

The EU Neighbourhood Policies and the Security Crises within the Eastern Neighbourhood

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Abstract

The European Union (EU) is in search of an appropriate and efficient framework of relations with its neighbours. Recent events show that the EU has failed to prevent escalating civil conflicts in many regions of Ukraine in the EU neighbourhood. This contribution scrutinizes the current EU external policies towards its Eastern neighbours. The first part of the chapter studies the scope and content of the European Neighbourhood Policy and the Eastern Partnership and their impact on security in the region. The second part of the paper analyses the impact of the EU neighbourhood policies on the 'post-Crimea' and 'post-Donbass' EU neighbourhood.

Keywords

neighbourhood – the European Union – Ukraine – security – conditionality – common values

1 Introduction

Unprecedented geopolitical and security changes culminating in a deep political crisis in Ukraine in 2014 have brought new challenges to the EU's external policy towards the East. It appears that the European Neighbourhood Policy (ENP) and the Eastern Partnership (EaP) have failed to prevent escalating civil conflict in Ukraine and the withdrawal of some of the EU's eastern neighbours from the course of European integration. The ENP was born in 2004 with the ambitious objective of avoiding the emergence of new dividing lines between the enlarged EU and the EU's neighbourhood and to strengthen prosperity, stability and security beyond the EU borders in line with the good neighbourliness principle. However, these objectives remain distant to this day. In the meantime, the EU's neighbourhood is an area of active and hidden civil conflicts, intricate border disputes and escalating security threats. Does this mean that the good neighbourliness principle has failed to play its role?

The first part of the article is devoted to a study of the scope and content of the ENP and the EaP and their impact on security in the region. The second part of the paper analyses the impact of the EU neighbourhood policies on the 'post-Crimea' and 'post-Donbass' EU neighbourhood.

2 European Neighbourhood Policy and the Good Neighbourliness Principle

The first draft of the ENP was outlined in the European Commission's Communication 'On Wider Europe' in March 2003, followed by a Strategy Paper on the ENP in May 2004.¹ Since then, the European Commission has made three proposals (in December 2006, in May 2011 and in May 2012) on how the ENP could be further strengthened and improved.² Today, the ENP framework formally embraces sixteen of the EU's closest geographical and 'political' neighbours – Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Occupied Palestinian Territory, Syria, Tunisia and Ukraine.

Gradually, the ENP was further enriched and supplemented with regional and multilateral cooperation initiatives:

1 Commission, 'Wider Europe – Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours' (Communication) COM (2003) 104 final (Wider Europe – Neighbourhood). For a detailed academic overview of the ENP see S. Blockmans and A. Lazowski, (eds.) *The European Union and its neighbours*, T.M.C. Asser Press, The Hague 2006. Also see Commission, 'Paving the way for a New Neighbourhood Instrument' (Communication) COM (2003) 393 final, Commission, 'European Neighbourhood Policy Strategy Paper' (Communication) COM (2004) 373 final (European Neighbourhood Policy Strategy Paper).

2 Communication, 'On Strengthening the European Neighbourhood Policy' (Communication) COM (2006) 726 final. The European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions 'A New Response to a Changing Neighbourhood' (Communication) COM (2011) 303 (A New Response to a Changing Neighbourhood). The European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions 'Delivering on a new Neighbourhood Policy' (Communication) JOIN (2012) 14 final.

the Eastern Partnership (launched in May 2009), the Union for the Mediterranean (the Euro-Mediterranean Partnership, formerly known as the Barcelona Process, re-launched in Paris in July 2008), the Black Sea Synergy (launched in February 2008) and the Partnership for Democracy and Shared Prosperity with the Southern Mediterranean (launched in March 2011).

