

Foreign Fighting in Ukraine: Kremlin's Way of Toying with Concepts



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¹Beka Parsadanishvili, ²Mariam Baladze, ³Mariam Chkhikvadze, ⁴Barbare Petriashvili
b.parsadanishvili@gcsd.org.ge; mariambaladze99@gmail.com;
maria.chkhikvadze@gmail.com; baikopetriashvili@gmail.com

Georgia Center for Strategy and Development (GCSd), Terrorism Research Center (TRC)
Mtskheta St. 48/50, 0179 Tbilisi, Georgia

EXECUTIVE SUMMARY

For the past two decades, foreigners' engagement in faraway conflicts, their wartime experiences, and post-conflict trajectories have received a great deal of attention. The legal, political, and academic standing of foreign entrants have all been under scrutiny. Conceptual ambiguity of such phenomena as combatants, mercenaries, foreign volunteers, foreign fighters, and foreign terrorist fighters (FTF) can lead to further political, diplomatic, and legal disputes. This has been the case in the Russian Federation's war against Ukraine. The Kremlin has been tinkering with the legal status of foreigners who are joining Ukrainians in order to discourage their participation in the conflict and avoid the legal and political consequences of its [Russia's] actions.

An armed conflict occurred in eastern Ukraine in early 2014, followed by Russia's annexation of Crimea. Vladimir Putin, Russia's then and still president, has excused the aggression under the necessity of safeguarding the rights of Russians and Russian speakers in Crimea and southeast Ukraine. Pro-Russian rebels in the Donetsk and Luhansk areas later conducted status referendums to declare independence from Ukraine as a result of the conflict, which worsened ethnic tensions. Russia's invasion of Ukraine in February of 2022 poses a massive threat to European peace and security.

The Kremlin could have suspected that a full-fledged war with Ukraine might have been difficult to sell to the Russian people. Despite its imperial origins, the widespread belief in Ukraine as a brother nation implies that not everyone enjoys seeing Ukrainians suffer. As a result, the Kremlin insists on the "special operation" wording and the campaign's presentation as a war against Nazism. Putin has often restated that the Ukrainian troops battling Russian forces are neo-Nazi battalions, not regular military units. Per the claim, the foreigners who join them are directly supporting Nazism.

It is vital to offer more clarity on the issue in the light of the intense influx of foreign entrants into the fight and Russian attempts to rig the process. The document aims to analyze the Kremlin's attempt to purposefully attach certain status to foreigners on the Ukrainian side and its compatibility with the international law.

¹ * Beka Parsadanishvili is a research project manager at Georgian Center for Strategy and Development *

² * Mariam Baladze is a graduate of Ivane Javakishvili Tbilisi State University *

³ * Mariam Chkhikvadze is a graduate of Ivane Javakishvili Tbilisi State University *

⁴ * Barbare Petriashvili is a graduate of Eötvös Loránd University *

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LIST OF ABBREVIATIONS

AFU – Armed Forces of Ukraine
DNR - Donetsk People's Republic
FTF – Foreign Terrorist Fighter
IHL - International Humanitarian Law
LNR - 'Luhansk People's Republic (LNR)
POW – PRISONER OF WAR
SCEEUS - Center for Eastern European Studies
UFA – Ukrainian Foreign Legion
UK – The United Kingdom
UN – United Nations
U.S – The United States
XRW – Extreme Right-Wing

INTRODUCTION

Foreigner involvement in distant conflicts, their wartime experience, and post-conflict trajectories have received significant attention for the last two decades. The status of foreign entrants has been under legal, political, and academic scrutiny. Political, diplomatic, and legal disputes can derive from conceptual ambiguities of such phenomena as Combatants, Mercenaries, Foreign Volunteers, Foreign Fighters, and Foreign Terrorist Fighters (FTF). It has been the case in the Ukrainian stand in the war against the Russian Federation. The latter has been toying with the legal status of foreigners joining Ukraine to discourage their involvement in the conflict and escape the legal and political consequences of own [Russia's] aggression.

In early 2014, armed conflict broke out in eastern Ukraine, followed by the Russian annexation of Crimea. The president of Russia – Vladimir Putin, emphasized the importance of defending the rights of the Russian people and Russian speakers in Crimea and southeast Ukraine.⁵

Russia's invasion of Ukraine in 2022 poses a significant danger to the peace and security in Europe since the end of the Cold War.⁶ The war that started on 24th February 2022 has brought only death, devastation, and destruction to a colossal number of people and families. Individuals from all around the world have decided to fight with Ukraine against Russian forces. In the light of the high inflow of foreign entrants in the conflict (which skyrocketed to 20 000 in 2022⁷) and Russian attempts to avert the process, it is necessary to provide further clarity on the situation.

⁵ Grant, D. T (2017). Annexation of Crimea. *American Journal of International Law* 109 (1). <https://www.cambridge.org/core/journals/american-journal-of-international-law/article/abs/annexation-of-crimea/8274D39359F36C550FB0C8ED2B35635F>

⁶ Mankoff, J. (2022). Russia's war in Ukraine: Identity, history, and conflict. *Russia's War in Ukraine: Identity, History, and Conflict* | Center for Strategic and International Studies. <https://www.csis.org/analysis/russias-war-ukraine-identity-history-and-conflict>

⁷ Dongen, T. van, Weijenberg, G., Vugteveen, M., & Farrell-Molloy, J. (2022). Foreign volunteers in Ukraine: Security considerations for Europe. ICCT. <https://icct.nl/publication/foreign-volunteers-in-ukraine-security-considerations-for-europe/#:~:text=Compared%20to%202014%2C%20when%20around.above%2C%20has%20reached%20roughly%2020%2C000>

