war in the newly acquired territories because that suspends even the mimicry of autonomy rights enjoyed by federal units and local governments. In domestic politics, Putin's image as 'Russia's supreme warlord' adds to the personalisation of his rule and enhances the centralisation of power in the crown-president's hands.²⁰

3.2. Isolating Russia from the outside world

The traditional and modern Russian worldview interprets the outside world as inimical and busy with conspiring against Russia. The outside has to be kept away from the country and its people. The instrument to keep it at bay is the strong state, embodied in the strong-man leader. This mentality has caused since the end of the Mongol rule the tendency to isolate Russia from the world. Both in tsarist and Soviet times, Russian citizens, the members of the Russian elite in particular, needed a government permission to travel or to own property outside Russia, every contact with the outside world being strictly regulated, and foreigners in Russia were accompanied by the secret police. Yeltsin tried to open Russia and integrate it into mainstream international political and economic life,²¹ but Putin soon put a stop to that and returned to the traditional isolationism and exceptionalism. Like the creation of the power vertical, the isolation of Russia was accomplished before the war, it being one of the preconditions for the state to be in a position to fight a war. This isolation has several aspects.

Jahrbuch für Ostrecht 63 (2022), pp. 65-82; IDEM, *Russia's Constitutional Amendments of 2020 Read through the Post-Colonial Lens: Do the Amendments Pave the Way for Russia to Become a Colonial Power Again?*, Nagoya University Asian Law Bulletin 2023/2, pp. 21-38.

¹⁹ President Putin is a trained secret police serviceman and was in Soviet times a junior KGB officer. This explains his craving for personal control over everybody and everything, which is excessive even for Russian standards. On Putin as a secret police member JAN C. BEHREND, *Tschekist, Etatist, Imperialist. Anmerkungen zu Vladimir Putins Weltbild*, Osteuropa 2022/11, pp. 111-126.

²⁰ FABIAN BURKHARDT, *Vladimir Putin. Personalisierte Macht und Krieg*, Osteuropa 2023/7-9, pp. 135-159.

²¹ KATLIJN MALFLIET, *Rusland na de Sovjet-Unie: Een normaal land?*, Leuven, 2004, p. 57-62; WILLIAM PARTLETT – HERBERT KÜPPER, *The Post-Soviet as Post-Colonial. A New Paradigm for Understanding Constitutional Dynamics in the Former Soviet Empire*, Cheltenham, Northampton MA, 2022, pp. 39-45.

The first aspect is the position of international law in the Russian legal system. Article 15(4) of the Russian Constitution incorporates international treaties and customary law into the Russian legal system.²² This norm is part of the first chapter, which Article 16(2) of the Constitution endows with priority over its other parts. The Yeltsin administration practised international openness but Putin considers international law and international obligations to be an obstacle to his plans.²³ In 2015, first the Constitutional Court and then the law-maker decided that decisions of the European Court of Human Rights and similar international bodies could be executed in Russia only if they conformed with the Russian Constitution, their conformity being controlled by the Russian Constitutional Court. That decision and law reversed the constitutional hierarchy between international obligations and domestic law.²⁴ The 2020 constitutional amendments enshrined the Constitutional Court's power to control international decisions in the new Article 125(5.1) lit. b). This did not solve the constitutional problem because Article 125(5.1) lit. b) collides with Article 15(4) of the Constitution, and the latter is of higher rank, even though this is not accepted as a valid argument in Putin's Russia. If, in accordance with the president's wishes, his Constitutional Court decides that the execution of an international obligation by Russia is contrary to its Constitution, that Russian obligation cannot be executed domestically. This may be interpreted as the liberation of Russia's crown-president from international obligations he dislikes.²⁵ Foreign governments feel that Russia no longer is a reliable treaty partner.²⁶

²² TIGRAN BEKNAZAR, *Das neue Recht der völkerrechtlichen Verträge in Russland*, Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 56 (1996), pp. 406-426; BILL BOWRING, Russian Attitudes to Public International Law, in *The Foundations of Russian Law*, Marianna Muravyeva (ed.), Oxford, 2023, pp. 99-128 (99-103); SERGEY YU. MAROCHKIN, *The Operation of International Law in the Russian Legal System. A Changing Approach*, Leiden, 2019.

²³ PARTLETT – KÜPPER cit. (nt. 21), pp. 39-45; NORMAN WEISS – THERESA ANNA LANZL, *Die wechselvolle Geschichte der Mitgliedschaft Russlands im Europarat*, Zeitschrift für ausländisches öffentliches Recht und Völkerrecht 82 (2022), pp. 801-829.

²⁴ Russian Constitutional Court, decision no. 21-p of 14 July 2015, followed by Federal Constitutional Law of 14 December 2015 no. 7-FKZ 'On amending the Federal Constitutional Law 'On the Constitutional Court of the RF' and Federal law of 8 December 2020 no. 429-FZ 'On amending certain legislative acts of the RF'. In the names of Russian statutes, the abbreviation FKZ means 'federal constitutional law' (federal'nyi konstitutsionnyi zakon), the abbreviation FZ 'federal law' (federal'nyi zakon). FZK and FZ are part of the official naming of statutes.

For more detail on Russia's self-isolation from international law see LAURI MÄLKSOO, *Russian Approaches to International Law*, Oxford, 2015; ALEXANDER V. SALENKO, Völkerrechtliche Bezüge der Verfassungsreform 2020, in *Die Reform der russischen Verfassung*, Wedde cit. (nt. 14), pp. 75-85 (77-80).

²⁵ ANGELIKA NUSSBERGER – LAURI MÄLKSOO, *Völkerrecht à la russe. Multipolarität versus Universalität*, Osteuropa 2023/7-9, pp. 193-208.

Article 125(5.1) lit. b) of the Constitution is living law whereas Article 15(4) is openly disregarded. Power is stronger than the constitution – and, in the light of the traditional-modern Russian worldview, it has to be stronger because neither a constitution nor the law must stand in the strong-man's way.

The second aspect is the isolation of the Russian elite from the outside world. During Yeltsin's kleptocratic rule, many rich Russians transferred large parts of their assets to Western countries where they considered them safe from the fragilities of the Russian economy as well as from the Kremlin's control. From the president's perspective, persons who hold a large part of their possessions outside Russia are more difficult to control than those whose assets are in Russia and thus can be taken away from them at any time. After he originally had come into power, Putin was quick to disempower the oligarchs, as the procedures against Khodorkovskii and Yukos show.²⁷ A parallel step was to bring high state functionaries under his control. They, too, usually held their fortunes outside the country. Several laws forbade this practice for high-ranking state officials before the 2020 amendments introduced extensive constitutional text forbidding to a long list of state and communal officials to hold money or chattel outside the country; this ban does not, however, relate to landed property which Russian officials may, and do, continue to own. The official reason is that officials with property in foreign countries are less interested in the welfare of the country they serve and may be liable to blackmail by foreign states or individuals. The true reason is control. Furthermore, nobody who has or has ever had a second citizenship next to the Russian or a foreign residence permit may assume high state or communal offices.²⁸

²⁶ In the aftermath of the 2020 amendments, Russia suspended e.g. several double taxation agreements, relying on the new priority of domestic law over international agreements: JAVID DAMIROV, *Auswirkungen der Verfassungsreform und der Maßnahmen gegen die Covid-19-Pandemie auf das Steuersystem der RF*, *Wirtschaft und Recht in Osteuropa* 2020, pp. 328-331.

²⁷ These procedures are in part described in the decisions of the ECtHR of 31 May 2011, *Khodorkovskiy v. Russia*, 5829/04, and of 20 September 2011, *Yukos v. Russia*, 14902/04. The Yukos decision was the first decision of the ECtHR the execution of which the Russian Federal Constitutional Court forbade.

²⁸ The general clause of these restrictions with view to foreign assets, foreign citizenship or foreign residency is laid down in Article 71 lit. t) Russian Constitution as amended in 2020. Numerous other articles specify these provisions for public offices such as the prime minister of a federal entity, the leader of a federal administrative organ, the President of the Federation, the members of both chambers of the federal parliament, the members of the federal government, judges, members of the Constitutional Court, or public prosecutors. For more detail, see MICHAEL GEISTLINGER, Art. 77 nos. 22-26, in *Handbuch der Russischen Verfassung. Ergänzungsband zur Novelle 2020*, Bernd Wieser (ed.), Vienna – Berlin, 2022.

The administrative basis for the control of foreign citizenships or residence permits is the duty of Russian citizens to have them registered with Russian authorities; the failure to do so has been a crime since 2014.²⁹ These restrictions apply to the President of the Federation as well as to candidates running for that office, as Article 81(2) of the Russian Constitution, as amended in 2020, sets out. If these provisions were taken seriously, Putin would be barred from the presidential office because he lived in East Germany from 1985 until 1990 as a junior KGB officer.

An amendment to the State Secret Act of August 2023³⁰ requires persons with access to classified information to obtain a special permit for foreign travel issued by the secret police (FSB). This permit may be issued if the person shows a good reason for temporarily leaving Russia, such as the death of close relatives or the necessity of medical treatment. The circle of persons having such access is rather wide and includes a long list of state, federal unit and local officials, but also judges, advocates or private citizens involved in legal proceedings where state secrets are discussed. This amendment restores for a large number of public officials and private citizens the legal restrictions on foreign travel practiced by tsarist Russia and the Soviet Union. Under the pretext of state secrets, these persons are not allowed to leave the country where the Kremlin can no longer control them.

The third aspect is foreign trade, which has been an object of official suspicion since tsarist times because it gets Russians into contact with foreigners. For this reason, the Soviet Union introduced the state monopoly of foreign trade, exercised by a small number of state-owned foreign trade companies. The economic liberalisation of the 1990s abolished that state monopoly. Today's law grants quite liberally every Russian citizen and company the right to conduct foreign trade whereas public bodies need statutory authorisation for trans-border commercial activities.³¹ However, numerous presidential edicts and government decrees³²

²⁹ Article 330.2 Criminal Code, introduced by Federal law of 4 June 2014 no. 142-FZ 'On amending Articles 6 and 30 of the federal law 'On the citizenship of the RF' and certain legislative acts of the RF'.

³⁰ Federal law of 4 August 2023 no. 432-FZ 'On amending certain legislative acts of the RF'.

³¹ Articles 10-11 Federal law of 8 December 2003 no. 164-FZ 'On the basics of state regulation of foreign trade activities'; INGEBORG BAUER-MITTERLEHNER, Progressive Gesetze in konservativer Rechtskultur: Vertragsstabilität und Vertragsdurchsetzung bei Außenhandelsverträgen in der Russischen Föderation, in *Rule of Law und institutioneller Wandel: Vertragsstabilität und Vertragsdurchsetzung in Osteuropa*, Herbert Küpper – Friedrich-Christian Schroeder (eds.), Frankfurt/Main, 2021, pp. 21-134.

³² In Russian law, the normative acts of the president on the one hand (edict) and of the government, ministers and administrative organs (decrees) have different names and, despite their common nature as normative acts of the executive, are not considered the same thing. The edict (Russian:

reversed this statutory principle into the opposite by regulating and controlling very minutely every aspect of import and export. It is true *de jure* that the foreign trade law, being a formal statute, takes precedence over presidential edicts and government decrees, but in reality, edicts and decrees of the executive carry more weight. As a result of this legislative situation, the large companies of the oligarchs can pursue foreign trade quite easily whereas private small and medium-sized businesses face nearly unsurmountable administrative obstacles, shielding them quite efficiently from too intensive economic contacts with the outside world.³³ Since 2022, state control over foreign economic activities has been tightened. Russian companies, e.g., are no longer allowed to be listed in foreign stock exchanges but the President, through the government, may grant exceptions as a personal favour to his cronies.³⁴

A fourth, auxiliary aspect is the classification of other countries as friendly or unfriendly. The first official list of so-called ‘unfriendly states’ was assembled before the war, in 2021, and contained predominantly the states that had enacted sanctions against Russia since the annexation of Crimea in 2014. Soon after the open aggression against Ukraine started, a presidential edict confirmed and widened that list.³⁵ The classification of a state as ‘unfriendly’ is the basis for many regulations in various fields of law described in this paper. In 2021, the number of local employees allowed for embassies of some unfriendly states was limited. In a first step, the US Embassy was allowed zero Russian employees and the Czech Embassy only sixteen. Subsequent presidential edicts and government regulations widened the list of embassies to which restrictions apply.³⁶ Visa restrictions against citizens of ‘unfriendly states’ were introduced in April 2022 and escalated subsequently, reflecting those countries’ restrictions on Russian citizens.³⁷ Most measures against

ukaz) of the president in particular is of special relevance in Russian legal culture: JANE HENDERSON, Sources of law, in Muravyeva, *Foundations of Russian law*, cit (nt. 22), pp. 25-55 (40).

³³ This factual privilege for the oligarchs is part of Putin’s ‘contrat social’ with these economic leaders: they do not question Putin’s absolute autocracy and are in turn granted privileged conditions for their businesses: J. BAUMANN – P. STYKOV in PRIEBUS – BEICHELT, cit (nt. 12).

³⁴ Federal law of 16 April 2022 no. 114-FZ ‘On amending the Federal law ‘On joint stock companies’ and certain legislative acts of the RF’. The war-related restrictions on foreign trade are presented at point 5. and subpoints.

³⁵ Edict of the President of the RF of 5 March 2022 no. 95 ‘On the temporary procedure of the fulfilment of obligations to some foreign creditors’. The list was widened by subsequent government regulations, e.g. government regulation of 23 July 2022 no. 2018-r.

³⁶ Edict of the President of the RF of 23 April 2021 no. 243 ‘On the application of countersanctions against unfriendly actions of foreign states’, amended by, inter alia, government regulation of 20 July 2022 no. 1998-r.

‘unfriendly states’ are (counter-)sanctions; they are discussed at point 5. and corresponding subpoints.

Another strategy of isolation, the branding of critical NGOs as ‘foreign agents’ in order to isolate the Russian population from critical thoughts, is discussed at point 4.2.1.

3.3. Neo-imperialism

The 2020 constitutional amendments equipped the Russian state to lead its aggressive war against Ukraine on an ideological level as well. Several new clauses link present Russia to the Soviet empire and its perceived glory.

The amended constitution declares Russia to be the successor of the Soviet Union.³⁸ Since the international community has never challenged this fact since 1991, as is illustrated by the smooth transition of the Soviet veto seat in the Security Council to Russia in 1991, there are no external, diplomatic reasons for such a constitutional rule more than 30 years after the fact. The link to the Soviet Union, the collapsed empire that Putin openly vows to restore, stresses Russia’s ambitions to step into those imperial shoes.³⁹

The new text glorifies the victory over Nazi Germany in World War II (WW II).⁴⁰ That victory was an important element of the political identity in the Soviet Union. Putin has made it a central part of the legitimacy of his autocracy. It serves to ‘justify’ the war against Ukraine which, in the official Russian position, is a ‘special military operation designed to liberate Ukraine from a fascist regime’. If Soviet Russia – so the logic of the new Article 67.1(3) – had all historical right to liberate Europe from the Nazis in 1945, it has all the right to liberate Ukraine from its Nazi government in 2022.⁴¹ For this reason, it has been an administrative offence (infraction) since 2022 to equate the Soviet and the Nazi dictatorships and to ‘deny the decisive role of the Soviet people in the defeat of Nazi Germany

³⁷ Edict of the President of the RF of 4 April 2022 no. 183 ‘On countermeasures of a visa nature against unfriendly actions of foreign states’, followed by Federal law of 1 May 2022 no. 119-FZ ‘On migration registration of foreign citizens and stateless persons in the RF’ and other legislative acts.

³⁸ Article 67.1(1) Russian Constitution, introduced by the 2020 amendments.

³⁹ SALENKO cit. (nt. 24), pp. 75-85 (84), qualifies this amendment as ‘of an ideological nature’.

⁴⁰ Article 67.1(3) Russian Constitution, introduced by the 2020 amendments.

⁴¹ KÜPPER, Fit für den Neo-Imperialismus cit. (nt. 18), pp. 73-78; OTTO LUCHTERHANDT, Art. 67.1(3)-(4), nos. 2-7, in *Handbuch der Russischen Verfassung*, Wieser cit. (nt. 28); PARTLETT – KÜPPER cit. (nt. 21), pp. 55-60.

and the humanitarian mission of the USSR in the liberation of the countries of Europe'.⁴²

3.4. The war and defence law

Whereas the hypercentralisation of all power and the isolation of the country had taken place prior to, and in preparation of, the war against Ukraine, the changes in defence law occurred after the start of the open war in February 2022. For all we know, the Russian president and the leaders of his army believed their own propaganda that Ukrainians were eagerly awaiting to be liberated by a Russian invasion. They expected a 'blitzkrieg' with a blazing Russian victory within days, a victory the glory of which might even surpass the Soviet victory over Nazi Germany. They were deeply surprised that the Ukrainian army and people resisted the Russian attack, and had to revise their expectation to take over Ukraine within a week or two. Russia's civilian and military leadership had to adapt to a full-fledged war, which they had not anticipated. The first effect of this full-scale war affected Russian international politics: the country had to concentrate all its powers on Ukraine which meant that it had to drop its allies such as Armenia or Syria and to tune down the activities of its mercenary troops (e.g. Wagner units) in several African states.