The ENP embodies the philosophy of the EU external action towards its neighbourhood –to create “a ring of friends” surrounding the Union and its closest European neighbours, from Morocco to Russia and the Black Sea’ ‘sharing everything with the Union not institutions’.³ In a nutshell, the ENP offered the neighbouring countries a ‘privileged relationship’ with the EU based on a mutual commitment to common European values (democracy and human rights, the rule of law, good governance, market economy principles and sustainable development).⁴ The ultimate objectives of the ENP are political association and deeper economic integration; increased mobility and more people-to-people contacts; and access to the EU Internal Market. However, the achievement of the above objectives depends on the extent to which common European values are effectively shared by the neighbouring countries. The European Commission plays the role of being the ultimate arbiter of the extent to which these values are effectively shared by neighbouring countries by issuing yearly country reports. The structure and content of these country reports resemble the documents produced during the pre-accession processes of the countries of Central and Eastern Europe.

The ENP was devised as a complex instrument of EU external policy to ensure political, economic and security stability within the EU’s immediate borders. The security dimension of the ENP is represented by the principle of good neighbourliness. The ENP’s core objective is to establish a ‘privileged relationship’⁵ between the EU and its geographical and political neighbours ‘built on mutual commitment to common values principally within the fields of the rule of law, good governance, the respect for human rights, including minority rights, the promotion of *good neighbourly relations* (emphasis added)’.⁶ The ENP founding documents refer to the good neighbourliness principle in the context of the need for the settlement of conflicts between the EU’s neighbouring countries, which contributes to better security on the EU’s borders, thereby recognising the good neighbourliness principle as a part of the common European values to be shared by all EU neighbouring countries.⁷ However, the ENP does not extend the scope of application of the good neighbourliness principle beyond the EU neighbourhood, thereby creating a dividing line of sorts between the EU’s neighbouring countries and other third countries which are not embraced by the ENP. In other words, the ENP targets the promotion of good neighbourly relations only within the EU’s neighbouring countries and the EU. Therefore, it is unfortunate that the ENP did not envisage any sort of engagement on the effective implementation of the good neighbourliness principle with key regional and global security players such as the Russian Federation.

The ENP is an EU External Policy based on three core principles: differentiation, conditionality and joint ownership,

3 Speech by Romano Prodi, ‘A Wider Europe – A Proximity Policy as the key to stability’ at the Sixth ECSA-World Conference, ‘Peace, Security and Stability: International Dialogue and the Role of the EU’, Brussels, 5–6 December 2002, available at <http://europa.eu/rapid/press-release_SPEECH-02-619_en.htm>, last accessed 20 January 2015.

4 After the adoption of the Treaty of Lisbon the common European values are enshrined in Article 2 TEU: ‘The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail’.

5 As provided by the European Neighbourhood Policy Strategy Paper (n 1).

6 European Neighbourhood Policy Strategy Paper (n 1) 3.

7 For example, the ENP documents equate the promotion of the settlement of conflicts and the need to develop good neighbourly relations between the EU’s neighbouring countries – European Neighbourhood Policy Strategy Paper (n 1) 11.

and common values. These principles are applied during the course of bilateral relations between the EU and each neighbouring country. The principles of differentiation, conditionality and joint ownership ensure that any further progress in relations between the EU and its neighbouring countries can be developed, and more privileged and advanced relations can be built up, conditional on the neighbouring countries' progress within the ENP's action areas.⁸ Unfortunately, the ENP documents do not regard the good neighbourliness principle as a core principle of the ENP alongside the principles of differentiation, conditionality and joint ownership. Nevertheless, the good neighbourliness principle underpins the objective of the settlement of conflicts between the EU's neighbouring countries and constitutes the foundation of the common European values which must be shared by the parties to the ENP. Furthermore, the good neighbourliness principle arguably complements the core principles of the ENP.