ACADEMIC PERSPECTIVES ON FOREIGN FIGHTING

"Foreign fighters volunteering to fight in someone else's war are nothing new".⁸ Many scholars have been taken aback by the extraordinary scale and breadth of the foreign fighter phenomena observed today. To examine current trends in the problem of foreign fighters, we must first acknowledge that the idea remains shrouded by clouds of uncertainty that distort any investigation. Fighters from abroad have taken part in about 100 civil wars throughout the last 250 years. Despite the fact that the majority of society associates foreign fighters with people who volunteered to fight against ISIS, it should be noted that the most well-known case of international Brigades participating abroad is the Spanish Civil War, which featured approximately 32 000 fighters from more than 50 countries.⁹ Foreigners have participated in a variety of conflicts based on ideologies, ethnic or religious affiliations. In addition, more than 4000 volunteers fighting alongside the Israeli army in the 1948 Arab-Israeli war could not be classified as mercenaries (international volunteers motivated by financial gain from fighting) because 95% of them were Jewish and determined to build and secure the Jewish State.¹⁰ However, it was the United States' decision in late 2001 in Afghanistan to free local Taliban insurgents while arresting non-Afghan combatants that popularized the term and associated it with jihadists. Most early studies on foreign fighters, which concentrated solely on modern jihadis in the 2000s, used a "I know it when I see it" approach, addressing foreign fighters without ever specifying who should be listed and why.¹¹

Initially, the concept "foreign fighter" was utilized in order to characterize fighters from abroad fighting for Al-Qaida in Afghanistan. Then this term was associated with the uprising advocating terrorism in Iraq in 2003.¹² Foreign fighters were active in various academic sources during the US-Iraq war, when a large number of volunteers went to Iraq to fight against US forces on the side of insurgents. Numerous studies on foreign fighters have focused on foreign jihadists fighting in the name of insurgent groups, specifically in Iraq, Afghanistan, Bosnia, and Somalia, and it has intensified with the process of Western individuals engaging in civil wars in Iraq, Syria, and in earnest in ISIS, among other places.¹³ Mendelsohn mentions a very state-centric worldview which shapes our perceptions of foreign combatants. He notes that by mentioning "foreign", one gets the association with a different nationality. In the case of Pashtun volunteers from Pakistan, a Punjabi fighting with government troops in the tribal areas is considered a local, and a Pakistani is considered a foreigner.¹⁴

Fritz, J. and Young, J. K. suggest that the commonly used definition of foreign fighter omits the insurgency component in favor of a generic non-state armed organization or irregular militia prescription. That would keep the aim of the insurgency

⁸ Schmid, A. P. (2015). Foreign (Terrorist) Fighter Estimates: Conceptual and Data Issues. International Centre for Counter-Terrorism. <http://www.ictor.org/stable/resrep17478>

⁹ Fritz, J., & Young, J. K. (2017). Transnational Volunteers: American Foreign Fighters Combating the Islamic State. *Terrorism and Political Violence*, 1–20. <https://sci-hub.se/10.1080/09546553.2017.1377075>

¹⁰ Ibid.

¹¹ David Malet (2015): Foreign Fighter Mobilization and Persistence in a Global Context, *Terrorism and Political Violence*, DOI: 10.1080/09546553.2015.1032151 <https://sci-hub.se/https://doi.org/10.1080/09546553.2015.1032151>

¹² UNODC. (2019). Foreign Terrorist Fighters. Manual for Judicial Training Institutes South-Eastern Europe. Vienna: UNITED NATIONS OFFICE ON DRUGS AND CRIME

¹³ Fritz, J., & Young, J. K. (2017). Transnational Volunteers: American Foreign Fighters Combating the Islamic State. *Terrorism and Political Violence*, 1–20. <https://sci-hub.se/10.1080/09546553.2017.1377075>

¹⁴ Mendelsohn, Barak. "Foreign Fighters: Recent Trends." *Orbis* 55:2 (Spring 2011), 189-202. <https://www.fpri.org/docs/media/mendelsohn.foreignfighters.pdf>

ban as well as more appropriately capture the phenomenon of foreign fighters.¹⁵ According to this description, Hegghammer defines a foreign fighter as an agent who (1) has joined and acts within the borders of an insurgency; (2) does not have citizenship of the conflict state or (3) familial links to its fighting groups; and (4) is unpaid. They are distinguished from mercenaries as they are paid; Soldiers are not included in criterion (3) since they are paid and follow the orders of their commander; Criteria (2) excludes returning diaspora or exiled insurgencies (ethnic or blood ties might be motivators); Criteria (1) distinguishes foreign combatants from terrorists who commit violent crimes against citizens in other countries. According to Hegghammer, the bulk of foreign fighters are not regularly participating in out-of-area activities.¹⁶ Cerwyn Moore and Paul Tumelty (2008) suggested the definition of foreign fighters as “non-indigenous, non-territorialized combatants who, motivated by religion, kinship, and/or ideology rather than pecuniary reward, enter a conflict zone to participate in hostilities.”¹⁷ Some academics also distinguish between "global" and "regional" foreign fighter mobilizations and describe a "regional" force as a group of warriors drawn from border nations in a combat zone.¹⁸ David Malet defines foreign fighters as “noncitizens of conflict states who join insurgencies during civil conflicts”.¹⁹

Bryan(2010) characterizes foreign fighters as “not agents of foreign governments, but they leave home typically to fight for a transnational cause or identity”. He believes it is vital to distinguish foreign fighters and foreign terrorist fighters from each other. The research should focus on our "enemies' tactics and terror-based systems" rather than cross-border movement.²⁰