In domestic politics, Russia had to adapt its defence law from a time of peace into a war mode. This was a gradual process because it took Russia some time to understand, and even more time to accept, that Ukrainian resistance was substantial and would delay a Russian victory for more than just a short period. Another factor to slow down the adaptation of the Russian measures to a full-fledged armed conflict was the fact that Putin had committed himself to the version of a 'special military operation of limited scope'. It was therefore impossible to adapt to war conditions openly. Instead, all measures had to respect the fact that the war neither must be called a war nor must appear to be one.

3.4.1. Formal permission to invade Ukraine

At first, the deployment of Russian troops in Ukraine was authorised by parliament on request of the president.⁴³ When the war lasted and grew into

⁴² Article 13.48 Administrative Infractions Code, inserted by Federal law of 16 April 2022 no. 103-FZ 'On amending the Code of the RF on Administrative Infractions'.

⁴³ Article 102(1) lit. g) Russian Constitution, point 2.

unexpected dimensions, an amendment in the Defence Act of July 2022 allowed Russian troops and other Russian formations – at that time the Wagner Group and other mercenary units – to execute ‘anti-terror and other operations’ outside Russian territory. Other provisions of that amendment law started to militarise the economy in order to create the infrastructure for a full-fledged war.⁴⁴ On the same day, an amendment of the rules on compulsory military service defined the secret police (FSB)⁴⁵ as an authority where suitable drafted conscripts and contract soldiers can perform their military service.⁴⁶

3.4.2. Mobilising soldiers without a general mobilisation

The continuing war needs a constant supply of fresh fighters. This is a problem for the president because he committed himself that there would be no general mobilisation. He probably knows that a general mobilisation is extremely unpopular among Russians, and it does not fit to the official narrative of a ‘special military operation of limited extent’.

A series of presidential edicts continually raised the maximum number of military staff. In mid-2022, e.g., this number was raised by 137.000 persons to a total of 2.039.758, in late 2023 to a total of 2.209.000, and in mid-2024 to a total of 2.389.000 persons.⁴⁷ It must be noted, however, that these numbers indicate the entire staff of the armed forces including civilian personnel.

3.4.2.1. Compulsory military service

Russia never abolished compulsory military service. For this reason, drafting new soldiers through conscription is the obvious solution for recruiting sufficient fighters. This, however, is not as easy as it seems. If conscription rates are raised too high above the usual figures, this will look like the general mobilisation that Putin wants to avoid at all costs. Furthermore, the official tale is that conscripts are not deployed in Ukraine. The Russian army nevertheless does send conscripts to the front. This is common knowledge because a number of young conscripts were taken

⁴⁴ Federal law of 14 July 2022 no. 272-FZ ‘On amending certain legislative acts of the RF’.

⁴⁵ This abbreviation means Federal’naya sluzhba bezopasnosti (Federal Security Service).

⁴⁶ Federal law of 14 July 2022 no. 278-FZ ‘On amending certain legislative acts of the RF and on repealing Article 18(8) of the Federal law ‘On state security’.

⁴⁷ Edict of the President of the RF of 25 August 2022 no. 575 ‘On determining the staff levels of the Armed Forces of the RF’ and similar later edicts.

prisoners by Ukrainian troops. The few Western media still active in Russia report on demonstrations of mothers who protest against their young sons, who are conscripts, being taken to Ukraine and being forced to fight on the front. These protests are usually very quickly suppressed by the secret and regular police.⁴⁸

In Russian practice, there is a spring draft and an autumn draft. A presidential edict determines the numbers of young men⁴⁹ drafted at the given moment.⁵⁰ Since the spring draft of 2022, these numbers have been rising, compared to the drafts before 2022. This was interpreted as a factual mobilisation, and young men started to leave Russia. To counter the unrest that tendency causes in the population, a new Minister of Defence was appointed in May 2024. One of his first statements was that there would be no general mobilisation, and this has become the mantra of both the minister and the President of the Russian Federation. However, few Russians believe them.

Despite the constant assurances that there would be no general mobilisation, Putin announced a partial mobilisation in autumn 2022. These mobilised men are not simple conscripts but enjoy the status of a professional (contract) soldier.⁵¹ The age limit is raised for regular conscription from 27 to 30 years⁵² and for persons in the mobilisation reserve temporarily (from 2024 to 2028) from 50 to 55 years.⁵³ Men working in the armament industry are not to be mobilised. In late 2022, the lawmaker found it necessary to clarify that an earlier conviction of a sexual crime was incompatible with becoming a soldier.⁵⁴

An amendment of the Military Service Act simplified the drafting procedure. Earlier, summons for military service could be handed over in person or on the

⁴⁸ Another way to silence protesting mothers is to qualify them as ‘foreign agents’: point 4.2.1.

⁴⁹ Conscription affects men only; women are not drafted into the army. The number of female contract soldiers is low and constantly dropping: INTERFAX RUSSIA & CIS MILITARY NEWSWIRE, *Number of Women Serving for Russian Armed Forces down by nearly Two Thirds in Five Years*, 6 March 2013, quoted by Wikipedia article <Russian Armed Forces> (last visit: 25 May 2025). For this reason, this paper refers to individual conscripts or contract soldiers as ‘he’, indicating that armed forces in Russia are nearly exclusively a male affair.

⁵⁰ The 2025 spring draft is laid down in the edict of the President of the RF of 31 March 2025 no. 222. This paper refrains from documenting the earlier presidential edicts on drafts.

⁵¹ Edict of the President of the RF of 21 September 2022 no. 647 ‘On the declaration of a partial mobilisation in the RF’, calling in an extra of 300.000 men. On the status of a contract soldier see point 3.4.2.2.

⁵² Federal law of 4 August 2023 no. 439-FZ ‘On amending certain legislative acts of the RF’.

⁵³ Federal law of 24 July 2023 no. 326-FZ ‘On amending certain legislative acts of the RF’.

⁵⁴ Federal law of 4 November 2022 no. 421-FZ ‘On amending the Federal law Federal law ‘On the preparation for mobilisation and on the mobilisation in the RF’.

workplace only. The new provisions allow for an electronic service of the summons, e.g. by e-mail, thus closing a loophole which many young men used to avoid being drafted. Such an e-mail is deemed to be served the minute it reaches the recipient's electronic pigeon-hole in the portal for state services. From that moment, the man in question underlies a strict legal regime which includes, inter alia, a ban to leave the country. If the man does not appear before the proper authority within 20 days, his entire civil existence is put on hold: he can no longer be an entrepreneur, his property rights in landed property are suspended, he no longer may drive a vehicle or conclude a loan contract. As a result, the man has only three choices: to emigrate illegally, to live within Russia in complete illegality, or to go to the army.⁵⁵

How unpopular the drafting has become is illustrated by two laws issued in the summer of 2022. An amendment to the Mobilisation Act and the Compulsory Military Service Act enhanced the safety requirements for mobilisation centres, and amendments to the Administrative Infractions Code and the Criminal Code raised the sanctions for violence against those centres and similar installations.⁵⁶

From what is known from Russian refugees and prisoners of war, conscription hits hardest the ethnic minorities, especially Muslims,⁵⁷ the rural populations and the urban poor, whereas the sons of the urban middle classes manage to either avoid conscription or serve in Russia, far from the war in Ukraine. This is an old pattern of tsarist and Soviet times, repeating itself under Putin: the blood price for the ambitions of the central government is paid by the ethnic minorities, the farmers and the poor in general.

One reaction of young men is emigration. This has become much more difficult since 2022. One reason lies in the Western sanctions with tighter visa rules. Direct

⁵⁵ Federal law of 14 April 2023 no. 127-FZ 'On amending certain legislative acts of the RF'. The administrative basis is the electronic registration of men liable for conscription. It is fed with information from most public registers on the basis of the edict of the President of the RF of 25 November 2022 no. 854 'On the state information resource with information about citizens needing to update their military registration documents'.

⁵⁶ Federal laws of 14 July 2022 no. 336-FZ 'On amending the Federal law 'On the preparation for mobilisation and on the mobilisation in the RF' and Article 51 of the Federal law 'On military duty and military service'; of 24 September 2022 no. 364-FZ 'On amending the Code of the RF on Administrative Infractions'; and of 24 September 2022 no. 365-FZ 'On amending the Criminal Code of the RF and Article 151 of the Criminal Procedure Code of the RF'.

⁵⁷ In May 2025, Russian authorities said they had drafted 20.000 men from among recently naturalised formerly Uzbek, Tajik and Kyrgyz citizens: REDAKTION ORF.AT, *Russland schickt 20.000 Eingebürgerte an die Front*, news ORF.at, 20 May 2025, <https://orf.at/stories/3394439> (last visit: 25 May 2025).

traffic routes between Western states and Russia has been cut; the land borders to, e.g., Estonia and Finland are closed. Another impediment for leaving the country is the Russian administrative practice. Russian authorities reduced issuing passports to men in the appropriate age groups which forces them to migrate illegally into other countries.⁵⁸ This practice is contrary to the basic right to emigrate at any time, enshrined in Article 27(2)1 of the Russian Constitution.

3.4.2.2. Alternative ways to recruit fighters

The unexpected lengthiness of the war puts Putin in a dilemma. On the one hand, the attack against Ukraine requires more and more soldiers, particularly since Russian losses are reported to be high. On the other hand, Putin committed himself not to resort to a general mobilisation and not to use regular conscripts in the war against Ukraine.

The gap was filled at first by informal combat units such as the Wagner Group. The danger of relying on mercenary organisations soon became obvious. ‘Units of volunteers’ (Russian: *dobrovol’cheskie formirovaniya*) – the legal euphemism for the mercenary troops – have been required to co-ordinate more closely with the armed forces since November 2022.⁵⁹ The most powerful of these organisations, the Wagner Group, started an armed mutiny in June 2023 which Putin could handle only by incorporating parts of the units into the regular armed forces and sending the rest to Belarus.⁶⁰

A parallel strategy is aimed at professional soldiers. The Russian armed forces are composed of recruits obliged into military service by way of conscription on the one hand, and professional soldiers who sign a contract for a certain period on the other hand. Contract soldiers may be Russian or foreign citizens. The first initiatives to open the professional military career were taken in May 2022. An amendment of the Military Service Act abolished the upper age limit for the first contract.⁶¹ By the end of 2023, members of the National Guard were allowed to join combat formations active beyond the Russian borders.⁶²

⁵⁸ Federal law of 13 June 2023 no. 212-FZ ‘On amending Federal law ‘On the procedure for leaving the RF and entering the RF’.

⁵⁹ Federal law of 4 November 2022 no. 419-FZ ‘On amending certain legislative acts of the RF’.

⁶⁰ KIMBERLY MARTEN, *Russia’s Use of Semi-state Security Forces: the Case of the Wagner Group*, *Post-Soviet Affairs* 35 (2019) 3, pp. 181-204.

⁶¹ Federal law of 28 May 2022 no. 147-FZ ‘On amending Article 34 of the Federal law ‘On military duty and military service’ removed the age limit of 40 years for first-time contracts.

⁶² Federal law of 25 December 2023 no. 639-FZ ‘On amending certain legislative acts of the RF’.

In September 2022, another amendment lowered the threshold for foreign citizens to join the Russian army as contract soldiers.⁶³ Parallel legislation facilitated the naturalisation of foreign contract soldiers by successively lowering the prerequisites for their acquisition of Russian citizenship. The continuous enactment of new presidential edicts in this field may indicate that the fast-track naturalisation of foreign contract soldiers does not work well in practice.⁶⁴

The next target group were pensioned military servicemen. Age limits for their active service were raised shortly before the war. Amendments to the Military Pensions Act promise them considerable privileges if they join again the army or other formations involved in ‘special military operations’.⁶⁵

Those measures do not seem to cover the needs because Russia started to use criminals as soldiers by giving them impunity when they join the army or other combat units. Their criminal responsibility for ‘criminal acts of minor or middle weight’ is abolished, ongoing criminal procedures are terminated, and criminals serving prison sentences are released from prison into the army. If they survive a sufficient period of time in combat, usually six months or a year, their punishment is annulled and their criminal record is cleaned.⁶⁶ Survival rates of criminals are low, however, because they are used as untrained ‘cannon fodder’ in the first lines of the front.⁶⁷

⁶³ Federal law of 24 September 2022 no. 370-FZ ‘On amending certain legislative acts of the RF’ reduced the minimum contract period from five years to one year.

⁶⁴ Federal law of 24 September 2022 no. 370-FZ, cit. (nt. 63) together with various presidential edicts. Examples are the edicts of the President of the RF of 30 September 2022 no. 690 ‘On the admission to the citizenship of the RF in a simplified procedure of foreign citizens who concluded contracts for military service, and their families’ and of 14 January 2024 no. 10 ‘On the admission into the citizenship of the RF of foreign citizens having concluded a contract on performing military service in the Armed Forces of the RF or military formations, and of their family members’.

⁶⁵ Federal laws of 29 November 2021 no. 388-FZ ‘On the introduction of an amendment into Article 49 of the Federal law ‘On military duty and military service’, of 21 November 2022 no. 450-FZ ‘On amending the Federal law ‘On veterans’ and of 28 February 2023 no. 50-FZ ‘On amending the law of the RF ‘On pension provision of persons who performed military service (...)’ (Military Pensions Act).

⁶⁶ Federal law of 24 June 2023 no. 270-FZ ‘On the special features of the criminal responsibility of persons taking part in a special military operation’, replaced by Federal law of 23 March 2024 no. 61-FZ ‘On amending Federal law ‘On the preparation for mobilisation and on the mobilisation in the RF’ (...)’. Federal law of 23 March 2024 no. 64-FZ ‘On amending the Criminal Code of the RF and the Criminal Procedure Code of the RF’ widened the circle of prison inmates eligible for military service. Federal law of 24 June 2023 no. 269-FZ ‘On amending certain legislative acts of the RF’ elaborates the privileges for former prison inmates.

⁶⁷ OL’GA ROMANOVA, *Totale Anomie. Russland: Strafgefangene als Frontsoldaten*, Osteuropa 2024/4, pp. 79-86.

Even recruiting convicts does not seem to ensure sufficient soldiers. Men joining the army voluntarily are promised a one-time payment from the federal budget.⁶⁸ Since July 2024, it amounts to about € 20.000. Some federal entities grant additional payments from their budgets, the highest amounts being paid in Moscow. A voluntary soldier from the capital may receive as much as € 54.000 from various sources when signing the contract with the army.

Some military activities like shooting drones are permitted to private security companies, too. These activities take place on Russian soil and are of a defensive rather than of an aggressive nature.⁶⁹

Another Russian strategy to avoid a general mobilisation is the ‘import’ of foreign fighters. Apart from foreign contract soldiers, Russia receives military units from other countries. The provision of soldiers by North Korea has been a topic in the Western media since 2024. There seems to be a bilateral agreement that North Korea puts a certain number of its military staff at Russian disposal. From what we know from death counts as well as from prisoners of war, the North Korean soldiers are unexperienced young recruits, were never asked whether they agreed to being transferred to Russia, and are deployed by the Russian army in the front lines as ‘cannon fodder’. In May 2025, Western media reported about West African men forced into the Russian army and used under similar circumstances as North Korean soldiers. Russian embassies in several African states, inter alia Togo, seem to have issued student visa to young men and promised scholarships. When those men arrived in Russia, they were forced into the Russian army.⁷⁰

3.4.3. Social aspects

Social privileges for fighters intend to make the service in the combat units in Ukraine more attractive. Some of these privileges take account of the fact that military service involves active fighting in Ukraine, soldiers facing the risk of being killed or becoming invalid. Others extend rules on formal warfare to combat in Ukraine which by definition is not a war.

Since late 2022, entering the army as a recruit, a contract (professional) soldier or a voluntary aid no longer terminates the civil job. The civil job is suspended for the time of the military service and continued automatically when the employee

⁶⁸ Edict of the President of the RF of 2 November 2022 no. 787: about € 1.900.

⁶⁹ Federal law of 4 August 2023 no. 440-FZ ‘On amending certain legislative acts of the RF’.

⁷⁰ REDAKTION ORF.AT, *Togo: Für Moskau kämpfende Togoer in Ukraine gefangen*, news ORF.at, 2 May 2025, <https://orf.at/stories/3392318> (last visit: 25 May 2025).

returns.⁷¹ On the other hand, if the owner of a small business is conscripted, he has an extraordinary right to terminate the labour contracts with some or all of his employees.⁷²

With the numbers of conscripts rising, not only school graduates are being called into the army. Conscription or, as it is called in Russian, mobilisation (Russian: *mobilizatsiya*) affects more and more young professional men for whom joining the army means considerable financial and professional hardship. Special legislation tries to mitigate their social situation. In October 2022, several laws amended contract law and drafting rules. Self-employed persons and entrepreneurs drafted after the 21 September 2022 are granted a delay of five work days before their military service in order to organise their business for their absence. Unlike other soldiers, they may continue to run their business during their military service, and they may authorise and control a representative during that period.⁷³ Families of conscripted soldiers receive a stipend for the first six months of the mobilisation which is not set off against other social payments.⁷⁴

Periods of participation in combat actions during the ‘special military operation’ count twice in the calculation of the old age pension.⁷⁵ In many cases, military distinctions may lead to increased social payments.⁷⁶

Court and enforcement procedures against fighters in the ‘special operation’ are suspended by law.⁷⁷ If someone fulfils his military service or fights in Ukraine and is therefore unable to pay his debts or his rent, these obligations and related enforcement procedures are suspended by law, and a simplified procedure to achieve payment in instalments applies. If these debtors are killed in action, certain parts of their debts are cancelled by law.⁷⁸ The same relief applies to small and medium-size

⁷¹ Federal laws of 7 October 2022 no. 376-FZ ‘On amending the Labour Code of the RF’ for jobs in the private sector and no. 379-FZ ‘On amending certain legislative acts of the RF’ for jobs in the public sector. Federal law of 19 December 2022 no. 545-FZ ‘On amending the Labour Code of the RF’ grants the soldier a right to return into his old job if that originally was temporary and its time limit expired during military service.