2.1 *Action Plans, an Association Agenda and Association Agreements*

Bilateral Action Plans and Association Agenda (applied only towards Ukraine since November 2009) clarify the precise scope of the EU acquis to be adopted by a neighbouring state. For example, in the case of Ukraine, the aims of the ENP are: 1) the establishment of a free trade area between the EU and Ukraine; 2) access to selected segments of the EU Internal Market and the EU's 'financial packages'.⁹

In return for progress in the abovementioned fields the EU offers the neighbouring countries greater integration into European programmes and networks, increased technical and financial assistance, enhanced access to the EU Internal Market, improved cross-border cooperation with the EU and visa liberalisation. The implementation of the Action Plans by the neighbouring countries is closely monitored and regular progress reports are prepared by the European Commission.

The Action Plans do not refer to the principle of good neighbourliness but substitute it with 'cross-border cooperation and shared responsibility in conflict prevention'.¹⁰ For instance, the EU-Ukraine Action Plan calls upon Ukraine to solve the Transnistria conflict in Moldova but fails to envisage any common action to solve the border issues of Ukraine with Russia.¹¹ The good neighbourliness principle finds its further articulation in the new generation of EU Association Agreements (AA) with the eastern neighbouring countries. The EU-Ukraine AA is the first of a new generation of AAs to be concluded between the EU and the Eastern Partnership countries (Ukraine, Moldova, Belarus, Armenia, Azerbaijan and Georgia).¹² The negotiations on the EU-Ukraine AA were launched in September 2008 and successfully completed in December 2011. The political part of the EU-Ukraine AA was signed on 21 March 2014 in Brussels.¹³ As a whole text the EU-Ukraine AA (including the titles on sectoral cooperation and the Deep

8 E.g. European Neighbourhood Policy Strategy Paper (n 1) 3, 8.

9 Texts of the Action Plans and Association Agenda are available at <http://eeas.europa.eu/ENP/documents/action-plans/index_en.htm> last accessed 20 January 2015.

10 For example, see the EU-Ukraine Action Plan, available at <<http://www.enpi-info.eu/library/content/EU-ukraine-action-plan-0>> last accessed 20 January 2015 (EU-Ukraine Action Plan).

11 Para. 2.1 EU-Ukraine Action Plan (n 31).

12 Association Agreement between the European Union and its Member States, of the one part, and Ukraine of the other part, [2014] OJ L161/3 (EU-Ukraine Association Agreement).

13 In accordance with the Council Decision of 17 March [2014] OJ L161/1, the parties signed only the preamble, Article 1, title 1 (general principles), title 2 (political dialogue and cooperation in the field of foreign and security policy) and title 7 (common institutions and final provisions) of the EU-Ukraine Association Agreement. This is only a tiny part of the voluminous agreement. See A. Rettman, 'EU and Ukraine sign 2% of association treaty' <<http://euobserver.com/foreign/123574>> accessed 20 January 2015.

and Comprehensive Free Trade Area) was signed on 27 June 2014 in Brussels along with the AAs with Moldova and Georgia, and ratified by the European Parliament and the Parliament of Ukraine (Verhovna Rada) on 16 September 2014. The AAs essentially aim to deepen the political and economic relations between Ukraine, Moldova and Georgia and the EU through the establishment of an enhanced institutional framework and innovative provisions on regulatory and legislative approximation. The particular significance of the AAs is the ambition to establish a Deep and Comprehensive Free Trade Area (DCFTA), leading to the gradual and partial integration of Ukraine, Moldova and Georgia into the EU internal market.¹⁴ Accordingly, the AAs belong to the selected group of ‘integration-oriented agreements’, i.e. agreements including principles, concepts and provisions which are to be interpreted and applied as if Ukraine, Moldova and Georgia were acceding to the EU. The good neighbourliness principle was given a prominent place among the essential elements of the AAs between the EU and its eastern neighbours.¹⁵ Furthermore, this principle is encapsulated in the provisions of the AAs on regional stability, where it provides that ‘the Parties shall intensify their joint efforts to promote stability, security and democratic development in their common neighbourhood, and in particular to work together for the peaceful settlement of regional conflicts’.¹⁶ The regional stability provisions in the AAs between the EU and its eastern neighbours are tailored *ad hoc* to reflect specific countries’ security issues in line with the differentiation principle. For example, the article on regional stability in the EU-Moldova AA contains the commitment of the Parties ‘to a sustainable solution to a Transnistrian issue, in full respect of the sovereignty and territorial integrity of the Republic of Moldova’.¹⁷ A similar provision in the EU-Georgia AA underlines that the Parties ‘shall work towards peaceful settlement of the unresolved conflicts in the region’,¹⁸ thereby implying the frozen conflict between Georgia and Russia over Abkhazia and South Ossetia. However, the AAs are nowhere near to providing any firm commitments from the EU to provide any sort of military, financial or technical assistance in case of escalating security threats to the parties to the agreements.