FTFs are also distinct from mercenaries, who, as previously stated, are motivated by personal gain. Despite the fact that numerous studies have been conducted to explain the origins of the current wave of FTFs, it has been discovered that there is no consistent profile of them that can be generated widely. FTFs encompass people of various ages, social, economic, and educational backgrounds. FTFs may be divided into four categories: "The Revenge Seeker"; "The Status Seeker"; "The Identity Seeker"; "The Thrill Seeker". States aiming to identify possible FTFs have a substantial hurdle due to the lack of a unified profile.²¹

Mendelson states that, meanwhile, the traditional scope of foreign fighters is sometimes diminishing as some foreign fighters engage in violent actions, and in an era of rapid growth of jihadist movements, when the younger generation is able to fight for their principles without having to leave their country, this opportunity is growing even more.²²

¹⁵ Fritz, J., & Young, J. K. (2017). Transnational Volunteers: American Foreign Fighters Combating the Islamic State. *Terrorism and Political Violence*, 1–20. <https://sci-hub.se/10.1080/09546553.2017.1377075>

¹⁶ Hegghammer, T. (2010). The Rise of Muslim Foreign Fighters: Islam and the Globalization of Jihad. *International Security*, 35(3), 53–94. doi:10.1162/isec_a_00023 https://sci-hub.se/https://doi.org/10.1162/ISEC_a_00023

¹⁷ Cerwyn Moore and Paul Tumelty, “Foreign Fighters and the Case of Chechnya: A Critical Assessment,” *Studies in Conflict and Terrorism* 31, no. 5 (2008): 412–433. <https://sci-hub.se/https://doi.org/10.1080/10576100801993347> <https://www.tandfonline.com/doi/full/10.1080/10576100801993347>

¹⁸ Hegghammer, T. (2010). The Rise of Muslim Foreign Fighters: Islam and the Globalization of Jihad. *International Security*, 35(3), 53–94. doi:10.1162/isec_a_00023 https://sci-hub.se/https://doi.org/10.1162/ISEC_a_00023

¹⁹ Malet, D. (2013). *Foreign Fighters: Transnational Identity in Civic Conflicts*. Oxford Scholarship Online.

²⁰ Ian Bryan, *Sovereignty and the Foreign Fighter Problem*, *Orbis*, Volume 54, Issue 1, 2010, Pages 115-129, ISSN 0030-4387, <https://doi.org/10.1016/j.orbis.2009.10.008>. <https://www.sciencedirect.com/science/article/pii/S0030438709000817>

²¹ UNODC. (2019). *Foreign Terrorist Fighters. Manual for Judicial Training Institutes South-Eastern Europe*. Vienna: UNITED NATIONS OFFICE ON DRUGS AND CRIME

²² Mendelsohn, Barak. “Foreign Fighters: Recent Trends.” *Orbis* 55:2 (Spring 2011), 189-202.

As for foreign volunteers, David Malet refers them as state-supported rather than actual foreign fighters if they get government financial or military assistance.²³ Individuals who travel to fight with militias, separatists, or terrorist organizations are more appropriately classified as "foreign fighters" — or FTFs when a recognized group is involved.²⁴

Fighters who fly to Iraq and Syria to combat the Islamic State receive less attention. Some of the categories would not classify these individuals as foreign fighters since they did not travel to get engaged in fighting with an insurgency. This is reflected in media reporting, where they are frequently mentioned as volunteers or vigilantes.²⁵

Hegghammer refers to foreign volunteers as state-supported rather than actual FFs in case they get government financial or military assistance. As a result, the suggested concept would exclude the Soviet-backed International Brigades and the kin-linked diaspora Jews of MACHAL, which he later identifies as the only other extensive instances of foreign fighters in the twentieth century aside from the jihadists.²⁶ Foreign volunteers' propagandistic worth to a country's cause might be internal—helping to improve morale at home—or external, by providing worldwide vulnerability and possibly even a sense of international legitimacy to the purpose they are fighting for. The International Brigades undoubtedly aided the Republican administration in receiving good publicity in left-leaning journals outside of Spain in the 1930s.²⁷

Kacper Rekawek researched and analyzed XRW fighters and in particular, from western countries: Brazil, the UK, France, Georgia, Italy, Spain and Sweden. Kacper, divided these fighters into three groups according to their motivations and pre-war backgrounds²⁸:

- Resettlers who can be the smallest but influential group in the conflict aim to build a new career, for example in private military contracting and start a new life either in Ukraine or in the "new republics" of the DNR/LNR.²⁹
- On the other hand, ghosts see the conflict as a possibility of "career break", a pause after that they will go back to homelands, while the resettlers abandoned homes. Also, another main difference between these two groups is that the first one goes public, when another prefers to stay in shadows.³⁰

<https://www.fpri.org/docs/media/mendelsohn.foreignfighters.pdf>

²³ David Malet (2015): Foreign Fighter Mobilization and Persistence in a Global Context, Terrorism and Political Violence, DOI: 10.1080/09546553.2015.1032151 <https://sci-hub.se/https://doi.org/10.1080/09546553.2015.1032151>

²⁴ UNITED NATIONS SECURITY COUNCIL, RESOLUTION 2178(2014). <http://unscr.com/en/resolutions/doc/2178>

²⁵ Fritz, J., & Young, J. K. (2017). Transnational Volunteers: American Foreign Fighters Combating the Islamic State. Terrorism and Political Violence, 1–20. <https://sci-hub.se/10.1080/09546553.2017.1377075>

²⁶ HEGGHAMMER, T. (2013). Should I Stay or Should I Go? Explaining Variation in Western Jihadists' Choice between Domestic and Foreign Fighting. American Political Science Review, 107(01), 1–15.