⁷² Federal law of 4 November 2022 no. 434-FZ ‘On amending the Labour Code of the RF’.

⁷³ Federal law of 20 October 2022 no. 404-FZ ‘On amending the Federal law ‘On the preparation for mobilisation and on the mobilisation in the RF’.

⁷⁴ Government decree of 29 October 2022 no. 1933.

⁷⁵ Government decree of 14 November 2022 no. 2055.

⁷⁶ Federal law of 21 November 2022 no. 457-FZ ‘On amending Articles 1 and 2 of the Federal law ‘On additional monthly material support for citizens of the RF for outstanding achievements and special services to the RF’.

⁷⁷ Federal law of 29 December 2022 no. 603-FZ ‘On amending certain legislative acts of the RF’.

⁷⁸ Federal law of 7 October 2022 no. 377-FZ ‘On the specifics of the fulfilment of obligations under credit contracts (loan contracts) by persons called for military service through mobilisation into the

businesses if their only owner is drafted. If the company gets insolvent, the payments of the armed forces to the conscripted soldier are not part of the estate under bankruptcy but are kept apart for his family where the creditors cannot touch them.⁷⁹ The payment of taxes, other public obligations and insurance premiums is suspended *ex lege* for drafted persons.⁸⁰

Social mortgage provisions to ease the access of soldiers and their families to housing were extended.⁸¹ Persons who took part in active fighting, including local participants of the insurgent combat units in Eastern Ukraine, as well as their children may enter certain higher education programmes even if their school performance does not entitle them to do so.⁸²

The social protection of family members of deceased members of the armed forces was improved to relieve fighting soldiers of the worries what will happen to their children if they were killed in Ukraine.⁸³ Members of the armed forces and the national guard taking part in the ‘special operation’ in Ukraine receive substantial one-time payments if they are wounded during combat or die.⁸⁴ The same applies to border guard staff.⁸⁵ The social insurance position of contract soldiers was improved in mid-2022.⁸⁶ A simplified procedure to declare the death of fighters during the ‘special military operation’ is designed to help their families claim their rights.⁸⁷

Armed Forces of the RF, persons taking part in a special military obligation as well as by their family members, and on amending certain legislative acts of the RF’; Federal law of 7 October 2022 no. 378-FZ ‘On amending Articles 166 and 169 of the Housing Code of the RF (...)’. The creditors of obligations that these laws suspend or even cancel, i.e. mostly banks and other financial institutions, are not compensated by the state but expected to bear these losses as part of their ‘patriotic duty’.

⁷⁹ Federal law of 20 October 2022 no. 406-FZ ‘On amending certain legislative acts of the RF’.

⁸⁰ Government Decree of 20 October 2022 no. 1874 ‘On measures of support to mobilised persons’.

⁸¹ Federal law of 4 November 2022 no. 422-FZ ‘On amending the Federal law ‘On the accumulative mortgage system of housing for military personnel’.

⁸² Federal laws of 29 December 2022 no. 641-FZ ‘On amending (...) the Federal law ‘On the education in the RF’, of 24 June 2023 no. 264-FZ ‘On amending the Federal law ‘On the education in the RF’ and of 25 December 2023 no. 685-FZ ‘On amending certain legislative acts of the RF (...)’.

⁸³ Federal law of 14 July 2022 no. 282-FZ ‘On amending certain legislative acts of the RF’.

⁸⁴ Edict of the President of the RF of 5 March 2022 no. 98 ‘On additional social guarantees for persons serving in the army, for persons doing service in the troops of the national guard of the RF, and for their families’. Several subsequent presidential edicts upgraded the social benefits available.

⁸⁵ Edict of the President of the RF of 18 April 2022 no. 209 ‘On additional social guarantees for military personnel of the border guard organs and the FSB and their family members’. FSB is the secret police: nt. 45.

⁸⁶ Federal law of 14 July 2022 no. 315-FZ ‘On amending certain legislative acts of the RF’.

The social provisions for active servicemen, military pensioners and veterans were extended to ‘persons deployed since 24 February 2022 in order to guarantee the fulfilment of the tasks in the framework of the special military operation on the territories of Ukraine and the People’s Republics of Donetsk and Lugansk’ – again a clarification necessary because the old rules did not cover a war that is not a war.⁸⁸

Other provisions react to the fact that military invalids are no longer only survivors of WW II or the war in Afghanistan but also in substantial number of the war in Ukraine. Regarding social provisions, this means that care for invalids is no longer limited to pensions but includes, e.g., vocational training to enable them to re-enter the civilian labour market.⁸⁹

A privilege of a special nature was introduced in late 2022. Fighters as well as other state officials actively taking part in the ‘special operation’ are exempted from the duty to produce the declarations of income and property required from all public officials as part of the fight against corruption.⁹⁰ This means that the Russian state does not even pretend to control whether its officials use the war to enrich themselves unlawfully.

3.5. Criminal law to protect the war efforts

When the attack on Ukraine did not bring the expected quick victory and the war turned out to be a lasting one, Russia felt that its existing criminal law to protect its warfare activities was not enough. One tendency in these amendments is to extend the criminal protection of war to war-like situations which are not called war.

The first large package of new criminal law was adopted in July 2022,⁹¹ less than half a year after the open attack on Ukraine. The ban on armed groups outside

⁸⁷ Federal law of 14 April 2023 no. 118-FZ ‘On amending certain legislative acts of the RF’.

⁸⁸ Federal laws of 16 February 2022 no. 14-FZ ‘On amending certain legislative acts of the RF’, of 26 March 2022 no. 69-FZ ‘On amending the Federal law ‘On veterans’’, of 14 July 2022 no. 281-FZ ‘On amending Articles 3 and 16 of the Federal law ‘On veterans’’, of 4 August 2022 no. 360-FZ ‘On amending Articles 3 and 4 of the Federal law ‘On veterans’ and of 13 June 2023 no. 229-FZ ‘On amending certain legislative acts of the RF’. The latter concerns active fighters.

⁸⁹ Federal law of 19 December 2023 no. 603 ‘On amending Article 19 of the Federal law ‘On the status of military personnel’.

⁹⁰ Edict of the President of the RF of 29 December 2022 no. 968 ‘On the specifics of the fulfilment of duties, compliance with restrictions and prohibitions in the field of fighting corruption by certain categories of citizens during the period of the special military operation’.

⁹¹ Federal law of 14 July 2022 no. 260-FZ ‘On amending the Criminal Code of the RF and the Criminal Procedure Code of the RF’. This criminal amendment law was adopted on the same day as the first comprehensive defence amendment law, cit. (nt. 44).

state structures established by Article 208 of the Criminal Code – which was never used against state-sponsored mercenary units such as the Wagner Group – was extended to mercenaries ‘participating in an armed conflict or combat abroad against the interests of the RF’. This allows to punish with prison of up to 20 years foreigners fighting for Ukraine. Article 275 of the Criminal Code on high treason now covers also the act of defecting to the enemy in an armed conflict or combat, i.e. not only in war. Any deserter may be tried for high treason. The same logic applies to the amendment to the crime of espionage in Article 276 which now encompasses forwarding certain information in an armed conflict or combat – i.e. not only war – in which Russia is involved. New crimes which may be used against persons opposing or criticising the war are the ‘secret collaboration with a foreign state or an international or foreign organisation’ (Article 275.1 of the Criminal Code) which protects Russia’s withdrawal from international law;⁹² the ‘public call for activities against state security’ (Article 280.4 of the Criminal Code) which is used, inter alia, against persons and organisations informing young men how to avoid military service; acts of Nazi propaganda or the displaying of Nazi symbols (Article 282.4 of the Criminal Code), the criminalization of which supports Russia’s narrative that its war against Ukraine wants to liberate that country from a Nazi regime; or the ‘violation of the requirements for the protection of a state secret’ (Article 283.2 Criminal Code), a state secret being, e.g., the fact that the ‘special military operation’ against Ukraine is a war, or the true state of things at the front or within the Russian army.

More amendments of the Criminal Code⁹³ raised the punishment for avoidance of compulsory military service and similar offences to as much as ten years of imprisonment. Russian courts are quite willing to apply that upper limit, issuing corresponding sentences on a regular basis. A crime of Stalinist times, too, was revived: the new Article 352.1 of the Criminal Code punishes the voluntary defection to become a foreign prisoner of war (‘voluntary surrender’) with imprisonment between three and ten years. In and after 1945, many thousands of Soviet prisoners of war, after their liberation from the Nazi camps, were deported into Stalinist camps or sentenced to death because they had been German prisoners of war.

The same amendments grant criminal protection to the military command industry. The refusal of private companies to enter into contracts with public entities about the purchase of goods or services required by the military is now a

⁹² Point 3.2.

⁹³ Federal law of 24 September 2022 no. 365-FZ, cit. (nt. 56).

crime. In addition, the breach of such contracts was elevated from an administrative infraction to a criminal offence.⁹⁴ The violation of the currency restrictions was made a crime too.⁹⁵

Another parallel to Soviet criminal law is the extension of the crime of sabotage to persons in the wider personal environment of the principal perpetrator.⁹⁶

3.6. The incorporation of the conquered territories into the Russian state

Russia conquered considerable Ukrainian territory: the Crimean Peninsula in 2014 and the East and South-East of Ukraine from 2022 on. Most of these territories were incorporated into the Russian state. Russia formally is a federation. The annexed territories were organised into federal units and granted accession to the RF by way of bilateral ‘treaties’. It was not necessary to modify the Russian Constitution to do so because its Article 65(2) provides for the adoption of new federal entities in accordance with a federal constitutional law. Thus, Crimea and Sevastopol were adopted as new federal entities in 2014, and Donetsk, Lugansk, Cherson and Zaporozhe in October 2022, by two federal laws each: one ratifying the ‘accession treaty’ between Russia and its new entity-to-be, and one amending the enumeration of the federal entities in the Constitution.⁹⁷

As mentioned in the introduction, the Russian constitutional, statutory and sub-statutory provisions incorporating these occupied territories into the RF are contrary to very basic international rules. From a Russian point of view, this is immaterial because earlier legislation and the 2020 constitutional amendments immunised internal Russian norms against international law. A possible conflict with international law is no longer an argument in domestic Russian law despite the abovementioned priority clause of Article 15 of the Constitution.

Some constitutional provisions reflect the ‘dynamic’ nature of the Russian territory. The 2020 amendments brought new text forbidding to high-ranking

⁹⁴ The command economy to cover the needs of the army is described at point 5.1.

⁹⁵ The currency restrictions are presented at point 5.4. The procedural side is partly covered by Federal law of 7 October 2022 no. 382-FZ ‘On amending the Criminal Procedure Code of the RF’.

⁹⁶ Federal law of 29 December 2022 no. 586-FZ ‘On amending the Criminal Code of the RF and the Criminal Procedure Code of the RF’. Later legislation tightened the criminal sanctions for sabotage even more.

⁹⁷ In 2022, the four ratification laws were federal laws of 4 October 2022 nos. 372-FZ to 375-FZ, and the four constitutional amendments were federal constitutional laws of 4 October 2022 nos. 5-FKZ to 8-FKZ.

state officials a foreign citizenship or a foreign residency.⁹⁸ The pertinent provisions with view to the president in Article 81(2)2 of the Constitution – though not the provisions on other officials – reflect the fact that Russia's aggression leads to new territory: 'The requirement for a candidate running for the office of the President of the RF concerning the absence of a foreign citizenship does not extend to Russian citizens who possessed at an earlier date the citizenship of a state which, or a part of which, was accepted into the RF in accordance with a federal constitutional law, and who resided permanently on the territory of the state accepted into the RF or on the territory of the part of the state adopted into the RF.'⁹⁹ This cumbersome sentence precisely describes the situation of Ukraine but is open to more new territories in the future. It does not apply to Putin because he never held Ukrainian citizenship and never resided in territories taken from Ukraine. It shows, however, that the RF considers citizens of territories that 'returned home to Russia' as 'real' Russians who may even become president. The fact that this clause was inserted into the constitution only in relation to the highest office, but not for the rest of the public offices, shows its symbolic nature. It is not intended at being applied in reality, but rather aims at showing that the persons living in territories annexed or to be annexed by Russia are 'real' Russians – and according to Russian propaganda, that precisely 'justifies' the Russian expansions even if the states in question do not wish to be 'accepted' into the RF. Irrespectively of the will of the states concerned, Russia is where they and their citizens belong. This is the message that Article 81(2)2 of the Constitution, as amended in 2020, sends to the – predominantly post-Soviet – world.

The adoption of new federal units into the RF does not mean that the Russian legal system has entered into force there in its entirety. As was mentioned before, these territories are under martial law which means that the federal government and particularly the federal president have wider powers to intervene into local affairs than in Russia proper.¹⁰⁰ An amendment authorised the president to decree deportations of civilians from territories under martial law.¹⁰¹ Direct presidential

⁹⁸ Point 3.2.

⁹⁹ Translation from the Russian original by the author of this paper.

¹⁰⁰ The presidential edicts putting the four new federal units under martial law as well as their confirmation by the Council of the Federation (the 'upper house' of the federal parliament) were issued on 19 October 2022: Edicts of the President of the RF of 19 October 2022 no. 756 'On introducing martial law in the territories of the People's Republic of Donetsk, the People's Republic of Lugansk, in the districts of Zaporozhe and of Kherson' and no. 757 'On measures implemented in subjects of the Federation in connection with the edict of the President of the RF of 19 October 2022 no. 756'. 'Subject of the Federation' is the constitutional expression for a federal unit.

¹⁰¹ Federal constitutional law of 29 May 2023 no. 2-FKZ 'On amending certain federal constitutional laws'.

rule was introduced in two of the new federal entities, the regions of Zaporozhe and Kherson, abolishing even the façade of federalism and local autonomy.¹⁰² Right in time before the presidential elections of 2024, the lawmaker made it clear that those elections could be held in areas under martial law.¹⁰³ A new provision in the Administrative Infractions Code sanctions every ‘violation of the provisions established in accordance with Federal constitutional law (...) ‘On the state of war’, federal laws and other regulatory legal acts of the RF on the issues of martial law, if these actions (inactions) do not contain a criminally punishable act’. This means that any violation of objective law in connection with the war, which does not constitute a crime, entails an administrative fine or even administrative imprisonment.¹⁰⁴ This protects the state in the occupied territories against any infraction to a much higher degree as in the rest of Russia, providing authorities in those territories with practically infinite discretion to act against any person they consider hostile.

In the new federal units, not only the public power is organised differently, but also the applicability of Russian law differs from the rest of Russia. Numerous presidential edicts and federal laws set various parts of the Russian legal system into force in all or some of the new federal units in a piecemeal way, sometimes with the same content as in mainland Russia, sometimes with modifications.¹⁰⁵ One of the first legislative matters was Russian pension law because the continuity of the payment of old age pensions is a politically sensitive matter in post-Soviet countries.¹⁰⁶ Russian citizenship legislation, to give another example, is introduced very cautiously in the new federal units, Russian citizenship not being awarded automatically. The Russian authorities try to filter out individuals loyal to Ukraine, that likely resulting in lengthy administrative procedures. The incorporation of the newly occupied territories into the RF thus leads to an asymmetrical applicability

¹⁰² Edict of the President of the RF of 14 November 2022 no. 820 ‘On the approval of the procedure of the coordination with federal organs of public power in the issues of the exercise of the public power in the region of Zaporozhe and the region of Kherson’.

¹⁰³ Federal law of 14 November 2023 no. 530-FZ ‘On amending the Federal law ‘On the elections of the President of the RF’.

¹⁰⁴ Article 20.5.1. Administrative Infractions Code, introduced by Federal law of 24 June 2023 no. 265-FZ ‘On amending the Code of the RF on Administrative Infractions’.

¹⁰⁵ An example for the modified application of Russian law in the newly annexed territories is Federal law of 31 July 2023 no. 395-FZ ‘On the application of the provisions of the Criminal Code of the RF and the Criminal Procedure Code of the RF in the territories of the People’s Republic of Donetsk, the People’s Republic of Lugansk, the region of Zaporozhe and the region of Kherson’.