Security Challenges in the Countries of the Eastern Partnership

The Eastern Partnership as a Case for Assessing the Effectiveness of the Good Neighbourliness Principle

The Eastern Partnership (EaP) was born as a regionally-tailored EU policy for the countries of Eastern Europe and the Southern Caucasus. Initiated in May 2009 at the Prague Summit, the EaP is intended to foster the conditions required to accelerate political association and further economic integration between the EU and Armenia,

14 For more detail see O. Spiliopolus ‘The EU-Ukraine Association Agreement as a Framework of Integration between the Two Parties’ in *Procedia Economics and Finance*, 2014, no. 9, pp. 256–263; P. Van Elsuwege, G. Van der Loo, and R. Petrov ‘The EU-Ukraine Association Agreement: Assessment of an Innovative Legal Instrument’ *EUI Working Papers*, 2014/09. Available at <<http://cadmus.eui.eu/handle/1814/32031>>, accessed 20 January 2015.

15 Article 2 EU-Ukraine Association Agreement (n 33), the EU-Georgia AA and the EU-Moldova AA provide that ‘Promotion of respect for the principles of sovereignty and territorial integrity, inviolability of borders and independence, as well as countering the proliferation of weapons of mass destruction, related materials and their means of delivery also constitute essential elements of this Agreement’.

16 Article 9 EU-Ukraine Association Agreement, Article 8 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and Georgia, of the other part, available at <http://eeas.europa.eu/georgia/assoagreement/assoagreement-2013_en.htm> last accessed 20 January 2015 (EU-Georgia Association Agreement), Article 8 Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, available at <http://eeas.europa.eu/moldova/assoagreement/assoagreement-2013_en.htm> last accessed 20 January 2015 (EU-Moldova Association Agreement).

17 Article 8 EU-Moldova Association Agreement (n 37).

18 Article 8 EU-Moldova Association Agreement (n 37). The text of the AA is available on the website of the EU External Action Service <http://eeas.europa.eu/georgia/assoagreement/assoagreement-2013_en.htm> last accessed 20 January 2015.

Azerbaijan, Belarus, Georgia, Moldova and Ukraine.¹⁹

Since its launch in 2009, the EaP has gone a long way in shaping the agenda of cooperation and answering the requirements of relations between the EU and its eastern neighbours.²⁰ The initiative has given rise to new platforms for dialogue at the government and expert level (thematic platforms), as well as in the fields of parliamentary and participatory democracy (Euronest; Civil Society Forum and the Conference of the Regional and Local Authorities).

The EaP enhances the scope of the 'shared values' concept by engaging the neighbouring countries to 'the commitment to common values'.²¹ For this purpose, the Action Plans and Association Agenda contain specific priorities intended to strengthen the commitment to shared values and to the adoption of the EU dynamic *acquis*. The pace of the eastern neighbouring countries' reforms aimed at the adoption of the EU *acquis* is being regularly monitored by the European Commission.