²⁷ Arielli, N (2014) When are Foreign Volunteers Useful? Israel's Transnational Soldiers in the War of 1948 Re-examined. Journal of Military History, 78 (2). pp. 703-724. ISSN 0899- 3718

²⁸ Rekawek, K. (2020). Career Break or a New Career? Extremist Foreign Fighters in Ukraine. Counter Extremism Project (CEP) Germany. <https://www.counterextremism.com/press/new-cep-report-career-break-or-new-career-extremist-foreign-fighters-ukraine>

²⁹ Ibid.

³⁰ Ibid.

- Adventurers goal is to publicize their presence and role on the frontline in the process of fighting for some “greater” cause. For this reason, they may engage in other conflicts in the future too.³¹

To conclude, it is pivotal to differentiate between the following concepts: foreign volunteer, foreign fighter, and foreign terrorist fighter. They should not be mixed as a "foreign fighter" is an individual fighting in another country's war, whereas a "foreign trained fighter" is a local who travels to another territory, gets trained only and then conducts attacks elsewhere, usually in his home country, after returning. The analytical value of merging two phenomena, foreign fighter and foreign terrorist, can be called into question in some situations, particularly when a jihad veteran applies gained abilities to commit assaults outside of the battlefield. Unlike foreign-trained militants, conventional "foreign fighters" do not tend to become involved in terrorism in the West. Foreign volunteers also differ from mercenaries who are focused on private gain and volunteers who join insurgencies. Combatants working for state-affiliated companies actually enjoy legal protections, may fairly expect to be reimbursed, and can expect to survive, as states usually tend to defeat insurgencies.³²

³¹ Ibid.

³² Mendelsohn, Barak. "Foreign Fighters: Recent Trends." *Orbis* 55:2 (Spring 2011), 189-202.
<https://www.fpri.org/docs/media/mendelsohn.foreignfighters.pdf>

THE MIGRATION OF FOREIGNERS TO CONFLICT IN UKRAINE SINCE 2014

Since the start of the first phase of the conflict in 2014, thousands of foreigners have arrived in Ukraine to fight on both the Ukrainian and Russian sides, among whom there were affiliates of extreme right-wing (XRW), fighting mostly along with pro-Russian separatists.³³ The majority of these extremist fighters returned home after 2014, while some remained in Ukraine as mercenaries.³⁴ Following the escalation of the conflict in February 2022, President Zelenskyy called on foreign nationals who are "friends of peace and democracy" to join the newly formed International Legion of Territorial Defence of Ukraine (or the Ukrainian Foreign Legion - UFA) under the Ministry of Defense in the fight against Russian war criminals.³⁵ Foreigners were allowed to contact the defense Attaché of the Ukrainian embassies in their home countries.³⁶ Zelensky also noted that according to the 2016 decree, foreigners had the opportunity to join the Ukrainian military service voluntarily.³⁷ The statement did not receive the same negative response from Western countries as it did in the case of those wishing to leave for Syria. Moreover, the UK, Israel, Poland, and others have openly expressed support for their citizens to voluntarily fight in Ukraine.³⁸

About 17,000 foreigners with different ideologies and causes arrived in Ukraine from more than 50 countries from 2014-to 2019.³⁹ 15,000 Russians fought on both the pro-separatist and pro-Ukrainian (3,000 people) sides.⁴⁰ The remaining 2,000 fighters were from post-Soviet countries (Belarus and Georgia) and the West.⁴¹ After Zelenskyy's February announcement, already for March 2022 "almost 20, 000 experienced veterans and volunteers" applied to join International Legion. According to Ukrainian government website there are volunteers from Denmark, Israel, Poland, Latvia, Croatia, UK, Netherlands and Canada.⁴² Also, Norway, Finland and the US (more than 3000 applications) were named by Ukrainian embassies.⁴³ Furthermore, many of Russian and Belarusian citizens fighting on the side of Ukraine are motivated by their opposition to president Putin's

³³ Ritzmann, A., & Schindler, D. H. (2022). Foreign Fighters in the 2022 Russia-Ukraine War An Initial Assessment of Extremist Volunteers. Berlin: Counter Extremism Project (CEP). <https://www.counterextremism.com/press/cep-policy-brief-foreign-fighters-2022-russia-ukraine-war>

³⁴ Ibid.

³⁵ McKernan, B. (2022, Feb 27). Ukraine appeals for foreign volunteers to join fight against Russia. UK: The Guardian. <https://www.theguardian.com/world/2022/feb/27/ukraine-appeals-for-foreign-volunteers-to-join-fight-against-russia>

³⁶ Ibid.

³⁷ Ibid.

³⁸ Ibid.

³⁹ FOREIGN FIGHTERS, VOLUNTEERS, AND MERCENARIES: Non-State Actors and Narratives in Ukraine. NEW YORK: THE SOUFAN CENTER. <https://thesoufancenter.org/research/foreign-fighters-volunteers-and-mercenaries-non-state-actors-and-narratives-in-ukraine/>

⁴⁰ Rekawek, K. (2020). Career Break or a New Career? Extremist Foreign Fighters in Ukraine. Counter Extremism Project (CEP) Germany. <https://www.counterextremism.com/press/new-cep-report-career-break-or-new-career-extremist-foreign-fighters-ukraine>

⁴¹ Ibid.