¹⁰⁶ The final special features of the social security in the four annexed territories are laid down in the federal laws of 17 February 2023 nos. 17-FZ to 20-FZ.

of Russian federal law on Russian territory: in the ‘old’ territories, it is fully applicable, in the federal entities annexed in 2014 (Crimea and Sevastopol), the Russification of the local legal system has made considerable progress, whereas the legal system of the territories annexed since 2022 is a unique mix of local, Ukrainian and Russian law, modified in many details through the state of war. One result of the war is that the uniform validity of federal law throughout the country, as laid down in Article 76 (1)-(2) of the Russian Constitution, is no longer given – this, however, is a transitional situation in the Russian perception.

In some cases, Russia annexes Ukrainian sovereignty by ‘private law’ means. The most conspicuous example is the nuclear power plant of Zaporizhzhia. The Russian president declared it to be property of the Russian Federation, expropriating the existing owners.¹⁰⁷

The application of Russian law in the new federal units necessitates the employment of specialists from mainland Russia because local administrative, judicial and other staff lack that knowledge. Since the annexation of these territories, several presidential edicts have offered public officials from mainland Russia considerably higher wages if they agree to serve in the new federal units.¹⁰⁸ No formal selection procedure is necessary but public employers may take anybody applying for a public post in the annexed territories.¹⁰⁹ The repeated issuance of these edicts seems to indicate that the privileges offered do not entice a sufficient number of officials into the war-torn territories.

Finally, the ‘Day of the Reunification’ (Den’ vossoedineniya) of Donetsk, Lugansk, Zaporozhe and Kherson, the 30th of September, was made an official military commemoration day.¹¹⁰

¹⁰⁷ Edict of the President of the RF of 5 October 2022 no. 711 ‘On the specifics of the legal regulation in the field of the use of nuclear energy in the territory of the Zaporozhe region’. ‘Zaporozhe’ is the Russian version of the Ukrainian place name ‘Zaporizhzhia’.

¹⁰⁸ The edict of the President of the RF of 17 October 2022 no. 752 ‘On the specifics of commissioning certain categories of persons to the territory of the People’s Republic of Donetsk, the People’s Republic of Lugansk, the region of Zaporozhe and the region of Kherson’, e.g., offers federal employees double wages and extra payments.

¹⁰⁹ Edicts of the President of the RF of 6 December 2022 no. 886 ‘On the specifics of filling state and municipal offices (...) in the territories of the People’s Republic of Donetsk, the People’s Republic of Lugansk, the region of Zaporozhe and the region of Kherson (...)’ and of 30 December 2022 no. 984 ‘On the specifics of entering the service for the internal affairs bodies of the RF in the territories of the People’s Republic of Donetsk, the People’s Republic of Lugansk, the region of Zaporozhe and the region of Kherson’.

¹¹⁰ Federal law of 28 September 2023 no. 493-FZ ‘On amending Article 1.1 of the Federal law ‘On the days of military glory and memory days of Russia’.

A special problem raised by the expansion of Russian territory is the Kerch Strait bridge which was built in 2018, i.e. after the annexation of Crimea, as a direct road and railway link between mainland Russia and the Crimean Peninsula. It raises questions in international law in at least two respects. First, it consolidates the illegal Russian occupation of the peninsula and facilitates Russian attacks on the south of Ukraine. Second, irrespective of the question of whether Crimea belongs to Ukraine or Russia, it isolates the Ukrainian ports on the Sea of Azov from the Black Sea and thus from international waters by blocking the seaway between the Sea of Azov and the Black Sea.¹¹¹ It is true that Ukraine and Russia had come to some sort of agreement about a bridge across the Kerch Strait in early 2014, but that agreement has lost its validity with the illegal Russian occupation of Crimea.¹¹² Ukraine never agreed to a bridge at the location where it was built in 2018 because it blocks its ship traffic with the Black Sea. In its outside communication, in which it cannot just deny the validity of international law, Russia relies on Ukraine's alleged approval, whereas the violation of international law is ignored in domestic law.¹¹³ The bridge is not only doubtful in international law but has been put under a special administrative regime, too. Several attacks partly destroyed the bridge. As a consequence, Russia placed that bridge under the control of the secret police.¹¹⁴

4. Making the people fit for the war: the militarisation of public and private life

A country at war needs to militarise its public life, and often the private life of its citizens as well. Militarisation in this context is understood in a broader sense. It does not only mean the incorporation of military values in the public and private value system, making the people accept and support the war the country fights, but includes the adaptation of public and private affairs to the needs of the military and the war, too.

¹¹¹ A similar problem is the Croatian bridge of Pelješac, blocking the waterway access to the Bosnian port of Neum.

¹¹² An older bilateral agreement on the use of the Sea of Azov and the Kerch Strait was cancelled by Russia: Federal law of 13 June 2023 no. 206-FZ.

¹¹³ Point 3.2.

¹¹⁴ Edict of the President of the RF of 8 October 2022 no. 724 'On measures strengthening the protection of the transport crossing through the Kerch Strait, the electric power grid bridge RF–Crimean Peninsula and the principal gas pipeline of the Krasnodar region–Crimea during their operation'.

One frequent effect of a war is a political truce between government and opposition: the people unite behind the government in order to face the external enemy. Russia is no exception to this rule. On the other hand, a certain proportion of the population opposes Putin's rule in general or the war against Ukraine in particular. In a country like Russia, where all media are controlled by the state or by state-controlled oligarchs, election results are falsified, independent opinion polls are impossible and many citizens are afraid to voice their opinion, it is impossible to know how large this proportion is. Judging from the harsh reactions of the regime, it seems that the opposition is a minority, though a sizeable one.¹¹⁵

4.1. Introducing elements of militarisation into Russian everyday life

A state at war militarises to a certain extent the everyday life of its citizens in order to increase its potential for defence or, in the case of Russia, for attack. There always was a strong military element in everyday life in the Soviet Union, e.g. compulsory paramilitary education of school children and university students. These military elements were reduced during the 1990s, but a first re-militarisation of the Russian society occurred as a consequence of the second Chechen war (1999-2009).¹¹⁶ For the purposes of a full-fledged war like the one against Ukraine, this degree of societal support for military issues does not suffice. The Russian leadership feels that the militarisation of the society has to be taken to a higher level.

This task is not an easy one because the war officially is not a war. Measures to militarise the citizens and their everyday life need to strike a careful balance between doing what is necessary to help military success on the one hand and avoiding to create the impression that Russia leads a full-fledged war on the other hand.

The first pertinent legislation was enacted when it became obvious that there would be no quick victory. The prolonged war created, inter alia, the necessity to influence public thinking in order to secure public support for the continued war efforts. As usual in dictatorships, a first target was the youth. The new Russian Youth Organisation Act obliges the youth organisation of the state to educate its members, inter alia, 'on the basis of traditional Russian spiritual and moral values'

¹¹⁵ IVAN KRIVUSHIN – MARINA GLASER, *The National Consensus Formation at the First State of Russia's Special Military Operation Against Ukraine (February-August 2022)*, Journal of Eurasian Studies 16 (2025) 1, pp. 3-19.

¹¹⁶ VASEV cit (nt. 14), p. 61.

as well as ‘love and respect for the fatherland’, which in a situation of war means that they are to be educated to blind obedience towards the state and the president and to support the war efforts.¹¹⁷

In summer 2022, an amendment of the law on schools took away the right of the schools and local authorities to determine how and with what content they teach humanities, introducing a uniform federal teaching programme for subjects like history, Russian language and literature, sociology, ‘basics of the security of the life activities’ and related subjects.¹¹⁸ New federal textbooks on history were made compulsory everywhere in the RF. They ‘justify’ the Russian war by repeating the president’s invented narrative that there is no Ukrainian people, nation, or state. They also preach the traditional Russian fear of the outside world, advancing a conspirative view of foreign countries as keen to keep Russia down. A new law obliges elementary and middle schools to militarise their teaching by introducing a new compulsory subject of ‘basics of the security and the protection of the homeland’.¹¹⁹

A propagandistic mobilisation of the public for the war is effectuated by declaring the 12th of May as a military commemoration day since it is considered to be the day of the Soviet victory in the ‘Crimea offensive operation’ which drove the Germans out of that peninsula in 1944. Another military commemoration day, the 21st of November, is the ‘Day of the Military Oath’, the latter having been introduced in 2023.¹²⁰ The intensifying cult around the Soviet victory in 1945 and the soldiers and veterans of WWII is reflected in numerous normative acts, usually presidential edicts and government decrees.¹²¹

¹¹⁷ Federal law of 14 July 2022 no. 261-FZ ‘On the Russian movement of children and youths’.

¹¹⁸ Federal law of 24 September 2022 no. 371-FZ ‘On amending the Federal law ‘On the education in the RF’ and Article 1 of the Federal law ‘On the mandatory requirements in the RF’.

¹¹⁹ Federal law of 19 December 2023 no. 618-FZ ‘On amending the Federal law ‘On the education in the RF’; PAVEL USVATOV, *Rechtsgrundlagen der Gleichschaltung im russländischen Bildungssystem*, Osteuropa Recht 70 (2024), pp. 209-231.

¹²⁰ Federal law of 24 July 2023 no. 376-FZ ‘On amending Article 1 of the Federal law ‘On the days of military glory and memory days of Russia’. The amendment defines May 12 as the ‘day of the victorious completion of the Crimean offensive operation by the Soviet troops (1944)’; Federal law of 13 June 2023 no. 238-FZ ‘On amending Article 1.1 of the Federal law ‘On the days of military glory and memory days of Russia’.

¹²¹ Article 67.1(3) Constitution, as amended in 2020, is the constitutional basis. This paper refrains from documenting the dozens of pertinent sub-constitutional normative acts.

4.2. Isolating the Russian public from ‘undesirable’ opinions

One central strategy of the militarisation of public life is to isolate the average citizen from the abroad, foreigners and foreign media.¹²² This way, Russians have little chance to hear positions and narratives different from those endorsed by the Russian president.¹²³ Legislation to reduce the contact between Russians and the outside world started long before the war. When the ‘colour revolutions’ in Ukraine, Georgia or Kyrgyzstan eliminated more than one autocratic regime in the post-Soviet world, which for Russia continues to be the ‘near abroad’ (*blizhnee zarubezh'e*) and therefore a region of enhanced importance, Putin did everything to prevent the ‘democratic virus’ from spreading into Russia.

4.2.1. Against domestic civil society: the legislation on so-called ‘foreign agents’

One instrument of isolating undesirable domestic actors from the Russian mainstream is their qualification as ‘foreign agents’.¹²⁴

The first step was to brand certain NGOs as ‘foreign agents’ in 2012.¹²⁵ Non-profit organisations receiving money or assistance from outside Russia and exercising political activities (a link between foreign sponsoring and the political activities is not necessary) were obliged to register as a ‘foreign agent’ (*innostrannyi agent*) and to use this label in their outside communication. A violation entailed fines against both the NGO itself and the person(s) acting for it. The NGO could even be dissolved in extreme cases. Russian courts have shown to be very willing to execute that law. The Constitutional Court unsurprisingly did not find any violation of basic rights or other constitutional provisions.¹²⁶ The aim of this law

¹²² The isolation of the elite as a part of the consolidation of the power vertical is described in point 3.2.

¹²³ The official binding version of Russian identity, values etc. is laid down in the edict of the President of the RF of 9 November 2022 no. 809 ‘On the approval of the foundations of the state policy for the preservation and reinforcement of the traditional Russian spiritual and moral values’ which contains a rather haphazard and sometimes contradictory enumeration.

¹²⁴ For an overview see KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, cit. (nt. 17), pp. 203-204.

¹²⁵ Federal law of 20 July 2012 no. 121-FZ ‘On amending certain legislative acts of the RF in the field of the regulation of the activities of non-profit organisations performing the functions of foreign agents’. An overview of the pertinent Russian legislation since 2012 is given by J. BAUMANN – P. STYKOV in PRIEBUS – BEICHELT, cit (nt. 12), pp. 318-319; ALEXANDER GORSKIY, *Grundrechte zu Kriegszeiten: Die Meinungs- und Informationsfreiheit auf dem Prüfstand der russischen Verfassung*, *Jahrbuch für Ostrecht* 65 (2024), pp. 75-113.

is obvious: the label ‘foreign agent’ is designed to raise suspicion in the average Russian citizen and to discredit any public communication that such an NGO may make.

The second step was the extension of the label of ‘foreign agent’ to the media.¹²⁷ Media receiving ‘money or other assets’ from foreign sources were qualified as ‘foreign agents’ and required to present themselves as such. This law did not so much target the media proper because these have been under the president’s control for many years. Public broadcasting and print media lost all their autonomy soon after Putin’s ascent to power. Private media were purchased by the oligarchs who in practice respond to the president, editorial lines reflecting the official view. When private owners were unwilling to sell to the oligarchs, the state induced them to do so with gentle and sometimes less gentle pressure. As a result, some residual free electronic and print media lead a rather marginal existence in the big cities but are not available in smaller towns or villages where people have state- or oligarch-controlled media as their only means of information. For this reason, the extension of the ‘foreign agent’ legislation did not so much aim at the classic media. The very wide definition of ‘media’ in the law relates to every legal or natural person ‘disseminating information and materials to an unspecified number of persons’ and thus includes practically all internet activities of NGOs and private citizens. The bulk of decisions on the basis of that law are directed against – mostly young – internet users, not against mainstream print, broadcast or online media.

In a third step in late 2020, the legislation on ‘foreign agents’ was widened to cover natural persons.¹²⁸ Since then, not only associations and media, but also private individuals of any nationality, exercising political activities in the interest of a foreign state or a foreign or international organisation or collecting security-related information, have had to bear that label in their public contacts. Individual ‘foreign agents’ were barred from certain public offices and electoral campaigns but were allowed to run in elections if they did so under the label of a ‘foreign agent’ – something that fully destroys their chances of being elected.

The fourth step of escalation referred to the consequences of the violation of the ‘foreign agent’ legislation. Before this step, infringements had constituted an administrative offence and could incur a fine. In late 2020, the lawmaker introduced

¹²⁶ Russian Constitutional Court, decision no. 10-p of 8 April 2014.

¹²⁷ Federal law of 2 December 2019 no. 426-FZ ‘On amending the Law of the RF ‘On mass media’ and the Federal law ‘On information, information technologies and the protection of information’.

¹²⁸ Federal law of 30 December 2020 no. 481-FZ ‘On amending certain legislative acts of the RF in the field of the establishment of additional measures to counteract threats to the national security’.

a new crime into the Criminal Code, punishing the violations of the ‘foreign agent’ rules with criminal sanctions (criminal fine or social labour).¹²⁹

The fifth step of the stigmatisation of ‘foreign agents’ took place soon after the attack on Ukraine. All related rules, so far dispersed in several laws, were concentrated in one central piece of legislation and simultaneously tightened.¹³⁰ The Foreign Agent Act of 2022 refers to all natural persons irrespective of their nationality, all domestic and foreign media as well as all organisations irrespective of their nationality or seat, with the exception of the Russian state organs, state enterprises and municipalities. This wide circle of subjects falls under the Foreign Agent Act if they conduct political activities which includes, *inter alia*, saying one’s opinion publicly; the latter clause refers to internet activities so that everybody active on the internet acts within the scope of the Foreign Agent Act. These subjects qualify as a ‘foreign agent’ if they receive some form of foreign support either directly or indirectly through another ‘foreign agent’,¹³¹ or if they are subject to some other form of foreign influence. The label of ‘foreign agent’ is imposed by the proper authorities, the Federal Ministry of Justice since January 2023.¹³² In theory, the addressee of such a qualification may challenge the label in court.¹³³ Anyone stigmatised as ‘foreign agent’ is obliged to use this label in all public appearances and communications, loses the tax privileges they may have had, cannot bear any public functions and offices, is excluded from Russian state subsidies and public procurement procedures, is restricted in publicly disseminating their opinion, particularly with view to minors – this excluding in practice ‘foreign agents’ from being teachers –, and is subject to extensive duties of financial documentation. The latter duty applies particularly to organisations. Their documentation duties are formulated in a way that makes it practically impossible to comply with, that giving authorities ample pretext to sanction ‘foreign agent’ NGOs for financial

¹²⁹ Article 330.1 Criminal Code as amended by Federal law of 30 December 2020 no. 525-FZ ‘On amending Article 330.1 of the Criminal Code of the RF’.

¹³⁰ Federal law of 14 July 2022 no. 255-FZ ‘On the control of persons under foreign influence’ (Foreign Agent Act), escalated by, e.g., Federal law of 5 December 2022 no. 498-FZ ‘On amending certain legislative acts of the RF’.

¹³¹ The Foreign Agent Act does not require the recipient of indirect foreign support to know that their immediate source qualifies as a ‘foreign agent’. Anybody may become a foreign agent by receiving, e.g., a small amount of money from a ‘foreign agent’ even if they do not know that the donor is considered to be such an agent.

¹³² Government decree of 14 January 2023 no. 18.

¹³³ In 2015, some organs of the ‘Union of the Committees of Soldiers’ Mothers of Russia’ managed to have themselves unlisted by the Federal Ministry of Justice. However, government repression was reinforced after 2022.

‘irregularities’.¹³⁴ An amendment of December 2022 widened the list of public activities forbidden to ‘foreign agents’: political life, public service, etc. The first violation of these strict rules qualifies as an administrative offence, a repeated violation entails criminal prosecution, and legal persons may be dissolved. The sanctions were tightened several times.