Unfortunately, the initial format of the EaP did not take into account a number of factors that eventually led to serious failures for the entire policy. First, the EaP completely ignored the 'Russian factor', failing to engage the Russian Federation (as an observer) at least in some of its action platforms. Instead the EU treated the Russian Federation with alternative external initiatives (EU Russia common spaces and Partnership for Modernisation).²² Unfortunately the EU failed to link the ENP and the EaP with tailor-made external initiatives towards the Russian Federation. In other words, the ENP and EaP and the EU initiatives towards the Russian Federation looked like competing projects with different objectives. It is argued that if the ENP and the EaP were equipped with the principle of differentiation (different approaches towards every neighbouring country) many security conflicts in the region would be prevented.²³ Consequently, the Russian Federation displayed great alienation from the EaP from the very beginning. It simply considered the EaP as a geopolitical project aimed at limiting the Russian sphere of influence over post-Soviet republics.²⁴ As a result, the Russian Federation gave expression to a lack of trust in the EaP in its response to the EU-Ukraine Association Agreement. In the course of the Ukrainian civil conflict in 2014 the Russian Federation stressed that it was necessary and just to be involved in the AA negotiations – especially with regard to the EU-Ukraine AA – and finally proposed numerous amendments to the association agreement

19 Commission and the European Parliament, 'Eastern Partnership' (Communication) com (2008) 823 final (Eastern Partnership). Joint Declaration of the Prague Eastern Partnership Summit (Prague, 7 May 2009) 8435 (Presse 78).

20 The EaP envisages stronger political engagement with the EU through: the prospect of a new generation of Association Agreements; integration into the EU economy with deep free trade agreements; easier travel to the EU through gradual visa liberalisation accompanied by measures to fight illegal immigration; enhanced energy security; increased financial assistance; deeper cooperation on environment and climate issues; increased people-to-people contacts and the greater involvement of civil society.

21 For instance, the ENP Strategy Paper provides: 'The privileged relationship with neighbours will build on mutual commitment to common values principally within the fields of the rule of law, good governance, the respect for human rights, including minority rights, the promotion of good neighbourly relations, and the principles of market economy and sustainable development': European Neighbourhood Policy Strategy Paper (n 1).

22 The EU-Russia 'common spaces' initiative was launched in May 2003 at the St. Petersburg Summit. The Partnership for Modernisation was launched in 2010 at the Rostov Summit. More information about these initiatives is available at <http://eeas.europa.eu/russia/index_en.htm>, last accessed 20 January 2015.

23 This argument is supported by the recent words of the High Representative/Vice President of the European Commission Ms Federica Mogherini on 4 March 2015 "We also need to understand better the different aspirations, values and interests of our partners. This is what the review is about if we are to have a robust political relationship between our neighbours and us." (Towards a new European Neighbourhood Policy: the EU launches a consultation on the future of its relations with neighbouring countries) <http://europa.eu/rapid/press-release_IP-15-4548_en.htm>, last accessed 20 March 2015.

24 S. Lavrov, 'State of the Union Russia-EU: Prospects for Partnership in the Changing World', in JCMS, 2013, 51, pp. 6-12.

with Ukraine on the eve of its ratification by the two parties.²⁵ As a result of Russian pressure, compounded by open military support for militant separatist groups in the East of Ukraine, the EU and Ukraine had to share the negotiation table with representatives of the Russian government. This process led to an unprecedented compromise. The EU and Ukraine agreed to postpone the establishment of the DCFTA between them for a year until January 2016. At the same time, the Russian Federation agreed to maintain free trade relations with Ukraine for the same duration.²⁶ It was one of the first occasions in the history of EU external relations when a third party intervened in the process of the implementation of a signed EU external agreement.

Second, the EaP documents pay very little attention to the external application of the good neighbourliness principle beyond the borders of the EU's eastern neighbouring countries. Instead, the EaP focuses on 'better governance of its Eastern borders', such as the Transnistria border between Moldova and Ukraine, and does not envisage any assistance to Georgia and Armenia in solving their border and security conflicts with Russia and Azerbaijan, respectively.²⁷ These shortcomings of the EaP seriously undermined any chance for the effective application of the good neighbourliness principle within and beyond the EU's eastern neighbourhood.