⁴² Ukraine, J. t. (n.d.). The International Legion of Defense of Ukraine. <https://theinternationallegion.org/>

⁴³ Conroy, O. (2022). Among the Americans fighting in Ukraine: 'I couldn't live with myself if I didn't come' <https://www.theguardian.com/world/2022/apr/14/americans-fighting-in-ukraine>

dictatorship and Lukashenko's long presidency.⁴⁴ On the other hand, fighters from Russian republic of Chechnya also oppose Moscow for crushing their campaigns in 1990s and 2000s.⁴⁵

[NB! (Authors' Remark): *Somewhat blind eye on others, but the combatants in this chapter can be explained by the primary purpose of this paper - analysis of the Kremlin's conduct concerning foreign entrants fighting on the Ukrainian side. The authors by no means disregard the involvement of FTFs, mercenaries, or other extremists in the conflict. Moreover, the readers are welcome to get acquainted with a detailed account of these phenomena entering the conflict in Ukraine (See Annex 1).*]

⁴⁴ Ibid.

⁴⁵ Ibid.

THE RUSSIAN TALE OF NAZI UKRAINE AND THE CONSEQUENT CONFUSION ABOUT FOREIGN FIGHTING IN UKRAINE

The Kremlin undoubtedly understood that a full-fledged war with Ukraine would be arduous to sell to the Russians. Despite the imperial roots, the widely held notion of Ukraine as a brother nation means that not all enjoy seeing Ukrainians suffer. Therefore, the Kremlin insists on the special operation wording and the portrayal of the campaign as a fight against the threat of Nazism. Putin has consistently stated that the Ukrainian fighters, who are fighting back against Russian forces are neo-Nazi battalions, not regular military.⁴⁶ Therefore, the supporters joining them are by extension supporting Nazism. The president of the Russian Federation on February 24th stated that the purpose of the invasion of Ukraine was to “demilitarize and denazify Ukraine.” However, Putin is misusing the word “denazification” purposefully, because the term refers to a specific period in the post-WWII era. The reason, why Putin uses the concept of “denazification” in the modern context is that the Soviet Union backed the Allies in their defeat of the Nazis. There were about 20 million casualties, and the continent still remembers it. As a result, adopting terms like denazification connects well with his local audience and generates quite a potent piece of propaganda - an attempt to delegitimize Ukraine in the eyes of the Russian population, which views its battle against Nazi Germany to be its crowning achievement, and in the eyes of Western audiences, who may not know much about Ukraine other than that it is close to Russia. Putin is attempting to capitalize on the fact that there are extreme right-wing groups in Ukraine, that could have been classified as neo-Nazis. However, as evidenced by President Zelensky's landslide victory, those groups are nothing but fringe elements.⁴⁷

Not surprisingly, high rank Russian leaders voice pro-Kremlin ideas. When the whole denazify concept was questioned, given Zelenskyy being Jewish himself, Lavrov claimed: "I could be wrong, but Hitler also had Jewish blood. [That Zelensky is Jewish] means absolutely nothing. Wise Jewish people say that the most ardent anti-Semites are usually Jews."⁴⁸ Dmitry Medvedev, Russia's former president and now the deputy chairman of the Security Council, on his Telegram channel, calls Ukraine a “completely fake” nation and “a copy of the Third Reich” that does not have a right to existence.⁴⁹ Statements like those are delivered to millions of Russians through Kremlin-owned and controlled media - the only media outlets currently allowed to operate. “Vladimir Zelensky is Ukraine’s last president because there won’t be any Ukraine after that,” claimed host Vladimir Solovyov on *Rossia-1*'s lead talk show, and the audience burst out laughing.⁵⁰ On one of the pro-Kremlin stations, Margarita Simonyan – an editor in chief of RT, expressed “horror” that a “significant part of the Ukrainian nation was in the grip of the Nazi frenzy.”⁵¹

⁴⁶ Yaffa, J. (2022, March 29). Why do so many Russians say they support the war in Ukraine? *The New Yorker*. <https://www.newyorker.com/news/news-desk/why-do-so-many-russians-say-they-support-the-war-in-ukraine>

⁴⁷ Waxman, O. B. (2022, March 3). What Putin gets wrong about 'denazification' in Ukraine. *Time*. <https://time.com/6154493/denazification-putin-ukraine-history-context/>

⁴⁸ BBC (2022). Israel outrage at Sergei Lavrov's claim that Hitler was part Jewish. <https://www.bbc.com/news/world-middle-east-61296682>

⁴⁹ DW (2022). Fact check: Fake news thrives amid Russia-Ukraine war. <https://www.dw.com/en/fact-check-fake-news-thrives-amid-russia-ukraine-war/a-61477502>

⁵⁰ Kovalev, A. (2022, April 9). Russia's Ukraine propaganda has turned fully genocidal. *Foreign Policy*. <https://foreignpolicy.com/2022/04/09/russia-putin-propaganda-ukraine-war-crimes-atrocities/>

⁵¹ Ibid.

The Russian government strictly controls what its citizens see and hear about the war in Ukraine. Vladimir Putin approved legislation making reporting that contradicts the Russian government's account of events illegal in early March. Many independent media outlets have been compelled to leave the country, close down, or risk lengthy prison sentences as a result of the law. The Kremlin has also exploited social media, recruiting trolls to promote propaganda about the war and incite online confrontations. As a result, some Russians seek alternate sources of information to cut through misinformation. Some people use VPNs to conceal their location to access banned sites like Twitter, Facebook, and media organizations that report independently from the Kremlin. On March 13th, the day before the Putin administration blocked access to Instagram, demand for VPNs increased by more than 2,000 percent.⁵²

While there are far-right organizations in Ukraine, Andreas Umland, an analyst at the Stockholm Center for Eastern European Studies (SCEEUS), believes they are weak in comparison to those in many other European nations - "We had a united front of all radical right-wing parties in the last parliamentary elections in 2019 where they won 2.15% of the vote." The Azov Regiment, a right-wing Ukrainian combat unit fighting separatists in eastern Ukraine, has previously been chastised. The Azov regiment was created by a far-right organization but was absorbed into the National Guard of the Interior Ministry in 2014. Following that, the movement and the regiment split, with the regiment continuing to use right-wing symbols but no longer qualifying as a right-wing extremist organization. Right-wing extremist soldiers were occasionally observed during military training courses, but such disclosures became public and sparked a controversy.⁵³ The battalion continues to function as a more or less autonomous body. It has been actively engaged in defending Mariupol and its resistance has been publicly appreciated by government officials. Moreover, citizens of Germany, the UK, Brazil, Sweden, the US and Australia joined Azov after the war started in 2022.⁵⁴