A sixth step tries to deprive ‘foreign agent’ media of their domestic resources. A new law banned advertisement in the ‘information resources of foreign agents’ as well as advertising those media.¹³⁵

It is obvious that the stigmatisation of critical individuals and NGOs violates numerous human rights of the Russian Constitution. This is one effect of the war: Until 2022, the ‘foreign agent’ legislation was dispersed over various laws and applied on a case-by-case basis. After the attack on Ukraine, the law was systematised, escalated, and applied in a much more stringent way. The political leadership wishes to suppress a free civil sphere at all costs. Free public debate has been very much reduced but sometimes still happens: the temporary qualification of the ‘Committees of Soldiers’ Mothers of Russia’ as a ‘foreign agent’ in 2015, however, does not deter mother organisations from protesting in public against the deployment of their drafted sons on the front in Ukraine.

The classification as ‘foreign agent’ is not the only instrument for Russia to isolate Russian citizens from opinions and information different from the official Russian position and propaganda. The anti-terror legislation allows Russian authorities to declare any NGO as ‘extremist’. Since the law does not define ‘extremism’, the executive and judicial branches enjoy free discretion in the application of that legislation. It is a criminal offence to have contact with such an organisation under Article 282.2 of the Russian Criminal Code. Criminal sanctions against persons acting for such an organisation does not depend on its previous qualification as ‘extremist’, and therefore may hit organisers and members at the moment a verdict is pronounced over it – this means in practice that all persons engaged in NGOs take a considerable risk, moreover since anti-terror legislation allows for very harsh sanctions. In practice, most organisations labelled ‘extremist’ are foreign NGOs working in Russia, but anti-terror legislation is sometimes activated against the Russian opposition, e.g. against the Navalny foundation against corruption.

¹³⁴ Federal law of 24 July 2023 no. 358-FZ ‘On amending certain legislative acts of the RF’ widened the control powers of the pertinent authorities. They may conduct extraordinary controls at any time.

¹³⁵ Federal law of 11 March 2024 no. 42-FZ ‘On amending (...) Federal law ‘On the control of persons under foreign influence’ (...)’.

4.2.2. Against foreign civil society: the legislation on so-called ‘undesirable organisations’¹³⁶

As seen in the previous point, the authoritarian strategy against Russian civil society did not really amount to the ban of NGOs, although this sometimes happened, e.g. in the case of Memorial.¹³⁷ Banning a large number of associations would probably not be feasible and would also cause considerable political damage to the president. The central measure was therefore to associate in the eyes of the public certain domestic NGOs and their representatives with foreign influence. Since tsarist times, linking undesirable persons, associations or opinions to foreign influence and money has always been an efficient instrument to discredit them in mainstream public opinion.

This method obviously does not work with foreign NGOs active in Russia because they never hid their foreign origin. Nevertheless, some of them enjoy high esteem in the Russian public for the quality of their work, information etc. In order to get rid of these foreign NGOs, Russia passed the so-called Undesirable Organisations Act in late 2012.¹³⁸ The official title of that law suggests that the organisations and individuals in question violate the human rights of Russian citizens. The opposite was and is true: many of these foreign NGOs and their representatives are active in protecting the human rights of Russians against the Russian authorities. As happened with the ‘foreign agent’ legislation, the rules on ‘undesirable organisations’ as well were escalated over the time. In its original version, the Undesirable Organisation Act limited the activities of foreign NGOs in certain fields and tightened state control over their activities but allowed their presence in Russia.

The label ‘undesirable organisation’ was introduced by an amendment law in 2015. An organisation declared ‘undesirable’ has to withdraw all activities from

¹³⁶ An overview is given by KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, cit. (nt. 17), pp. 204-205.

¹³⁷ Memorial was founded as early as in January 1989. At first, it concentrated on unveiling Soviet state crimes and granting care to its victims but soon grew to be one of the major human rights organisations in Russia. The umbrella organisation ‘Memorial International’ was dissolved in December 2021 on the basis of the ‘foreign agent’ legislation by the Supreme Court whereas its regional and local branches could continue to operate, though under strong repression. What was left of Memorial was dissolved, and its assets were nationalised, when Memorial was declared recipient of the Nobel Peace Prize in October 2022.

¹³⁸ Federal law of 28 December 2012 no. 272-FZ ‘On measures of influence on persons involved in violations of fundamental human rights and freedoms and rights and freedoms of citizens of the RF’ (Undesirable Organisations Act).

Russian territory, and all Russian support for such a banned organisation was declared illegal. The qualification as ‘undesirable’ hit many internationally known and active NGOs such as transparency international, the World Wildlife Fund, or amnesty international, to name only a few. Subsequent amendments concentrated on isolating the Russian population from such ‘undesirable’ organisations. First, the leadership in such an organisation was made a criminal offence. Later, mere membership was criminalised, and a further step was the criminalisation of the support given to such an NGO in Russia. More legislation created new criminal offences in relation to ‘undesirable’ foreign NGOs. Russian citizens or residents were forbidden to participate in the foreign activities of such NGOs, and Russian banks were forbidden to offer them certain financial services.¹³⁹

In the wake of Russia’s open war against Ukraine, a qualitative modification in that law occurred. An amendment from July 2022 lifted the limitation of criminal support to the territory of the RF.¹⁴⁰ Under the old law, only support given on the territory of Russia was a crime, whereas the 2022 amendment extended the criminalisation of support to an ‘undesirable organisation’ to the entire globe. Taken literally, a Portuguese citizen in Portugal supporting the World Wildlife Fund or being a member of that NGO commits a crime under Russian law. The Russian legislation obviously does not aim at foreign citizens living in their own countries. Its new target group is the Russian emigration. Many ethnic Russians live abroad. Some of them possess Russian citizenship, many of them have family ties in Russia and visit the country from time to time.¹⁴¹ By extending the threat of criminal prosecution, Russia tries to intimidate those Russian populations outside the country. Further legislative escalation happened in the summer of 2023. New law sanctions the mere participation of a Russian citizen, irrespective of the place of residence, in a foreign NGO not properly registered in Russia.¹⁴² A first violation constitutes an administrative infraction, a repeated act entails criminal responsibility.

¹³⁹ Federal law of 28 June 2021 no. 230-FZ amended the Money Laundering Act and the Undesirable Organisations Act. Federal law of 1 July 2021 no. 292-FZ ‘On amending Article 284.1 of the Criminal Code of the RF’ made it a criminal offence for banks to violate the banking restrictions of undesirable NGOs.

¹⁴⁰ Federal law of 14 July 2022 no. 260-FZ, cit (nt. 91). This amendment law was adopted on the same day as the Foreign Agent Act of 2022 (see point 4.2.1.).

¹⁴¹ ALEKSANDR MOROZOV, *Russlands freie Gesellschaft im Exil*, Osteuropa 2023/10-11, pp. 207-216.

¹⁴² Federal laws of 24 July 2023 no. 364-FZ ‘On amending the Code of the RF on Administrative Infractions’, of 4 August 2023 no. 412-FZ ‘On amending the Code of the RF on Administrative Infractions’ and of 4 August 2023 no. 413-FZ ‘On amending the Criminal Code of the RF (...)’.

Foreign organisations that do not have a branch in Russia and therefore are not so much affected by the ‘undesirable organisation’ legislation risk being classified as ‘extremist’ under the anti-terror legislation. A Moscow court was very quick to qualify Meta, the mother of Instagram and Facebook, as ‘extremist’ soon after the beginning of the open war in Ukraine. Its decision dates from March 21st 2022. The Supreme Court pronounced on June 7th 2024 some 55 foreign organisations as ‘extremist’, among them the ‘Deutsche Gesellschaft für Osteuropakunde’ (German Association for East European Studies – DGO). Since 1913, the DGO has been the academic umbrella organisation for all German-speaking scholars and researchers dealing with Eastern Europe. After 2014 and 2022, it took a very critical position against Russia’s aggression, and it accepts as an academic fact the existence of a separate Ukrainian language, history, and nation, thus refuting Russia’s official propaganda.¹⁴³ For this reason, Putin considered contacts of Russian scholars with the DGO and its members dangerous and had the DGO classified as ‘extremist’. The DGO has put all official and unofficial contacts with Russian colleagues on hold in order not to put them at danger, asked its members to do the same and not to travel to Russia or Belarus. The classification of the DGO as ‘extremist’ so far has been an efficient tool to isolate Russian academics from contacts with Russia-related research in the German-speaking world. It may be added that the DGO at no point of the procedure was included or even informed about it. Only after the verdict was pronounced, the DGO was informed through informal channels about its new status in Russia.¹⁴⁴

4.2.3. Additional restrictions against the media

Restrictions against free media started long before the Russian aggression against Ukraine. As described in point 4.2.1., Putin very quickly brought the public media under his control and helped his cronies take over the numerous private media that had come to existence in the liberal Yeltsin years. This state-aided takeover strategy aimed particularly at foreign-owned media because Putin felt

¹⁴³ On the Russian narrative of the alleged non-existence of Ukraine see point 2.

¹⁴⁴ DEUTSCHE GESELLSCHAFT FÜR OSTEUROPAKUNDE, *Entscheidung des Obersten Gerichtshofs: DGO in Russland als “extremistische Organisation” gelistet*, website of the DGO, 30 July 2024, https://dgo-online.org/site-dgo/assets/files/79045/pm_dgo_als_extremistische_organisation_gelistet.pdf (last visit: 25 May 2025). Before being declared ‘extremist’, the DGO was classified as ‘undesirable’ on 14 February 2024. For more detail see JOHANNES ROHR, “Das Moskauer Terrorsyndikat erfindet ‘Volksfeinde’”. *Die Einstufung von 55 Organisationen als “extremistisch”*, Osteuropa 2024/6-7, pp. 105-110.

that he had no means to control their owners. Since around 2010, free media have been limited to marginal pockets in the large cities.

Branding media with foreign sources of sponsoring or income did not so much add to state control over the media proper but helped controlling civil sphere activities on the internet.¹⁴⁵

As a third step, new regulations give the courts and public authorities the power to ban foreign media from Russia if that medium originates from a state that limited or forbade Russian media on its territory.¹⁴⁶ Since many Western countries enacted restrictions on Russian propaganda media after 2014 or 2022, that new law permits Russia to drive Western media out of the country, which it did.

Since 2022, a factual military censorship of all domestic media has evolved. If media try to publish content which the president or the military dislike, they risk being closed down under some pretext or another.¹⁴⁷ This censorship is not anchored in formal law but finds a certain basis in an amendment to the Criminal Code dated from March 2022 which bans the use of terms such as ‘war’, ‘attack’, ‘invasion’ or ‘declaration of war’ in all public communication.¹⁴⁸

These measures against edited media (papers in print and online, broadcast) leave the internet as the one forum where free exchange of opinions and facts is still possible. Compared to Western societies, internet use in Russia is rather limited. Mostly the younger generations in the cities use the net whereas it does not reach the bulk of the elderly and the rural population. The Russian state blocks many sites for Russian users but does not isolate the domestic internet from the rest of the world the way, e.g., North Korea does.¹⁴⁹ The lawmaker instead tries to stifle too free a communication by tighter and tighter administrative duties for internet providers, platforms and hosts as well as the criminalisation of certain internet communication.¹⁵⁰ Since it started the war, Russia has reinforced the administrative duties of internet providers with punitive sanctions.¹⁵¹ Under the pretext of

¹⁴⁵ Point 4.2.1.

¹⁴⁶ Federal law of 14 July 2022 no. 277-FZ ‘On amending certain legislative acts of the RF’.

¹⁴⁷ J. BAUMANN – P. STYKOV in PRIEBUS – BEICHEL, cit (nt. 12), p. 319; KSENIA LUČENKO, *Gegen Zensur und Krieg. Unabhängige Medien im Exil & in Russland*, Osteuropa 2025/1-3, pp. 365-384.

¹⁴⁸ Federal law of 4 March 2022 no. 32-FZ, see at point 4.3.; ANTJE HIMMELREICH, *IOR-Chronik Russische Föderation*, Wirtschaft und Recht in Osteuropa 2022, pp. 115-117 (115-116).

¹⁴⁹ ALENA EPIFANOVA, *Blockieren, überwachen, strafen. Internetkontrolle in Russland*, Osteuropa 2024/4, pp. 69-77.

¹⁵⁰ Point 4.2.1.

¹⁵¹ Federal law of 14 July 2022 no. 257-FZ ‘On amending the Code of the RF on Administrative Infractions’.

consumer protection, foreign app stores have to be gradually replaced by Russian ones on technical installations such as mobile phones.¹⁵² The same applies to Russian websites: they can no longer use foreign e-mail servers and similar infrastructure but have to use Russian ones, which are under the control of the Russian state.¹⁵³ Only Russian nationals without a second citizenship are allowed to operate internet infrastructure such as servers.¹⁵⁴ The unauthorised use of foreign messenger service was made an administrative offence in June 2023.¹⁵⁵ Russian authorities may close any website with contents favourable to the enemy,¹⁵⁶ and foreign internet providers active in Russia risk a fine if they do not forward user data to the Russian authorities.¹⁵⁷

4.2.4. Restrictions of communication rights

A further strategy to suppress undesired opinions is the limitation of communication-related human rights beyond the media and the internet. The strongest restrictions are used regarding the freedom of assembly, enshrined in Article 31 of the Constitution. It is a common practice that local authorities limit assemblies in an illegal way, it being nonetheless upheld by the lower courts. It is true that the Supreme Court sometimes rectifies the illegal limitation of assemblies – but only months after the planned assemblies and with no effect on the future behaviour of local authorities and lower courts.¹⁵⁸

Applications to allow assemblies related to the war against Ukraine are rejected, and unauthorised assemblies criticising the war are dissolved by the police or secret

¹⁵² Federal law of 14 July 2022 no. 266-FZ ‘On amending the Federal law ‘On personal data’ (...)’.

¹⁵³ Federal law of 31 July 2023 no. 406-FZ ‘On amending the Federal law ‘On information, information technologies and the protection of information’.

¹⁵⁴ Federal law of 29 December 2022 no. 584-FZ ‘On amending the Federal law ‘On information, information technologies and the protection of information’.

¹⁵⁵ Article 13.11.2 Administrative Infractions Code, introduced by Federal law of 24 June 2023 no. 277-FZ ‘On amending the Code of the RF on Administrative Infractions’.

¹⁵⁶ Federal law of 2 November 2003 no. 526-FZ ‘On amending Article 15.3 Federal law ‘On information, information technologies and the protection of information’ (...)’.

¹⁵⁷ Federal law of 14 July 2022 no. 259-FZ ‘On amending the Code of the RF on Administrative Infractions’.

¹⁵⁸ One example is the Davidis case where the Moscow authorities forbade a Syria-related assembly at a certain place without fulfilling their duty to present an alternative venue: Supreme Court of the RF, case no. 5-KG18-133, decision of 18 July 2018. On the state of the freedom of assembly before 2022 see PAVEL USATOV, *Versammlungsfreiheit in Russland: Was übrigbleibt*, Osteuropa Recht 68 (2022), pp. 327-350.

police, often quite brutally, relying on the crime of ‘public disturbance’ which has been on the statute book since Soviet times. In 2017, the Constitutional Court still held that criminal sanctions against organisers of, and participants in, public assemblies were only admissible if the assembly threatened to lose its peaceful character. This case-law is being more and more ignored by lower courts since 2022, and the Constitutional Court no longer insists on this requirement for police interventions on demonstrations.¹⁵⁹

Another field of restriction are individual contacts with the world outside Russia. Academic trans-border contacts and cooperations of Russian scientists were put on ice in March 2022.¹⁶⁰ Declaring foreign scholarly organisations as ‘extremist’ criminalises contacts that Russian scholars entertain with them.¹⁶¹ Russians using foreign satellite communication installations are liable to be punished with an administrative fine.¹⁶² Telecommunication companies have to report annually to the state about the services they performed in the previous year.¹⁶³

4.3. Tightening the criminal law

A central instrument to suppress criticism is criminal law. Criminal sanctions were introduced or aggravated in various fields. The piecemeal criminalisation of the status of ‘foreign agent’ is described in point 4.2.1. In the field of suppression of free speech, several new crimes were created.

Two new crimes relate immediately to the war. Since the war against Ukraine and the war-related propaganda of liberating the former Soviet space from fascism (which, as mentioned before, means the restoration of the Russian-Soviet colonial rule over those territories) have developed into a central element of Putin’s politics, any criticism of that war touches the very basis of Putin’s regime.

Only a few days after the start of the open war, a new crime sanctioned ‘public activities aiming at discrediting the actions of the army of the RF’.¹⁶⁴ Neither the

¹⁵⁹ Decision of the Constitutional Court of the RF no. 2-p of 10 February 2017; KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, cit. (nt. 17), p. 206; OESTEN BALLER, Art. 31 nos. 10, 14-15, in *Handbuch der Russischen Verfassung*, Bernd Wieser (ed.), Vienna, 2014.

¹⁶⁰ Government decree of 19 March 2012 no. 414.

¹⁶¹ See the example of the German DGO, described in point 4.2.2.