Security Challenges within the Countries of the Eastern Partnership and the Good Neighbourliness Principle

It has to be admitted that since the launch of the EaP, the good neighbourliness principle has not contributed to better stability and security in the region. On the contrary, the overall security situation in the EU's neighbouring countries has gradually deteriorated. Currently, almost all EaP countries have unresolved border security conflicts either with other EU neighbouring countries or with third countries (mainly with the Russian Federation).²⁸ A key EaP country, Ukraine has been plunged into a bloody civil conflict since April 2014.

Moldova is experiencing a prolonged conflict with its breakaway territory, Transnistria (the self-styled 'Pridnestrovian Moldovan Republic'). This territory is not recognised by any UN member and formally constitutes part of the Republic of Moldova (Transnistria autonomous territorial unit with special legal status). However, Transnistria is *de facto* an independent state with a strong Russian military presence.²⁹ The EU is engaged in solving the Transnistrian conflict via the European Border Assistance Mission to Moldova and Ukraine (EUBAM). This structure, as part of the EU Common Security and Defence Policy, helps to control traffic on the borders between Moldova and Ukraine around Transnistria to prevent illegal movements of people and goods from and to

25 Delphine d'Amora 'Russia Wants Say in EU-Ukraine Association', available at <<http://www.themoscowtimes.com/business/article/russia-wants-to-amend-EU-ukraine-association-deal/506064.html>>, last accessed 20 January 2015.

26 Joint Ministerial Statement on the Implementation of the EU-Ukraine AA/DCFTA of 12 September 2014, available at: <http://europa.eu/rapid/press-release_STATEMENT-14-276_en.htm> last accessed 20 January 2015. Joint Statement of the Council and the Commission on the EU-Ukraine AA of 29 September 2014, available at: <http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/EN/foraff/144955.pdf> last accessed 20 January 2015.

27 For instance, although the ENP Strategy Paper encourages the participation of the Russian Federation 'as a partner in regional cooperation' (European Neighbourhood Policy Strategy Paper (n 1)), the Commission's Communication of the EaP explicitly states that 'The European Union has a vital interest in seeing stability, better governance and economic development at its Eastern borders' (Eastern Partnership (n 40)) and omits any references to Russia in this context.

28 Namely, the dispute between Armenia and Azerbaijan over the status of the self-proclaimed and unrecognised Nagorno-Karabakh Republic; the armed conflict between Georgia and Russia over the breakaway areas of Abkhazia and South Ossetia; the conflict between Moldova and its breakaway territory, Transnistria; and the annexation of Crimea by Russia.

29 See, e.g. M. Wesley Shoemaker, *Russia and The Commonwealth of Independent States 2013: World Today*, Rowman & Littlefield Education, Lanham 2013.

Transnistria.³⁰

Armenia and Azerbaijan are in dispute over the status of the self-proclaimed and unrecognised Nagorno-Karabakh Republic. Conflict over this territory led to large-scale war between Armenia and Azerbaijan which ended in a ceasefire in 1994.

Georgia underwent an armed conflict with Russia over the breakaway areas of Abkhazia and South Ossetia. The conflict occurred in August 2008 and led to many casualties and the loss of control over Abkhazia and South Ossetia for Georgia.³¹ Currently, Russian troops are stationed in Abkhazia and South Ossetia and *de facto* control their territories.

The EU played quite a modest role in settling the conflict in the Caucasus, allowing some EU Member States to lead the peace process in the region.³² No sanctions were applied by the EU in the aftermath of the Georgian-Russian conflict.