Azov is a natural target for Putin, who has wrongly claimed that Ukraine's government is governed by "drug addicts and neo-Nazis."⁵⁵ Moscow has handed the regiment a disproportionate role in the fight, accusing it of human rights violations regularly. As the Russian propaganda tries to draw parallels between Nazism and the Ukrainian government, this way Putin tries to avoid foreigners to go fighting for Ukraine and its independence. As if, those who are involved in the conflict on the Ukrainian side are necessarily supporting neo-Nazis and ultra-extremists on that soil.

⁵² Euronews (2022). Demand for VPNS in Russia Skyrockets by 2000 Percent After the Kremlin Bans Instagram <https://www.euronews.com/next/2022/03/15/demand-for-vpns-in-russia-skyrockets-by-2-000-after-the-kremlin-bans-instagram>

⁵³ Weber, J., Grunau, A., Hein, M. von, & Theise, E. (2022, February 25). Fact check: Do Vladimir Putin's justifications for going to war against Ukraine add up? DW: 25.02.2022. DW.COM. <https://www.dw.com/en/fact-check-do-vladimir-putins-justifications-for-going-to-war-against-ukraine-add-up/a-60917168>

⁵⁴ The Washington Post (2022). Right-wing Azov Battalion emerges as a controversial defender of Ukraine. <https://www.washingtonpost.com/world/2022/04/06/ukraine-military-right-wing-militias/>

⁵⁵ The Guardian (2022). Putin references neo-Nazis and drug addicts in bizarre speech to Russian security council – video. <https://www.theguardian.com/world/video/2022/feb/25/putin-references-neo-nazis-and-drug-addicts-in-bizarre-speech-to-russian-security-council-video>

INTERNATIONAL ETHICS VERSUS THE RUSSIAN INTERPRETATION OF WAR AND FOREIGN FIGHTING IN UKRAINE

The foreigners participating in combat activities in Ukraine have been intentionally labeled as Mercenaries, Foreign Terrorist Fighters (FTF), Extremists (etc.) in the Russian media for various political legal and propaganda reasons.⁵⁶ However, as it has already been emphasized, the ambiguity serves as a gap for new political and diplomatic disputes and provides the Russian Federation with additional opportunity of political evasion. The following paragraph evaluates the Kremlin interpretation of war and foreign fighting in Ukraine from legal perspective - providing clearance on the status of foreigners participating in combat activities in Ukraine.

[The Inherent Right of Self-Defence]

The Kremlin has unsuccessfully attempted to provide legal backing for its military aggression in Ukraine since February 21, 2022, when the Russian Federation officially recognized the so called 'Donetsk People's Republic (DNR)' and the 'Luhansk People's Republic (LNR)' as independent states. By doing so the Russian federation intended to re-enact the old and already well-known "savior" tale – through referring to UN CHARTER ARTICLE 51 and providing immediate military assistance for those who were "oppressed" in DNR and LNR. However, the Russian Federation did blunder as the UN CHARTER ARTICLE 51 clearly states that it allows military help for the states that are the members of UN and DPR and the LPR were never recognized by the organization.

*...NOTHING SHALL IMPAIR THE INHERENT RIGHT OF INDIVIDUAL OR COLLECTIVE SELF-DEFENCE
IF AN ARMED ATTACK OCCURS AGAINST A MEMBER OF THE UNITED NATIONS... [UN CHARTER, ARTICLE 51]*

On the other hand, the UN CHARTER ARTICLE 51 not only clearly granted Ukraine the right to defend its sovereignty with own military capabilities but also created legal backing for president Zelensky's call for external help in various forms, including – the call for foreigners who were interested in defending Ukraine. Therefore, hundreds of Americans, Canadians, French, Croatian, Georgian and Belarusian fighters to the call made by president Zelensky on February 28th. The next day, on March 1st, the registered foreigners who were willing to volunteer in military service have amounted to 16000.⁵⁷

[An Attempt to Wrap the War into Peacekeeping]

On February 24th, Vladimir Putin declared war on Ukraine labeling it as "special military operation"⁵⁸ in a decisive attempt to further distant the media and the international community from calling the Russian aggression what it is – the war. It's noteworthy that such wording would allow the Russian Federation to re-label the war waged against Ukraine from "special military operation" to the linguistic derivative of peacekeeping. This was further proved by stating that the Russian Federation

⁵⁶ Pfeifer, H., Malla, A. H. & Weib, D. (2022). "Enlist Now!" – Or Don't? Why we should be concerned about foreign fighting in Ukraine. <https://blog.prif.org/2022/05/18/enlist-now-or-dont-why-we-should-be-concerned-about-foreign-fighting-in-ukraine/>

⁵⁷ The Independent (2022). At least 16,000 foreign volunteers are coming to help fight Putin's army, says Zelensky. <https://www.independent.co.uk/news/world/europe/ukraine-russia-war-volunteer-fight-army-b2028082.html>

⁵⁸ BBC (2022). Ukraine: Putin announces special military operation in TV declaration. <https://www.bbc.com/news/av/world-60505319>

expected to “denazify” Ukraine. However, since the so-called special operation was neither intended to promote peace nor authorized by any International body, the war against Ukraine and the Russian occupation were not confused with special military operation or peacekeeping-like initiative and were strongly condemned by the international community.