¹⁶² Federal law of 6 March 2022 no. 42-FZ ‘On amending the Code of the RF on Administrative Infractions’.

¹⁶³ Federal law of 14 July 2022 no. 356-FZ ‘On amending Articles 39 and 46 of the Federal law ‘On connections’.

¹⁶⁴ Article 20.3.3 Administrative Infractions Code, inserted by Federal law of 2 March 2022 no. 31-FZ; Article 280.3 Criminal Code, inserted by Federal law of 4 March 2022 no. 32-FZ ‘On

Administrative Infractions Code nor the Criminal Code define ‘discredit’. The administrative and judicial practice has interpreted this term in the widest possible manner from the start, subsuming under the word ‘discredit’ all criticism of the war and its conduction. Even the public appeal to better equip the army – which was intended as constructive criticism aimed at helping the army – was considered as discrediting the army because it insinuated its inability or unwillingness to fight the war properly.¹⁶⁵

The same amendment of the Criminal Code also created the crime of false information spreading (Article 207.3). This so-called ‘fake news article’ punishes the public dissemination of knowingly false information about the armed forces disguised as reliable reports. Whether an information or opinion¹⁶⁶ is false is determined on the basis of whether it coincides with, or contradicts, the official statements of the ministries for defence and foreign affairs. A knowingly false information is committed, e.g., by using the terms ‘war’, ‘attack’ or ‘invasion’ when describing Russia’s activities in Ukraine.¹⁶⁷ The judicial practice interprets the wording of the article very widely but does not require much proof of knowledge and will on the part of the alleged perpetrator.¹⁶⁸ Media may be closed down for spreading such ‘fake news’.¹⁶⁹

Soon after Articles 207.3 and 280.3 had been inserted into the Criminal Code, their scope was extended. In their original versions, these crimes had been limited to communications concerning the armed forces. This was widened to include other state organs in their activities outside Russia.¹⁷⁰ One year later, the crimes of

amending the Criminal Code of the RF and Articles 31 and 151 of the Criminal Procedure Code of the RF’. The new crimes entered into force on the day of their promulgation.

¹⁶⁵ KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, cit. (nt. 17), pp. 205-206; ANNA NOVITSKAYA, *Die Diskreditierung der russischen Streitkräfte nach Art. 20.3.3. des Verwaltungsstrafgesetzbuchs unter Einbeziehung der Entscheidungen der Gerichte der Russischen Föderation*, Osteuropa Recht 69 (2023), pp. 65-91; VASEV cit. (nt. 14), p. 61-62.

¹⁶⁶ The law itself criminalises only ‘information’ but the courts extended this to ‘opinions’, giving up the common differentiation between statements of fact and statement of opinion: Moscow City Court, decision of 19 September 2022, case no. 10-17922/2022 (the Gorinov case). On the Gorinov case see GORSKIY, *Grundrechte zu Kriegszeiten*, cit. (nt. 125), p. 79-80 (on pp. 79-108, GORSKIY examines whether a constitutional complaint by Gorinov before the Russian Constitutional Court would be successful if that court were still independent and applied the constitution properly).

¹⁶⁷ Point 4.2.3.

¹⁶⁸ GORSKIY, *Grundrechte zu Kriegszeiten*, cit. (nt. 125), pp. 77-79.

¹⁶⁹ Federal law of 14 July 2022 no. 277-FZ, cit. (nt. 146).

¹⁷⁰ Federal laws of 25 March 2022 no. 62-FZ ‘On amending Articles 8.32 and 20.3.3 of the Code of the RF on Administrative Infractions’ and no. 63-FZ ‘On amending the Criminal Code of the RF and Articles 150 and 151 of the Criminal Procedure Code of the RF’.

discrediting the armed forces and spreading false information were tightened again. The amendment extended the scope of the crime to voluntary formations, organisations and individuals helping the armed forces in fulfilling their tasks, and raised the maximum penalties to up to seven years imprisonment.¹⁷¹ Finally, the confiscation of assets was introduced as a sanction against perpetrators sentenced for spreading false information or endangering the national security of the RF.¹⁷² The possible dispossession of a perpetrator of all his or her assets echoes Soviet law where it was practiced against so-called ‘enemies of the people’, especially in the Stalin era.¹⁷³

These two crimes are used to immunise the war against all criticism and to silence critics of the war as well as opposition politicians in general. After high numbers of pertinent sentences in 2022 and early 2023, their number is declining, which shows that the intimidation of public debate by criminal law works. The sentences in individual cases remain high, usually close to the maximum punishment available by law.¹⁷⁴ The well-known opposition politician Ilia Yashin was sentenced for spreading false information to 8,5 years imprisonment because he had discussed on the internet the Russian war crimes in Bucha, including the official position of the Ministry of Defence.¹⁷⁵ In some cases, critics of the war were not sentenced under these crimes especially created to suppress criticism of the war against Ukraine, but for the violation of less specific criminal law. The unspecific crimes used against criticism include the approval of terrorism,¹⁷⁶ activities designed to

¹⁷¹ Federal law of 18 March 2023 no. 58-FZ ‘On amending the Criminal Code of the RF’.

¹⁷² Federal law of 14 February 2024 no. 11-FZ ‘On amending the Criminal Code of the RF and the Criminal Procedure Code of the RF’.

¹⁷³ JOSEF BRINK, *Der Funktionswandel des Strafrechts in der Stalin-Zeit*, Kritische Justiz 12 (1979), pp. 341-363.

¹⁷⁴ GORSKIY, *Grundrechte zu Kriegszeiten*, cit. (nt. 125), p. 79; NATAL’JA MOROZOVA, *Ausweitung der Repressionszone. Politische Justiz in Russland 2023*, Osteuropa 2024/4, pp. 59-67; FLORIAN TÖPFL, *Brutalisierung und Repression. Russlands Krieg und der Wandel der Öffentlichkeit*, Osteuropa 2025/1-3, pp. 351-364.

¹⁷⁵ Sentence of the Meshchanskii rayon court of the City of Moscow of 9 December 2022, case no. 1-1300/2022, upheld in appeal by the Moscow City court on 19 April 2023, case no. 10-6525/2023. A German translation of that decision (which the Russian authorities wanted to keep secret) including a comment can be found at: ANTJE HIMMELREICH – RAINER WEDDE, *Symbol eines Unrechtsstaats – Verurteilung des Oppositionspolitikers Ilja Jašin wegen wissentlicher Falschmeldung über den Einsatz der Streitkräfte der RF*, Jahrbuch für Ostrecht 64 (2023), pp. 309-351. On criminal procedures against activists as well as citizens for ‘discrediting the armed forces’ and ‘spreading false information’ see also J. BAUMANN – P. STYKOV in PRIEBUS – BEICHELT, cit. (nt. 12), p. 319.

¹⁷⁶ Article 205.2 Criminal Code. The artists Berkovics and Petriichuk were sentenced for this because their art referred to the Islamic State in the Near East and related Russian politics: KURZYNSKY-SINGER, *Repressive Gesetzgebung in Russland*, cit. (nt. 17), pp. 206-207.

violate the territorial integrity of the RF,¹⁷⁷ and, rarely, high treason.¹⁷⁸ One of Putin's most outspoken critics, Vladimir Kara-Murza, was sentenced for treason in April 2023 because of a speech held before the Arizona House of Representatives.¹⁷⁹

Free speech is dangerous for the autocratic regime not only if it calls the war a war or criticises the war. Any criticism may contribute to weaken the power of the 'crown-president' and, in the classical-new Russian philosophy outlined above, is considered a danger to the existence of the state as such. The war has accelerated the autocratic tendencies in criminal law. New speech crimes limit the scope of public debate in fields beyond the war too.

In April 2023, the 'support for the execution of decisions of international organisations in which the RF was not involved, or support for the execution of decisions of foreign state organs concerning the criminal prosecution of official persons of the power authorities of the RF in connection with the exercise of their official activities or other persons in connection with serving their military service or the deployment of volunteers units assisting the army of the RF in the fulfilment of their tasks' was made a criminal offence.¹⁸⁰ This rather complicated wording means that it is forbidden to support foreign or international sanctions against Russian officials, soldiers and mercenaries because of their activities in the war, which is quite a usual phenomenon in the criminal law of a country at war. The second crime contained in that new norm is more serious. It criminalises to mention in a positive light – possibly to mention at all – decisions of the European Court of Human Rights against Russia, decisions of the United Nations such as the resolutions of the General Assembly condemning Russia's annexation of Crimea or excluding Russia from the Human Rights Council,¹⁸¹ or the International Criminal Court.¹⁸² It is no longer possible to quote international opinions or

¹⁷⁷ Article 280.2 Criminal Code. This crime encompasses, e.g., the opinion that Russian troops should withdraw from Ukraine.

¹⁷⁸ Article 275 Criminal Code. In April 2023, the maximum punishment for high treason was raised to lifelong imprisonment.

¹⁷⁹ VERA ČELIŠČEVA, *Im Namen des Volkes. Vladimir Kara-Murza: 25 Jahre Lager für 25 Jahre Politik*, Osteuropa 2023/1-2, pp. 19-28.

¹⁸⁰ Article 284.3 Criminal Code, as amended by Federal laws of 28 April 2023 no. 157-FZ 'On amending the Criminal Code of the RF and into Article 151 of the Criminal Procedure Code of the RF' and of 25 December 2023 no. 641-FZ 'On amending the Criminal Code of the RF'.

¹⁸¹ GENERAL ASSEMBLY, *Territorial integrity of Ukraine*, resolution 68/262 of 27 March 2014, cit (nt. 1). The General Assembly's resolution A-Res-ES-11-3 to suspend Russia from the Human Rights Council was taken on 7 April 2022.

¹⁸² INTERNATIONAL CRIMINAL COURT, *Ukraine: Situation in Ukraine*, investigation ICC-01/22, <https://www.icc-cpi.int/situations/ukraine> (last visit 25 May 2025), naming inter alia Putin as one

documents contrary to the official Russian position. The sanctions range from high fines to imprisonment of up to five years. This new crime protects the Russian withdrawal and isolation from international law and life¹⁸³ against contrary opinions in the public, including academic, debate by criminalising any reference to the parts of international law the regime dislikes.

Article 63 of the Criminal Code allows for punishments higher than the legal maximum level in times of mobilisation. For the purpose of this criminal norm, a partial mobilisation as announced by the president on 21 September 2022¹⁸⁴ suffices.

5. Making the economy fit for the war: sanctions and war economy

As mentioned before, the war against Ukraine was not a quick regional affair with a speedy Russian victory. It is taking much longer and consuming much more resources than expected, and ‘the West’ and other countries are busy imposing escalating sanctions against Russia and individual members of its political and economic elite. Russia’s economic policy has had to react to the high costs of war as well as to the isolation from important foreign markets.

Russia’s economy was not particularly well equipped for warfare. Yeltsin’s attempts to modernise and diversify both production and service industries were soon stopped by his successor. Putin limited the country’s economic performance to the export of fossil energy (petrol, gas, coal), alongside some lighthouse projects in, e.g., space travel or armament, and concentrated the production, processing and export of petrol and gas in a small number of large conglomerates, led by a few oligarchs. Once Putin had broken Khodorkovskii’s backbone,¹⁸⁵ a small number of oligarchs became much easier to control for the Kremlin than the decentralised self-conscious cast of entrepreneurs that Yeltsin’s economic reforms eventually might have produced. As a result of Putin’s prioritization of politics over economics, in the early 2020s Russia strongly depends on the export of fossil energy, in an era when the global de-carbonisation of life makes these products less and less popular all over the world.

Despite this difficult situation, Russia’s leaders have adapted the economy to sanctions, have enacted countersanctions, and were able to re-organise economic

of the suspects of, e.g., ‘the war crime of unlawful deportation of population (children) and that of unlawful transfer of population (children) from occupied areas of Ukraine to the RF’.

¹⁸³ Point 3.2.

¹⁸⁴ Point 3.4.2.1.

¹⁸⁵ Point 3.2.

structures, benchmarking an ever-larger portion of the gross national product for the war. Many economists agree that Russia has achieved a fully developed ‘war economy’ with many economic priorities being subordinated to the war in early 2024. On the other hand, the government, in line with its narrative of a ‘limited special military operation’, tries to keep up a picture of normality in the big cities, although this is not easy and is, in fact, rather costly.

5.1. Command economy to cover the needs of the state and the army

The first effects of the war on the economy-related legislation were rather isolated measures. At a very early stage of the war, Russia installed state control mechanisms to ensure the security of the IT systems in critical enterprises. Russia itself maintains a vast army of trolls interfering with state and private IT systems everywhere in the world and therefore knows very well how vulnerable those systems are and how important it is in a time of crisis to protect them against external manipulations. In March 2022, some strategic enterprises had to open their IT systems to controls by the secret police and the cyber units of the Russian army. Later, legislation widened the list of affected businesses and institutions and intensified the control rights of the state up to a take-over of the private IT security management from the part of public authorities.¹⁸⁶ At the same time, Russia subsidises IT-related R&D activities of private companies in order to become more independent from Western know-how (no longer accessible due to sanctions),¹⁸⁷ and facilitates the employment of foreign IT specialists.¹⁸⁸

Quite early during the war, the state authorised its organs to put private capacities in the transport sector at their disposal¹⁸⁹ and to dispose of certain

¹⁸⁶ Edicts of the President of the RF of 30 March 2022 no. 166 ‘On measures to guarantee the technological independence and security of critical information infrastructure of the RF’ and of 1 May 2022 no. 250 ‘On additional measures to guarantee the information security of the RF’. The IT security of critical state infrastructure was tightened by, e.g., Federal law of 10 July 2023 no. 312-FZ ‘On amending Article 2 of the Federal law ‘On the security of the critical information infrastructure of the RF’.

¹⁸⁷ Edict of the President of the RF of 2 March 2022 no. 83 ‘On measures to ensure an accelerated development of the information technology industries in the RF’; Federal law of 29 December 2022 no. 604-FZ ‘On amending certain legislative acts of the RF’.

¹⁸⁸ Federal law of 28 Juni 2022 no. 207-FZ ‘On amending the Federal law ‘On the legal situation of foreign citizens in the RF’.

¹⁸⁹ Federal law of 15 April 2022 no. 92-FZ ‘On amending certain legislative acts of the RF’; edict of the President of the RF of 4 May 2022 no. 259 ‘On amending the regulation of the Ministry of Defence of the RF (...)’ with respect to military control of certain aspects of air traffic.

intellectual property rights of owners from ‘unfriendly states’ without compensation.¹⁹⁰ Medical compulsory licences can be issued, but the foreign owner of the patent who is not from an ‘unfriendly state’ has to be compensated.¹⁹¹ The state permission procedure for the introduction of new medicines was simplified¹⁹² whereas stopping the production of medical products requires an official permission.¹⁹³ Also, the entire electricity supply system was put under centralised operational management which answers directly to the government.¹⁹⁴

On the 14th July 2022 large sectors of Russian law experienced the first major adaptations to a situation of continuing warfare. On that day, first legislation was enacted to put the economy at the service of the military, too. As a first element of a command economy, the Defence (Amendment) Act¹⁹⁵ authorised government to take measures to create financial and logistic support for the war. These measures are usually temporary at the beginning, but often their effect is extended throughout time. They include the sale of state property¹⁹⁶ as well as the obligation of certain companies to produce and sell to the state products that are deemed necessary to ‘guarantee the execution of anti-terror and other operations outside the territory of the RF’ (here again, the term war is carefully avoided).¹⁹⁷ The government may interfere in labour law, permitting (prescribing) extra working hours, including at night and weekends, in order to ensure the needs of the military. The president also took the task of planning the needs of the military away from the armed forces and gave it to the government.¹⁹⁸ This follows the traditional Russian pattern that

¹⁹⁰ Government decree of 6 March 2022 no. 299; RAINER WEDDE, *Länderreport Russische Föderation*, *Recht der Internationalen Wirtschaft* 2022, pp. 360-364 (363).

¹⁹¹ Government decree of 25 May 2022 no. 947.

¹⁹² Government decree of 14 November 2022 no. 2056.

¹⁹³ Federal law of 26 March 2022 no. 64-FZ ‘On amending certain legislative acts of the RF’.

¹⁹⁴ Federal law of 11 June 2022 no. 174-FZ ‘On amending the Federal law ‘On electroenergetics’ (...).

¹⁹⁵ Federal law of 14 July 2022 no. 272-FZ, cit (nt. 44).

¹⁹⁶ Later legislation simplified the sale of public assets through auction: Federal law of 5 December 2022 no. 512-FZ ‘On amending the Federal law ‘On the privatisation of state and municipal property’.

¹⁹⁷ These parts of the Defence (Amendment) Act do not so much modify the Defence Act but the Procurement Act (Federal law of 18 July 2011 no. 223-FZ ‘On purchases of goods, works, and services from certain types of legal persons’) and the Public Needs Act (Federal law of 5 April 2013 no. 44-FZ ‘On the contract system in the sphere of the purchase of goods, works, and services in order to meet state and municipal needs’).

¹⁹⁸ Edict of the President of the RF of 21 October 2022 no. 763 ‘On the Coordination Council with the Government of the RF for guaranteeing the needs of the Armed Forces of the RF, other troops, military formations and organs’.

if something is felt to be important, it cannot be left to decentralised decision-making but has to be centralised near the ‘strong-man’, that is, the leader.