However, the next and most recent security challenge within the EaP compelled the EU to act and to apply sanctions against one of the leading geopolitical players on the European continent – the Russian Federation. It happened after the self-proclaimed authorities of the Autonomous Republic of Crimea held an unrecognised referendum under Russian military occupation in March 2014. As a result, an integral part of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol – were annexed by the Russian Federation and incorporated as federated states on March 21, 2014. The fact of annexation is not recognised by Ukraine and the United Nations³³ and is universally considered as a blatant violation of public international law by the Russian Federation.³⁴

Following the turbulent events in Crimea, the EU decided to apply widescale sanctions against Russia. The EU sanctions led to a complete halt in EU-Russia relations (the suspension of bilateral talks on visa matters and on a new EU-Russia agreement, and the cancellation of the EU-Russia summit) and to imposing measures against ‘certain persons responsible for actions which undermine or threaten the territorial integrity, sovereignty and

30 X. Kurowska and B. Tallis, ‘Border Assistance Mission: Beyond Border Monitoring?’, in *EFARev.*, 2009, 14(1), pp. 47–64.

31 For more detail, see Independent International Fact-Finding Mission on the Conflict in Georgia, available at <<http://www.ceiig.ch>> last accessed 20 January 2015.

32 Syuzanna Vasilyan, ‘The External Legitimacy of the EU in the South Caucasus’, *EFARev.*, 2011, 16(3), pp. 341–357. Richard G. Whitman and Stefan Wolff, ‘The EU as a conflict manager? The case of Georgia and its implications’ (2010) 86(1) *International Affairs* 87–107. G. Christou, ‘Multilateralism, Conflict Prevention, and the Eastern Partnership’, in *EFARev.*, 2011, 16(3), pp. 207–225.

33 ‘Territorial Integrity of Ukraine’, UNGA Res. 68/262 (27 March 2014). In the meantime, only six countries (Afghanistan, Cuba, Nicaragua, Russia, Syria and Venezuela) have recognised the Republic of Crimea and Sevastopol as federal states of the Russian Federation.

34 For a legal assessment of the annexation of Crimea by the Russian Federation see A. Tancredi, ‘The Russian annexation of the Crimea: questions relating to the use of force’ and E. Milano, ‘The non-recognition of Russia’s annexation of Crimea: three different legal approaches and one unanswered question’, *Questions of International Law* on 11 May 2014, available at <<http://www.qil-qdi.org>> last accessed 20 January 2015.

independence of Ukraine' (travel bans and asset freezes).³⁵ The list of these persons is widening constantly and covers leading Ukrainian, Russian and Crimean politicians related to Crimea's annexation. The EU had to extend the scope of sanctions against Russia after the security situation in Ukraine drastically deteriorated in the late summer of 2014. The world was shocked when Malaysia Airline flight MH17 was shot down above the part of Eastern Ukraine controlled by pro-Russian separatists. This incident caused the loss of 298 lives and drastically deteriorated the security situation in the region and in the EU. Bloodshed between the Ukraine and the armies of the self-proclaimed 'peoples republics' of Donetsk and Lugansk led to several thousand casualties and about a million refugees from Eastern Ukraine.³⁶ The EU Member States were forced to speak with one voice to show their solidarity against direct Russian involvement in the civil conflict in Ukraine. As a result, the EU Member States agreed on a new level of sanctions against Russian and Ukrainian officials and nationals involved in supporting the separatist movement in the Donbass region of Ukraine. Previously, the EU's sanctions against Russia took the following forms: diplomatic measures (the cancellation of the EU-Russia political dialogue and a suspension of the G8); restrictive measures (asset freezes and visa bans on persons and entities responsible for actions against Ukraine's territorial integrity); restrictions for Crimea and Sevastopol; 'economic' sanctions against Russia (a prohibition on exports of arms, energy and military technologies and dual-use goods, and the freezing of economic cooperation).

It is too early to judge the effectiveness of the EU's sanctions at the time of writing this article. On the one hand, the mere fact that the EU applied sanctions provides a promising picture of the EU's solidarity with the EU neighbourhood when confronted by violations of international law. The threat of wide-scale retaliatory measures on the part of the Russian Federation against the EU did not prevent the application of 'economic' sanctions against it. On the other hand, the EU cannot afford immediate large-scale sanctions against its third largest trading partner, Russia, due to its adverse impact on the EU's economy, especially in the energy sector.

