

RESOLUTION 2/2026

COMMITTEE ON USE OF FORCE: MILITARY ACTION WITH CONSENT

The 82nd Conference of the International Law Association, held in Vienna, Austria, 17–21 August 2026:

HAVING CONSIDERED the Final Report of the Committee on Use of Force: Military Action with Consent;

COMMENDS the Committee's Final Report to all those concerned with the international law on the use of force;

ADOPTS the Conclusions annexed to this Resolution, which should be read in conjunction with the Committee's Final Report;

CALLS on all States to observe strictly the rules of international law concerning the use of force, as well as all other applicable rules of international law relevant to conduct related to military action;

REQUESTS the Secretary-General of the Association to transmit this Resolution together with the Committee's Final Report to the Secretary-General of the United Nations for further distribution;

THANKS the Co-Chairs, Co-Rapporteurs and members of the Committee on Use of Force: Military Action with Consent for their work;

RECOMMENDS to the Executive Council that the Committee on Use of Force: Military Action with Consent, having accomplished its mandate, be dissolved.

CONCLUSIONS OF THE COMMITTEE ON USE OF FORCE: MILITARY ACTION WITH CONSENT

Terminology

For the purposes of these Conclusions (and consistent with the Committee's Final Report):

- **'military action with consent'** is defined as military action that would violate the prohibition of the use of force as enshrined in Article 2(4) of the United Nations Charter and customary international law absent the valid consent of the territorial State.
- **'territorial State'** refers to a State on the territory of which military action is undertaken by another State.
- **'acting State'** refers to a State that undertakes military action on the territory of another State. The term 'acting State' is used without prejudice to the fact that military action with consent can also, in certain circumstances, be undertaken by an international organisation.
- **'territory'** includes certain extraterritorial objects subject to a State's jurisdiction, such as military bases and vessels.

Conclusions

1. Military action that would otherwise violate the prohibition of the use of force does not engage the prohibition where that action is undertaken with the valid consent of the territorial State.
2. Consent to military action can only be provided by the territorial State. Non-State actors cannot provide valid consent to military action.
3. It is the government of the territorial State that possesses the authority to consent to military action. In cases where there are competing governmental claimants, any would-be acting State should proceed with particular care if considering undertaking military action based on the 'consent' of any entity claiming to possess governmental authority.
4. The identification of the person(s) or institution with the relevant authority to consent to military action must be determined on a case-by-case basis. There is a rebuttable presumption that consent to military action may be issued by the holders of the highest offices of the State.
5. Consent can only serve as a legal basis for military action if it is issued before the military action in question is undertaken.
 - a) Consent that is otherwise valid but issued after military action has commenced can act as a legal basis for that action from the point at which it is issued.
 - b) With respect to military action undertaken prior to the issuance of valid consent, that consent can only potentially contribute to establishing a waiver resulting in a

loss of the territorial State's right to invoke the responsibility of the acting State for the consequent breach of the prohibition of the use of force.

6. Consent to military action can be issued in an 'anticipatory' manner, whereby the territorial State agrees in advance that military action may be undertaken on its territory in specified circumstances. It may nonetheless be advisable for an acting State to seek additional contemporaneous consent to establish clearly the parameters of the consent that had been provided.
7. The issuance of consent to military action is not subject to any particular form or modality and can be express or implied. However, consent must in all cases be clearly established.
 - a) Express consent to military action can be issued in writing or orally.
 - b) Implied consent to military action can be communicated through words (whether written or oral), conduct (beyond silence and/or inaction alone), or a combination of both.
 - c) There is no legal requirement of 'publicity' in relation to the issuance of consent to military action.
8. The territorial State is free to set specific parameters, whether substantive and/or procedural, to its consent to military action. Consent can only serve as a legal basis for military action that remains within those parameters. Acting States should ensure that the limits and conditions of the consent are clearly established, and, in cases of ambiguity, should seek additional contemporaneous and/or express consent from the territorial State.
9. Consent to military action will be invalid where it was procured by coercion, whether against a State's representative or against the State as such, and may be vitiated by other defects, namely, error, fraud or corruption. In this connection, the rules concerning the validity of treaties apply in instances where consent has been issued in a treaty, and in other instances provide relevant guidance.
10. If consent to military action is expressed in a treaty that conflicts with a peremptory norm of general international law (*jus cogens*), that treaty cannot provide the basis for valid consent.
11. A State that has issued valid consent to military action has the right to withdraw that consent.
 - a) In general, the conditions for the valid withdrawal of consent to military action mirror those applicable to the valid issuance of consent.
 - b) Where consent to military action has been issued outside of a treaty, its withdrawal is not subject to any particular form or modality.
 - c) Where consent to military action has been issued in a treaty, such consent must be withdrawn in compliance with the applicable rules of the law of treaties.
 - d) Upon the valid withdrawal of consent, and subject to any binding treaty terms governing the withdrawal of consent, the acting State must cease its military action in an orderly and safe manner as rapidly as is possible.

12. The burden of proof for establishing the existence of valid consent to military action lies with the acting State. Evidentiary questions regarding the valid issuance of consent to military action must be considered on a case-by-case basis.
13. Legal considerations beyond those concerning the valid issuance of consent may be relevant to the lawfulness of conduct related to military action with consent. Particular regard must be paid to the following obligations, which remain unaffected by the issuance of valid consent. This list is indicative, not exhaustive.
 - a) Any obligations imposed by the United Nations Security Council in a binding decision;
 - b) The duty to refrain from action that deprives peoples of their right to self-determination;
 - c) Applicable rules of international humanitarian law, including the obligation to respect and ensure respect for the Geneva Conventions;
 - d) The obligation to prevent and punish, and to refrain from complicity in, genocide;
 - e) Applicable rules of international human rights law;
 - f) Applicable obligations under the Arms Trade Treaty regarding international transfers of conventional arms;
 - g) The obligation to cooperate to bring any serious breach of a peremptory norm of general international law (*jus cogens*) to an end using lawful means, to refrain from recognising as lawful a situation created by such a breach, and to refrain from rendering aid or assistance in maintaining the situation so created.
14. Where military action is undertaken with valid consent but conduct related to such military action violates other international legal obligations, such as (but not limited to) those listed in Conclusion 13, the validity of the consent is not affected, meaning that the acting State will not have violated the prohibition of the use of force. Any such violation constitutes a separate internationally wrongful act under the relevant applicable legal framework and involves legal consequences, including the obligation of cessation, in relation to the internationally wrongful act(s) in question.
15. Military action with consent undertaken in support of a territorial State that is committing internationally wrongful acts may give rise to the responsibility of the acting State for aiding or assisting those acts.
16. Military action undertaken without the valid consent of the territorial State, as determined by reference to Conclusions 2–12 (and in the absence of an alternative legal justification under the *jus ad bellum*) will constitute a violation of the prohibition of the use of force by the acting State. This applies to military action undertaken where no valid consent has been issued, military action that exceeds the parameters of valid consent as prescribed by the territorial State, and the continuation of military action following the valid withdrawal of consent beyond a reasonable period for the orderly and safe departure of troops.

17. Military action undertaken without the valid consent of the territorial State may constitute an act of aggression by the acting State and may give rise to individual responsibility for the crime of aggression.