THE TERM 'PEACEKEEPING' REFERS TO MEASURES AIMED AT PREVENTING A BREACH OF THE PEACE (PEACE, THREAT TO) OR MAINTAINING AND RESTORING PEACE (PEACE, BREACH OF), WHICH ARE CARRIED OUT WITH THE AUTHORIZATION OF THE UNITED NATIONS OR OTHER INTERNATIONAL AND REGIONAL ORGANIZATIONS. ⁵⁹

[Mercenaries and Foreign Terrorist Fighters Are Not Able To Enjoy Prisoner of War Status]

For its strategic calculus to work out properly the Russian Federation needed to discourage foreigners from entering the warzone. The Kremlin decided to do it by infesting fear into potential foreigners by robbing them off of POW status. on March 3 Russia's Defense Ministry spokesperson announced that none of the mercenaries detained the West is sending to Ukraine can be considered as combatants in accordance with international humanitarian law (IHL), or enjoy the status of prisoners of war (POW), and threatened to have them prosecuted as criminals for any subversive acts against the Russian army. In order for this people not to enjoy the POW status the Russian federation referred to them as mercenaries, or foreign terrorist fighters, who are banned by conventions ratified by both countries and would not enjoy the treatment POWs usually do. ⁶⁰

[FOREIGN TERRORIST FIGHTERS ARE] INDIVIDUALS WHO TRAVEL TO A STATE OTHER THAN THEIR STATES OF RESIDENCE OR NATIONALITY FOR THE PURPOSE OF THE PERPETRATION, PLANNING, OR PREPARATION OF, OR PARTICIPATION IN, TERRORIST ACTS OR THE PROVIDING OR RECEIVING OF TERRORIST TRAINING, INCLUDING IN CONNECTION WITH ARMED CONFLICT. - SECURITY COUNCIL RESOLUTION 2178 (2014) S/RES/2178

STATES PARTIES SHALL NOT RECRUIT, USE, FINANCE OR TRAIN MERCENARIES FOR THE PURPOSE OF OPPOSING THE LEGITIMATE EXERCISE OF THE INALIENABLE RIGHT OF PEOPLES TO SELF-DETERMINATION, AS RECOGNIZED BY INTERNATIONAL LAW, AND SHALL TAKE, IN CONFORMITY WITH INTERNATIONAL LAW, THE APPROPRIATE MEASURES TO PREVENT THE RECRUITMENT, USE, FINANCING OR TRAINING OF MERCENARIES FOR THAT PURPOSE. -THE INTERNATIONAL CONVENTION AGAINST THE RECRUITMENT, USE, FINANCING AND TRAINING OF MERCENARIES. ARTICLE 5.

[Ukraine Granting Foreigners Combatant Status]

The Zelensky administration met the counter-arguments ready however. The mainstream legal backing for Ukraine was to provide the foreigners with Combatant Status through enlisting them in the Armed Forces of Ukraine in order for them to enjoy the POW privileges.

MEMBERS OF THE ARMED FORCES OF A PARTY TO A CONFLICT (OTHER THAN MEDICAL PERSONNEL AND CHAPLAINS COVERED BY ARTICLE 33 OF THE THIRD CONVENTION) ARE COMBATANTS, THAT IS TO SAY, THEY HAVE THE RIGHT TO PARTICIPATE DIRECTLY IN HOSTILITIES. – PROTOCOL ADDITIONAL TO THE GENEVA CONVENTIONS OF 12 AUGUST 1949, AND RELATING TO THE PROTECTION OF VICTIMS OF INTERNATIONAL ARMED CONFLICTS (PROTOCOL I),

By referring to the Presidential Decree No 248. and Convention (III) relative to the Treatment of Prisoners of War. Geneva, 12 August 1949. COMMENTARY OF 2020, ARTICLE 4: PRISONERS OF WAR Zelensky cancelled visa requirements, allowing foreigners to legally enter and be present on the territory of Ukraine in an easier way.

⁵⁹ The United Nations (n.d). What is Peacekeeping? <https://peacekeeping.un.org/en/what-is-peacekeeping>

⁶⁰ Human Rights Watch (2022). Russia: Respect the Rights of Prisoners of War. <https://www.hrw.org/news/2022/04/28/russia-respect-rights-prisoners-war>

FOREIGNERS, LEGALLY PRESENT ON THE TERRITORY OF UKRAINE, CAN BE ACCEPTED FOR MILITARY SERVICE ON CONTRACT WITH THE ARMED FORCES OF UKRAINE ON A VOLUNTARY BASIS. - PRESIDENTIAL DECREE NO. 248

977. THE REQUIREMENTS FOR MEMBERSHIP IN THE ARMED FORCES ARE NOT PRESCRIBED IN INTERNATIONAL LAW. RATHER, IT IS A MATTER OF DOMESTIC REGULATION. WHETHER A RESERVIST IS A MEMBER OF THE ARMED FORCES OF A PARTY TO THE CONFLICT ALSO DEPENDS ON DOMESTIC LAW. - CONVENTION (III) RELATIVE TO THE TREATMENT OF PRISONERS OF WAR. GENEVA, 12 AUGUST 1949. COMMENTARY OF 2020, ARTICLE 4: PRISONERS OF WAR

By enlisting the foreigners into the International Foreign Legion which being in the Territorial Defense Unit of the AFU fully discarded status of foreign terrorist fighters, mercenaries or any other than combatants and allowed them to enjoy the POW privileges.