Meanwhile the State subsidises enterprises that agree to provide goods or services for public use¹⁹⁹, and, from September 2022 on, state purchases of military goods are protected by criminal provisions preventing breach of contract and refusal to conclude such a contract.²⁰⁰ Since 2023, the executive may also take over the management of companies which have violated their contracts with the state.²⁰¹ However, it is difficult to say how many companies have been affected by this legislation since the Statistics Act was also modified to ensure that the state is no longer under the obligation to publish reliable statistical data.²⁰²

Private businesses affected by conscription of their employees may use this circumstance as a ‘*clausula rebus sic stantibus*’ argument to modify their contracts with state institutions²⁰³, while state subsidies may be modified during their execution in case of *vis maior*, the effects of sanctions being considered as such a case.²⁰⁴

5.2. De-coupling and autarky: adjusting domestic economic structures

As the war continued, more adjustments to domestic economic structures became necessary. De-coupling from the West and a higher degree of autarky were the defined goals. Firstly, the reduction of foreign trade required that equivalent goods were produced domestically. Secondly, the growing needs of the state and in particular of the military required a shift in production away from the civilian

¹⁹⁹ Federal law of 28 June 2022 no. 231-FZ ‘On amending certain legislative acts of the RF’.

²⁰⁰ Point 3.5.

²⁰¹ Edict of the President of the RF of 3 March 2023 no. 139 ‘On some questions of the implementation of the activities of business companies participating in the fulfilment of state defence orders’.

²⁰² Federal law of 28 February 2023 no. 55-FZ ‘On amending Article 5 and suspending Article 8(7) of the Federal law ‘On official statistical accounting (...)’ and on the specifics of implementing official statistical accounting on the territories of certain subjects of the RF’. ‘Subjects of the federation’ is the constitutional term for federal entities.

²⁰³ Government decree of 15 October 2022 no. 1838 ‘On changing the essential terms of contracts concluded to meet federal needs in connection with the mobilisation in the RF, on changing some acts of the Government of the RF on issues of the implementation of the purchase of goods, works, and services to meet state and municipal needs and the purchase of goods, works, and services by certain types of legal persons and on repealing certain provisions of the decree of the Government of the RF of 25 December 2018 no. 1663’.

²⁰⁴ Federal law of 28 June 2022 no. 226-FZ ‘On amending the Federal law ‘On the protection and promotion of capital investments in the RF’.

and towards the military. These adjustments are not only factual, since considering Russian legal hypertrophy, they also leave their traces in the law.

As such, the president ordered that federal entities take all measures necessary to stabilise the social and economic situation²⁰⁵ and budget rules were relaxed to allow federal units more leeway for financial manoeuvres.²⁰⁶ On the one hand, addressing federal units makes sense because many of the low-key economic and social politics are conducted at the regional and local levels. On the other hand, fundamental decisions are taken in the Kremlin so that the federal units have only limited powers to affect socio-economic stability. It is a common pattern in Russia that the tsar, the party leadership or, in present times, the president orders the government or the national, regional or local authorities to take certain measures, using them as a scapegoat if such measures do not work satisfactorily. In the same line, chambers of commerce are authorised to modify contracts between Russian businesses if their performance is affected by sanctions.²⁰⁷

The intensification of the circular economy started soon after the attack on Ukraine. The recycling of used products and waste is strengthened by, *inter alia*, making certain recycling compulsory or allowing the appropriate authorities to conclude compulsory contracts with waste recycling companies.²⁰⁸ Recycling was declared a central component of the national industrial policy, and waste was included in the list of materials the export of which is restricted.²⁰⁹ The intention is to replace imports by the domestic re-use of used materials. As mentioned before, the substitution of imported goods by domestic production has become an important feature of Russian industrial policy²¹⁰ although difficult to implement since Putin had strongly reduced industrial diversification.

²⁰⁵ The first pertinent normative act was the edict of the President of the RF of 16 March 2022 no. 121 'On measures guaranteeing the socio-economic stability and the protection of the population in the RF'.

²⁰⁶ Federal law of 14 March 2022 no. 54-FZ 'On amending the Budget Code of the RF (...)'.

²⁰⁷ Federal law of 1 May 2022 no. 133-FZ 'On amending Article 15 of the law of the RF 'On chambers of commerce and industry in the RF'.

²⁰⁸ Federal laws of 14 July 2022 no. 268-FZ 'On amending the Federal law 'On the production and consumption of waste' and certain legislative acts of the RF', no. 280-FZ 'On amending Article 29-1 of the Federal law 'On the production and consumption of waste' and no. 343-FZ 'On amending the Law of the RF 'On the subsoil' and certain legislative acts of the RF'. More elements of circular economy were introduced by later legislation.

²⁰⁹ Federal law of 7 October 2022 no. 390-FZ 'On amending the Federal law 'On the industrial policy in the RF'. On export restrictions see point 5.3.

²¹⁰ Federal law of 25 December 2023 no. 625-FZ 'On amending Article 98 of the Federal law 'On the state control (supervision) and municipal control in the RF' and certain legislative acts of the RF'.

Since import substitution alone does not produce sufficient results, the import of sanctioned products from third countries is permitted against the will of the owner of the rights.²¹¹ This comprises essential goods such as fuel or technical equipment but also luxury goods such as perfumes or high-end apparel. Moscow's luxury shopping streets must not show any sign of the war.

Apart from restructuring domestic production, new laws help Russian companies filling the gaps that Western companies left when they withdrew from Russia as part of the sanctions. Such legislation successively banned foreign businesses from mining²¹² and subsidises the Russian companies taking over the mining business by transferring onto the state some of the financial risks caused by the exploration of mineral and other resources – whereas the ousted foreign mining businesses had borne those risks themselves.²¹³ It also simplified, e.g., the take-over by Russian chains of retail space turned vacant.²¹⁴

Special measures help Russian capital abroad, mostly in 'unfriendly states', to resettle into Russia by creating favourable conditions for returning Russian capital in some areas of the country and some sectors of the economy.²¹⁵

Complex administrative procedures in the economic field, e.g. ecological safety tests, which are no longer possible due to technological sanctions, were simplified or completely suspended.²¹⁶ Companies were exempted from publishing information that might lead to sanctions against them,²¹⁷ and under the pretext of avoiding sanctions, companies of the oligarchs can decide for themselves if and which of the legally required information they publish.²¹⁸

²¹¹ Federal law of 8 March 2022 no. 46-FZ 'On amending certain legislative acts of the RF' in combination with government decree of 29 March 2022 no. 506.

²¹² Federal law of 28 June 2022 no. 218-FZ 'On amending the Law of the RF 'On the subsoil'' allows mining activities to Russian companies only. Foreign companies are given a transitional period to sell their mining rights to domestic companies.

²¹³ Federal law of 1 April 2022 no. 75-FZ 'On contracts on the implementation of geological studies, explorations and production of hydrocarbon raw materials (...)'.²¹⁴

²¹⁴ Federal law of 5 December 2022 no. 499-FZ 'On amending (...) the Federal law 'On public-private partnership' (...)'.²¹⁵

²¹⁵ The first pertinent legislation was Federal law of 26 March 2022 no. 72-FZ 'On amending certain legislative acts of the RF'.²¹⁶

²¹⁶ Federal law of 26 March 2022 no. 71-FZ 'On amending certain legislative acts of the RF'.²¹⁷

²¹⁷ Government decree of 12 March 2022 no. 351, followed by Federal law of 14 July 2022 no. 326-FZ 'On amending certain legislative acts of the RF and suspending certain provisions of legislative acts of the RF'.²¹⁸

²¹⁸ Edict of the President of the RF of 27 November 2023 no. 903 'On the temporary procedure of the disclosure and provision of information by certain Russian business companies'.

5.3. Sanctions and countersanctions: foreign trade

The first sanctions against the Russian state, Russian economy and high-ranking decision-makers were enacted in 2014 and escalated in 2022 as a reaction to the open war. They continue to be aggravated by Western states. Since this paper deals with the Russian law, the Western sanctions are not described. It suffices to say that they concentrate on foreign trade and financial transactions and include export and import bans as well as the freezing of certain assets. This paper concentrates on the Russian countermeasures (countersanctions).²¹⁹ They can be subdivided in two groups: (1) measures to neutralise the effect of sanctions on the Russian economy; (2) measures to hit the economy of the sanctioning states. This second group firstly consisted of mostly symbolic measures, mirroring the sanctions enacted by Western states. Along the course of the war, countersanctions gained a profile of their own. They try to damage the economy of the Western states, in the hope that that will render sanctions against Russia unpopular in those countries, thus making populations force their governments to abandon them.

Regarding internal sanctions, Russia created the category of a ‘blocked person’ which may be a foreign state, company, organisation, or individual.²²⁰ Many restrictions of trans-border business contracts refer to ‘blocked persons’.

The first comprehensive Russian counter-legislation was the Retaliation Act²²¹ and the Protection against Unfriendly Activities Act.²²² The Retaliation Act targeted – from its enactment in 2012 until its amendments in early 2022 – only US citizens; since then, the amendments authorised the Russian executive to direct sanctions against all foreign citizens and stateless persons. The Ministry of Foreign Affairs keeps a list of the sanctioned individuals and the sanctions against them. The most common sanctions are a ban to enter Russia, which is quite useful against foreign journalists or businesspeople holding interests in Russia, and the freezing of their

²¹⁹ ANTJE HIMMELREICH – BURKHARD BREIG, *Russische Föderation: Antikrisenmaßnahmen und Gegensanktionen in Reaktion auf westliche Sanktionen nach dem russischen Angriff auf die Ukraine*, *Wirtschaft und Recht in Osteuropa* 2022, pp. 138-145, 173-180, 203-216, 332-337, 370-377 and 2023, pp. 17-20; HANS-JOACHIM SCHRAMM, *Russische Gesetzgebung zur Stabilisierung der Wirtschaft*, *Osteuropa Recht* 69 (2023), pp. 90-100.

²²⁰ Federal law of 4 August 2023 no. 422-FZ ‘On amending certain legislative acts of the RF’.

²²¹ Federal law of 4 March 2022 no. 30-FZ ‘On measures to affect persons taking part in violations of the basic rights and freedoms of man and Russian citizens’.

²²² Federal law of 8 March 2022 no. 46-FZ, cit (nt. 211). It amends, inter alia, the Federal law of 4 June 2018 no. 127-FZ ‘On measures of influence (counteraction) against unfriendly actions of the USA and other foreign states’.

assets in Russia. The Protection Against Unfriendly Activities Act contains provisions for Russian citizens immediately affected by sanctions, e.g. because they had to terminate their university education in an ‘unfriendly state’.²²³ It also promises help for small and medium-size businesses in an economically difficult situation as well as social assistance to, *inter alia*, old age pensioners, because they are particularly affected by the roaring inflation. Later legislation widens the circle of state aids to affected businesses²²⁴ and allows them to defer into the future the fulfilment of certain obligations vis-à-vis other businesses.²²⁵ Russian companies affected by sanctions are allowed to violate foreign industrial and intellectual property.²²⁶

Other Russian measures in the trade with ‘unfriendly states’ consist of import restrictions, i.e. restricting the import of certain goods from ‘unfriendly states’ into Russia, as well as of export restrictions, i.e. restricting the export of certain Russian goods into ‘unfriendly states’. One administrative basis is the need to obtain ‘exceptional licences’ for certain listed business transactions with partners from ‘unfriendly states’.²²⁷ Other instruments used to influence foreign trade are import and export customs duties.²²⁸

From the Russian perspective, the sharpest weapon is export restrictions. The administrative basis for government interventions is the Export Control Act.²²⁹ One of the first major Russian attempts to hit back was its legislation on the payments of gas exports. Several presidential edicts, the first of them enacted on 28 February 2022, decreed that foreign customers of Russian gas had to pay in Ruble instead of Western currencies mentioned in the contracts, or had to pay in hard currency to a certain account in Russia, an account which was under Western sanctions.²³⁰

²²³ Homecoming Russian students are promised additional support by government decree of 21 March 2022 no. 434. In practice, the US terminated the residence permits of Russian students and other Russian citizens whereas Russian students in European countries face the problem that the financial sanctions have made it difficult or even impossible for them to transfer money from Russia to pay for their tuition fees and cost of living.

²²⁴ One of the first of such additional measures was government decree of 6 March 2022 no. 296.

²²⁵ Government decree of 9 March 2022 no. 308.

²²⁶ Federal law of 28 June 2022 no. 213-FZ ‘On amending Article 18 of the Federal law ‘On amending certain legislative acts of the RF’.

²²⁷ Government decree of 6 March 2022 no. 295.

²²⁸ Edict of the President of the RF of 8 March 2022 no. 100 ‘On the application of special economic measures in the sphere of foreign economic activities in order to guarantee the security of the RF’ with numerous subsequent amendments; Federal law of 25 December 2023 no. 630-FZ ‘On amending the Law of the RF ‘On customs tariffs’ (...)’.

²²⁹ The war-related authorisations were introduced by Federal law of 26 March 2022 no. 73-FZ ‘On amending the Federal law ‘On export control’.

These measures tried to neutralise the effect of the sanctions against the Russian currency and banking sector presented in point 5.4. When the Western states refused to comply with those Russian laws, Russia cut off Poland and Bulgaria from its gas on 26 April 2022. Russia chose these two Eastern European states because of their dependence on Russian gas, but both countries managed very quickly to substitute Russian gas with other energy sources. The same is true for most EU states: they did not slide into an energy crisis but liberated themselves during 2022/23 from Russian gas. Another bone of contention was the Russian petrol exports which Western sanctions put under an upper price limit. Here again, Russian measures tried to neutralise the effect by using other than Western markets.²³¹

Apart from fossil energy, long and ever-changing lists enumerate the goods that temporarily or permanently cannot be exported.²³² These rather chaotic lists included, at times, telecommunication or medical technology, agricultural or industrial machines, electrical appliances, tungsten, timber, waste, scrap metal, or certain food. Quite often, the export is forbidden to the entire world and not only to ‘unfriendly states’. Criminal sanctions for the violation of export restrictions have been increased several times.²³³

Parallel to limiting the exports of gas and other commodities to ‘unfriendly states’, Russia also forbade the import of certain goods or services from those countries.²³⁴ The reason behind this import restriction is the endeavour to hit certain exporters in those countries and to create political pressure to drop sanctions against Russia. Import restrictions set in somewhat later than export restrictions. They limit the import of many goods and of some services too,²³⁵ and the list is

²³⁰ The first of a row of presidential norms were the edicts of the President of the RF of 28 February 2022 no. 79 ‘On the application of special economic measures in connection with the unfriendly acts of the USA and the foreign states and international organisations joining them’ and of 31 March 2022 no. 172 ‘On the special procedure for foreign purchasers to fulfil their obligations vis-à-vis Russian gas suppliers’.

²³¹ Edict of the President of the RF of 27 December 2022 no. 961 ‘On the application of special economic measures in the fuel and energy sector in connection with the maximum for Russian petrol and petrol products fixed by some foreign states’, with numerous subsequent amendments.

²³² Edict of the President of the RF of 8 March 2022 no. 100, cit (nt. 228), and later legislation.

²³³ One example: Federal law of 18 March 2023 no. 82-FZ ‘On amending the Criminal Code of the RF’.

²³⁴ The general legal basis is the same as with export restrictions: edict of the President of the RF of 8 March 2022 no. 100, cit (nt. 228).

²³⁵ One example for a ban on services: Federal law of 14 March 2022 no. 55-FZ ‘On amending Articles 6 and 7 of the Federal law ‘On amending the Federal law ‘On the Central bank of the RF (Bank of Russia)’ (...)’ forbade Russian insurance companies to contract with insurers, reinsurers and insurance brokers from ‘unfriendly states’.

constantly changing. For this reason, this paper refrains from enumerating them. Suffice to say that Russia uses import restrictions as much as an economic weapon against Western sanctions as it uses export restrictions. The objects of import restrictions first mirrored Western restrictions²³⁶ but soon developed a profile of their own in order to hit preferably those industries with a higher potential for political lobbying in Western countries.

5.4. Sanctions but no countersanctions: the financial sector

Western states were very quick to cut off Russia and Russian businesses from international financial transaction structures, e.g. the SWIFT system. As a consequence of these sanctions in the banking system and the capital markets, the Ruble temporarily lost more than half of its value. The first Russian reactions were factual, not normative. The Federal Bank suspended the stock exchange²³⁷ and all currency trading, readmitting such transactions only weeks later and only very carefully. The Federal Bank rose its interest rates to stabilise the external value of the Ruble, which is only partly convertible.²³⁸ Unlike foreign trade, Russia could not enact substantial countersanctions in the financial sector because that had never been attractive to foreign business. Russia reacted to foreign sanctions but has little leverage on ‘unfriendly’ – or other – states in terms of finance.

State control of the Ruble was tightened right from the start of the war, and the degree of its convertibility was more and more reduced.²³⁹ On the one hand, this makes it easier for Russia to counter certain Western sanctions, although

²³⁶ The Russian IT security measures in the edict of the President of the RF of 1 May 2022 no. 250 (cit nt. 186) forbid the use of anti-virus programmes from ‘unfriendly states’, mirroring the Western ban on Kaspersky.

