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The application of bilateral investment treaties in annexed territories : whose BITs are applicable in Crimea after its annexation ? / Katharina Wende

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Abstract:	This article analyses the applicability of bilateral investment treaties (BITs) in Crimea after the events of 2014, when the latter was annexed by the Russian Federation. More precisely, it is trying to answer the question whether Ukrainian or Russian BITs are to be applied as of the date of annexation. At first sight, it seems as if the annexation of Crimea resulted in a legal vacuum, in which investments on the peninsula are left unprotected. This is because States are not allowed to recognise the applicability of Russian BITs in Crimea as a consequence of the duty of non-recognition and Ukrainian BITs do not offer effective protection as any violations of BIT standards could not be attributed to Ukraine. Nevertheless, as this article shows, the law of treaties as well as the law of occupation may offer a way out of this legal vacuum with the result that not only Russian but also Ukrainian BITs may be applicable in the annexed territory of Crimea.
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