PRISONERS OF WAR, IN THE SENSE OF THE PRESENT CONVENTION, ARE PERSONS BELONGING TO ONE OF THE FOLLOWING CATEGORIES, WHO HAVE FALLEN INTO THE POWER OF THE ENEMY:

(1) MEMBERS OF THE ARMED FORCES OF A PARTY TO THE CONFLICT AS WELL AS MEMBERS OF MILITIAS OR VOLUNTEER CORPS FORMING PART OF SUCH ARMED FORCES.

(2) MEMBERS OF OTHER MILITIAS AND MEMBERS OF OTHER VOLUNTEER CORPS, INCLUDING THOSE OF ORGANIZED RESISTANCE MOVEMENTS, BELONGING TO A PARTY TO THE CONFLICT AND OPERATING IN OR OUTSIDE THEIR OWN TERRITORY, EVEN IF THIS TERRITORY IS OCCUPIED - CONVENTION (III) RELATIVE TO THE TREATMENT OF PRISONERS OF WAR.

CONCLUSION

Foreigner involvement in faraway conflicts, their wartime experiences, and post-conflict trajectories have gained a lot of attention in the past. Foreign entrants' legal, political, and academic status have all been regularly evaluated. Disagreements over concepts such as combatants, mercenaries, foreign volunteers, foreign fighters, and foreign terrorist fighters might arise due to conceptual ambiguity (FTF). In the conflict between Ukraine and the Russian Federation, this was the scenario. The latter has been fiddling with the legal status of foreigners who join Ukraine in an attempt to dissuade their involvement in the conflict and escape the legal and political consequences of their activities.

Early in 2014, armed warfare broke out in eastern Ukraine, followed by Russia's invasion of Crimea. Russia's president, Vladimir Putin, has emphasized the importance of protecting the rights of Russians and Russian speakers in Crimea and southeast Ukraine. As a result of the battle, pro-Russian separatists in the Donetsk and Luhansk districts held a referendum to proclaim independence from Ukraine, escalating ethnic tensions. Russia's invasion of Ukraine in 2022, the first since the end of the cold war, poses a significant danger to European peace and security.

The Kremlin was well aware that a full-fledged war with Ukraine would be difficult to sell to the Russian people. Despite its imperial roots, the common perception of Ukraine as a brother country suggests that not everyone loves seeing Ukrainians suffer. As a result, the Kremlin insists on the campaign's categorization as a special operation and its portrayal as a struggle against Nazism. Putin has stated several times that the Ukrainian soldiers fighting Russian forces are neo-Nazi battalions, not regular military groups. As a result, individuals who join them are supporting Nazism indirectly.

Since February 21, 2022, when the Russian Federation formally recognized the so-called 'Donetsk People's Republic (DNR)' and the 'Luhansk People's Republic (LNR)' as separate republics, the Kremlin has failed to offer legal justification for its military assault in Ukraine. The Russian Federation, on the other hand, made a mistake, as UN CHARTER ARTICLE 51 explicitly specifies that military assistance is only available to UN members, and the DPR and the LPR were never recognized by the organization. The UN CHARTER ARTICLE 51, on the other hand, not only clearly granted Ukraine the right to defend its sovereignty with its own military capabilities, but it also provided legal support for President Zelensky's call for external assistance in various forms, including a call for foreigners interested in defending Ukraine.

The Zelensky administration, on the other hand, was prepared for the counter-arguments. The major legal support for Ukraine was to give foreigners combatant status by enlisting them in the Ukrainian armed forces so that they could benefit from POW rights. By citing Presidential Decree No. 248 and the Convention (III) on the Treatment of Prisoners of War. The 12th of August, 1949, in Geneva. ARTICLE 4 OF THE 2020 COMMENTARY: WAR PRISONERS Zelensky cancelled visa requirements, allowing foreigners to legally enter and be present on the territory of Ukraine in an easier way. By recruiting foreigners in the International Foreign Legion, which is part of the AFU's Territorial Defense Unit, they were stripped of their status as foreign terrorist fighters, mercenaries, or anybody other than combatants, and were granted POW status.

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APPENDICES

ANNEX 1: XRW Fighters, Left-Wing Extremists, Jihadists, Mercenaries and PMCs in the War

Some of the foreigners seem to have had links to far-right extremist groups before. Moreover, organizations such as, for example, Czechoslovak Soldiers in Reserve, Nordic Resistance Movement, Russian Imperial Movement used to send people to the conflict in order to train new violent skills that they would use back on the “home front” [1].

In 2022, Telegram is used by extreme left-wing individuals while seeking the ways to fight on the Ukrainian side. For its part, in Ukraine groups like “Resistance Committee” and “Black Flag Ukraine” are recruiting online [2].

With regard to mercenaries on the side of Russia, Wagner Group should be mentioned. For the recruitment of foreign fighters Social Media was actively used. For instance, Task Force Rusich, that is a far-right unit within Wagner group, recruited new members on VKontakte [3]. In March 2022 it became known that Russia was trying to find Syrian volunteers to act as guards on six-month contracts, for 200-300\$ in a month [4]. Already in May director of Syrian Observatory for Human Rights confirmed that around 40, 000 fighters from Syrian Army and its allied militias would fight alongside Russia in Ukraine. In addition, another 18, 000 soldier would join Wagner group [5]. It is important to note, that in March 2022 approximately 450 extremist Arab and foreign nationals arrived in Ukraine from Idlib to fight on Ukrainian side [6]. As it is known, most of them are veterans of the Syrian war, they had issues in Idlib and by fighting against of Russia in Ukraine they got an opportunity of having a new start and acceptable income. Around 300 of these fighters are from Idlib and Aleppo countryside, Syrian nationals and others are from Belgium, France, China, Morocco, Tunisia, Chechenia and the UK. The fighters are supposed to receive a salary around of 1200-1500\$ [7].

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