²³⁷ Restrictions in the trade of shares of strategic Russian companies in the energy sector are applied to this very day in order to stabilise these companies against the effects of the sanctions, e.g. edict of the President of the RF of 19 March 2024 no. 199 ‘On amending the Edict of the President of the RF of 5 August 2022 no. 520 (...)’.

²³⁸ ROLAND GÖTZ, *Sanktionen und Reaktionen. Auswirkungen auf die Wirtschaft Russlands*, Osteuropa 2022/1-3, pp. 197-218; ANTJE HIMMELREICH – BURKHARD BREIG, cit. (nt. 219), *Wirtschaft und Recht in Osteuropa* 2022, pp. 138-139; ALEXANDER LIBMAN, *Der lange Weg ins Abseits. Die Auswirkungen der westlichen Sanktionen auf Russlands Volkswirtschaft*, Osteuropa 2022/4-5, pp. 99-106.

²³⁹ The first pertinent legislation was the edict of the President of the RF of 28 February 2022 no. 79, cit (nt. 230). Parallely, the administrative and criminal sanctions for the violations were tightened, starting with Federal law of 13 July 2022 no. 235-FZ ‘On amending Article 15.25 of the Code of the RF on Administrative Infractions’. Many subsequent laws and edicts tightened state control over the Ruble, foreign currency and convertibility.

inflation continues to be a problem. On the other hand, it makes foreign trade more cumbersome, sometimes impossible for Russian businesses in non-sanctioned sectors of the economy. At the same time, currency control reduces the attractiveness of foreign trade because the tightened currency regime forces private enterprises to transfer to the Federal Bank large parts of the foreign currency they receive in the course of their trans-border business.²⁴⁰ And the reduction of convertibility counters Russian ambitions to make the Ruble the anchor currency of the post-Soviet world. A currency needs to be convertible to play that role, while a currency which is only partly or not at all convertible is unattractive to foreign business and foreign states.²⁴¹ Limited convertibility is one of the reasons why Russia, in co-operation with the other BRICS countries, failed so far to create an alternative global anchor currency or to switch to cryptocurrencies to replace the US dollar.

Russian debtors are granted relief from the duty to pay their debts to foreign creditors in foreign currency. Presidential edicts as well as decrees from the Federal Bank allow to a growing extent Russian debtors to pay their obligations in Ruble instead of the foreign currency agreed upon in their contracts with foreign partners, at very favourable exchange rates.²⁴² In Russian law – though not in the law of the contract partner – a payment in Rubles implies fulfilment of the contract. This affected at first only obligations vis-à-vis creditors from ‘unfriendly states’ but was widened to some other categories of creditors along the course of the war and the accumulating effects of the financial sanctions against Russia.²⁴³ Parallel restrictions are in force for the transfer of profits from the Russian subsidiaries of companies from ‘unfriendly states’. If they can transfer their profits at all, they have to do so in Rubles.²⁴⁴ Even

²⁴⁰ Next to direct transfer and exchange obligations there are indirect measures to extract foreign currency from Russian companies, e.g. by allowing negative interest rates on the foreign currency accounts they hold with Russian banks: Federal law of 14 July 2022 no. 292-FZ ‘On amending certain legislative acts of the RF (...)’.

²⁴¹ The lack of convertibility of the Soviet Ruble was the reason why the Soviet Union could not translate its economic and political preponderance in the Soviet bloc into an anchor function for its currency. Trans-border trade within the Soviet bloc often was based on barter; if money was involved, an artificial clearing unit was used.

²⁴² Sanctioned banks may switch from foreign currency to Ruble even vis-à-vis domestic creditors: government decree of 8 September 2022 no. 618.

²⁴³ The first pertinent legislation was the edict of the President of the RF of 5 March 2022 no. 95, cit (nt. 35).

²⁴⁴ The first pertinent legislation was the edict of the President of the RF of 4 May 2022 no. 254 ‘On the temporary procedure of the fulfilment of financial obligations in the field of corporate relations vis-à-vis certain foreign creditors’.

the state is authorised to pay the obligations from its bonds in Rubles instead of the nominal currency of the bond.²⁴⁵

Russia tries to immunise its securities and financial markets against the effects of sanctions.²⁴⁶ The Russian government was authorised to exercise a tighter control over foreign direct investments.²⁴⁷ Russian companies belonging to proprietors from 'unfriendly states' have been successively driven out of strategic industries such as food²⁴⁸ and cut off from the Russian capital and securities market.²⁴⁹ The obligatory withdrawal of Russian companies from foreign stock exchanges serves both Russia's financial stability and the further isolation of the business elite from foreign contacts.²⁵⁰ As a 'mirror sanction', Russian banks no longer provide information to 'unfriendly states' but the president may allow an information in individual cases.²⁵¹

On the other hand, the sanctions for violations of certain currency rules committed under the pressure of sanctions were partly abolished and partly mitigated.²⁵² Domestic consumers are protected against inflation²⁵³ by a growing number of fixed state prices for everyday goods like food or energy.

Finally, Russia suspended its double taxation agreements with the 'unfriendly states'.²⁵⁴

²⁴⁵ Federal law of 14 July 2022 no. 344-FZ 'On amending Article 9 of the Federal law 'On amending the Budget Code of the RF (...)'. Later presidential edicts extended the scope of possible Ruble payments to, e.g., state guarantees.

²⁴⁶ One example is Federal law of 28 December 2022 no. 571-FZ 'On amending certain legislative acts of the RF'.

²⁴⁷ The first pertinent legislation was Federal law of 14 March 2022 no. 57-FZ 'On amending Article 2 of the Federal law 'On amending the Federal law 'On the industrial policy in the RF' (...)', another important step was Federal law of 29 December 2022 no. 620-FZ 'On amending (...) Federal law 'On foreign investments in the RF' (...)'. Later measures were often taken in the form of a government decree, e.g. decree of 15 October 2022 no. 737.

²⁴⁸ One example: Federal law of 7 October 2022 no. 389-FZ 'On amending the Federal law 'On the procedure for implementing foreign investments in business companies of strategic importance for guaranteeing the defence of the country and the security of the state' concerning fisheries.

²⁴⁹ The first pertinent legislation were government decrees of 5 August 2022 no. 520 and of 8 September 2022 no. 618.

²⁵⁰ Federal law of 16 April 2022 no. 114-FZ, cit (nt. 34), point 3.2.

²⁵¹ Federal law of 1 May no. 125-FZ 'On amending the Federal law 'On measures of influence (counteraction) against unfriendly actions of the USA and other foreign states'.

²⁵² Federal law of 13 July 2022 no. 235-FZ, cit. (nt. 239).

²⁵³ In April/May 2025, inflation in consumer prices amounted to some 11 per cent.

²⁵⁴ Edict of the President of the RF of 8 August 2023 no. 585, confirmed by Federal law of 19 December 2023 no. 598-FZ. Some of these agreements had been out of application by the Russian side since the constitutional amendments of 2020: point 3.2.

5.5. Sanctions and countersanctions: freezing and expropriation of foreign investments

Western sanctions included freezing the assets of Russian companies and political, administrative and economic leaders. At first, Russia reacted with similar measures. With the course of time, new legislation permitted the Russian state or Russian companies to take over investments from ‘unfriendly states’.

Firstly, such measures concerned transport companies considered of strategic importance and with a foreign capital of more than 50 per cent. The foreign proprietors had to ask for the state’s permission to exercise their property rights in the management of those companies or had to sell their share when exceeding 50 per cent.²⁵⁵ Subsequent legislation bans foreign investors from public transport concessions²⁵⁶ as well as vehicles from ‘unfriendly states’ from entering or transit in Russia.²⁵⁷ This legislation was escalated to a strict control and sometimes ban of foreign investment in a large number of industries defined as strategic: transport, food, mining, and others.²⁵⁸ Foreign investors in strategic industries can no longer exercise voting rights in connection with their shares in Russian companies²⁵⁹ and may lose their shares if their company violates contract law.²⁶⁰ Foreign investment in companies that are not defined as strategic but count as important was put under tight state control, including the limitation of shareholders’ voting rights and the expropriation of the investment.²⁶¹ Finally, the president was given the formal right to intervene into investments of persons from ‘unfriendly states’, including putting them under compulsory management.²⁶²

²⁵⁵ Federal law of 15 April 2022 no. 92-FZ, cit (nt. 189).

²⁵⁶ Starting with Federal law of 1 May 2022 no. 126-FZ ‘On amending certain legislative acts of the RF’.

²⁵⁷ Edict of the President of the RF of 29 September 2022 no. 681 ‘On some questions of the implementation of international road transport of goods’.

²⁵⁸ Federal law of 29 December 2022 no. 577-FZ ‘On amending the Federal law ‘On the procedure for implementing foreign investments in business companies of strategic importance for guaranteeing the defence of the country and the security of the state’ (...)’.

²⁵⁹ Edict of the President of the RF of 17 January 2023 no. 16 ‘On the temporary procedure to take decisions in the organs of some Russian legal persons’.

²⁶⁰ Federal law of 28 April 2023 no. 139-FZ ‘On amending the Federal law ‘On the procedure to implement foreign investments in business companies of strategic significance to guarantee to defence of country and the security of the state’.

²⁶¹ Federal law of 4 August 2023 no. 470-FZ ‘On the specifics of the regulation of the corporate relations in economically significant business companies’, with subsequent amendments adding new companies.

Along the course of the war, expropriations and nationalisations of foreign investment concentrated on the energy industry and mining. The formal legal basis is the Economy Intervention Act, the individual measures against investments are enshrined in government decrees based on that law.²⁶² Another legal basis to expropriate subsidiaries and representations of companies from ‘unfriendly states’, converting them into Russian companies, was created in the summer of 2022 with a main focus on mining concessions.²⁶⁴ Short of a formal expropriation or nationalisation, the state has increased powers to put assets of persons from ‘unfriendly states’ under the compulsory administration of ‘Rosimushchevstvo’, the federal agency for the administration of state property.²⁶⁵

A certain form of expropriation can be seen in the currency regulations that restrict the transfer of the profits of Russian subsidiaries to the foreign mother company and that allow Russian debtors to pay their debts instead of the contractual currency in Rubles – which are quite worthless for foreign creditors.²⁶⁶ Another expropriation lies in the fact that some Russian courts tend to dismiss lawsuits of plaintiffs from ‘unfriendly states’ even if their case is perfectly justified²⁶⁷ and in the fact that the amount obtained through the enforcement of a court decision can no longer be paid to an account abroad but only to a bank account within Russia.²⁶⁸

The expropriation of foreign investments does not only favour the Russian state but sometimes Russian companies and citizens. Mortgages on immovable property in Russia can be cancelled if the owner originates from an ‘unfriendly

²⁶² Federal law of 19 December 2023 no. 600-FZ ‘On amending certain legislative acts of the RF’.

²⁶³ Federal law of 30 December 2006 no. 281-FZ ‘On special economic measures and coercive measures’ (Economy Intervention Act). An example for such a government decree is decree of 30 June 2022 no. 416 directed against ‘Sakhalin II’, an investment by Shell, Mitsui and Mitsubishi concerning liquid gas. The shares were transferred to Gazprom. On some occasions, the president gave expropriation orders by edict, e.g. edict of the President of the RF of 19 December 2023 no. 965, expropriating the Yuzhno-Russkoe oilfield investment of Wintershall and OMV, transferring the shares to some companies in the Gazprom empire.

²⁶⁴ Federal law of 14 July 2022 no. 320-FZ ‘On amending the Federal law ‘On the privatisation of state and municipal property’ (...)’.

²⁶⁵ Edict of the President of the RF of 25 April 2023 no. 302 ‘On the temporary management of certain property’.

²⁶⁶ Point 5.4.

²⁶⁷ HIMMELREICH, cit (nt. 219), *Wirtschaft und Recht in Osteuropa* 2022, pp. 204-205, quoting, inter alia, the ‘Peppa Pig’ case.

²⁶⁸ Federal law of 29 12 2022 no. 624-FZ ‘On amending the Federal law ‘On enforcement proceedings’.

state’.²⁶⁹ The Russian part in trans-border leasing contracts is aided by allowing them to purchase the leased object against the proprietor’s will if the foreign partner raises the leasing rates.²⁷⁰

6. Conclusions

A country fighting an aggressive war and annexing foreign territory acts in violation of international law. Russia immunised its internal legal system against international law at a quite early stage by giving domestic law priority over international rules.

A war influences the country’s domestic legal system in many ways. When analysing these effects on Russia, we need to keep in mind certain special features of the Russian war against Ukraine. First, the war was not formally declared. This in itself is nothing special because few of the wars fought since the end of WW II were initiated by a formal declaration of war. Second, the war must not be called a war, it is politically not accepted as a war but is painted as a ‘special military operation of limited scope’ in order to ‘liberate Ukraine from its fascist regime’. Russia purports to fight for a regime change but not for territorial gains – this being refuted by the fact that the Russian Federation incorporated occupied Ukrainian territories as six new federal entities. The fact that the war nature of the ‘operation’ is officially denied leads to cumbersome wording in war-related and war-induced legislation because it has to refer to ‘combat situations’ or ‘special military operations’. Third, there is no official state of war. With the exception of some of the newly annexed territories where martial law has been set in force, Russia does not live under a state of war. This means that state organs cannot profit from the special constitutional provisions for the situation of warfare. All laws and all measures of the executive must at least on paper comply with the ordinary constitution, not with the war-time constitution. The effects of the war thus materialise in the normal law without intermediate constitutional rules on how to adapt the law to the fact of war. A certain resort is the qualification of parts of the war as ‘anti-terror measures’ because the fight against terrorism allows deviations from the general rules without the necessity to impose martial law.

This said, we can differentiate the effects of the war on Russian law into two groups: the direct and the indirect effects. The direct effects are the legal provisions

²⁶⁹ Federal law of 14 July 2022 no. 332-FZ ‘On amending certain legislative acts of the RF’.

²⁷⁰ Federal law of 14 July 2022 no. 265-FZ ‘On amending Article 38.1 of the Federal law ‘On financial rental (leasing)’.

designed to enable Russia to fight a war abroad, whereas the indirect effects are adaptations of the law to factual changes that the war brings about. Another differentiation groups the effects into reinforcements of pre-existing tendencies on the one hand, and novel phenomena on the other hand.

The most obvious direct effect reinforcing a pre-existing tendency is the hypercentralisation of power in the 'crown-president'. This is probably the most conspicuous feature resulting from the war. Two tendencies converge: first, the escalating authoritarianism, and second, the endeavour to enable the state to fight a war. One is seen as a precondition for the other and vice versa.

The most important indirect effect on a pre-existing tendency is probably the accelerated restriction of human rights, e.g. free speech, assembly, and association. Restrictions of basic rights started soon after Putin came into power but gained momentum in connection with the war. They aim at actions apt to destroy an image of inner truce of all Russians vis-à-vis an imaginary external danger.

A direct effect producing novel phenomena is the extension of war- and soldier-related rules to situations and units of combat. They apply the existing defence law to the irregular situation of a war which is not a war as well to as irregular formations such as the Wagner group.

Indirect effects leading to novel law are, e.g., the reactions to sanctions and the development of counter-sanctions. The war economy in the sense of both an economy designed to cover first of all the needs of the state and the army as well as of an economy exposed to external sanctions requires a special business and trade law which would not have come about without the war.

As can be seen from the description of the Russian legal developments since 2022, war-related and war-induced legal provisions can be found in very many fields of law, from constitutional to defence law, from criminal to currency law. Furthermore, the war is reflected in many fields of law which *prima facie* are unrelated to fighting, such as contract law, pension law, labour law, even the law of the enforcement of court decisions and school law. One reason for the omnipresence of the war in large parts of the legal system is the Russian endeavour to meticulously maintain a formal legality at least on the books. This is in harmony with Putin's practice of a rule *by* law (instead of the rule *of* law).²⁷¹ One example is the president's request to parliament to authorise the deployment of Russian troops beyond the borders. The president did hand in the request, obeying to the letter of the constitution, that not really meaning the acceptance of check on his power since

²⁷¹ PARTLETT, *Why the Russian Constitution Matters*, cit (nt. 17).

it would be unthinkable for parliament not to comply with that request on the same day. Also the cumbersome adaptation of many laws on war and soldiers to mercenary troops and the ‘special operation’ is to feign a respect for the formal side of the law. However, this ‘respect’ is shown only towards domestic law, that which is under the control of the ‘crown-president’. International law is completely ignored internally, although Russia sometimes uses arguments of international law in its international relations.²⁷²

Perhaps the most important lesson of our analysis is that a war evokes legal reactions in line with the pre-existing legal and political culture, exacerbating its traits, making them more visible and more unequivocal. War necessitates clearer answers and does not tolerate the ambiguity which may hide the more characteristic, perhaps even the extreme features of a legal and political culture in times of peace.

²⁷² Examples of Russian international law arguments to ‘justify’ its aggressive war are given in VANESSA VOHS, “*But what about Kosovo?*” *Bundestag Debates on the Use of Force Before and After Zeitenwende*, *Review of Central and East European Law* 50 (2025), pp. 110-132.