The EU sanctions were announced by an unanimous decision of all the EU Member States on the basis of Article 215 TFEU as part of the CFSP. This fact represents the evident solidarity of all EU Member States facing a violation of the territorial integrity of one of their nearest neighbours, on the cusp of entering into association relations with the EU. Nevertheless, neither of the EU's acts of sanction against the Russian Federation refer to the good neighbourliness principle. This shows that the EU does not consider the violation of the good neighbourliness principle as a legitimate basis for sanctions and is not inclined to extend the application of this principle beyond the territory of its neighbouring countries.

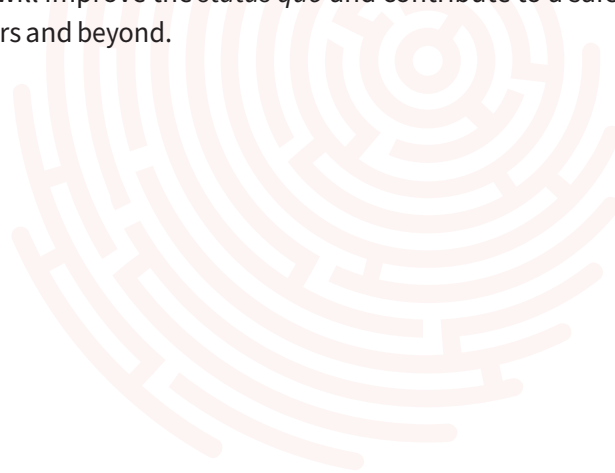
4 Concluding Remarks


Having outlined the impact of the EU's neighbourhood policies on the security crises within the Eastern Neighbourhood we can make some concluding remarks.

35 Council Regulation (EU) No 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, [2014] oJ L78/6 amended by Council Regulation (EU) No 476/2014 of 12 May 2014 (oJ L137), Council Regulation (EU) No 783/2014 of 18 July 2014, [2014] oJ L214/2, Council Regulations (EU) No 810/2014 and No 811/2014 of 25 July 2014, [2014] oJ L221/11, Council Regulation (EU) No 959/2014 of 08 September 2014, [2014] oJ L271/1, Council Implementing Regulation (EU) No 961/2014 of 12 May 2014, [2014] oJ L271/8. Council Decision 2014/145/cfsp concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine, [2014] oJ L78/16 amended by Council Decision 2014/265/cfsp of 12 May 2014, [2014] oJ L137/9. Council Decision 2014/119/cfsp concerning restrictive measures directed against certain persons, entities and bodies in view of the situation in Ukraine, [2014] oJ L66/26. Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, [2014] oJ L229/1, amended by Council Regulation (EU) No 960/2014 of 08 September 2014, [2014] oJ L271/2.

36 UN Report on the human rights situation in Ukraine of 17 August 2014, available at <<http://www.ohchr.org/Documents/Countries/UA/UkraineReport28August2014.pdf>> accessed 20 January 2015.

The ENP was devised as a framework EU policy towards its immediate neighbours based on core principles of differentiation, conditionality, joint ownership and adherence to common values. Formally, the good neighbourliness principle complements the ENP's core principles and thereby occupies an important place within the framework of the ENP and the EU's regional policies. In practice, many of the ENP's objectives, including the effective application of the good neighbourliness principle, have not been successfully achieved. For instance, the ENP has not prevented the escalation of old and new border and security conflicts within and beyond the EU's neighbourhood (consider the Georgia-Russia war, the annexation of Crimea and separatist military conflict in the East of Ukraine). One of the reasons for this is that the ENP contains declaratory means and, unfortunately, does not offer practical tools for solving security crises. For instance, the ENP has failed to engage the parties in the effective sharing of the good neighbourliness principle, especially in relation to the Caucasus region. Instead, most of the ENP's human and financial resources have been invested in ensuring secure control over the EU's eastern and southern borders. It seems logical, therefore, to encourage a better engagement of the neighbouring countries into a truly collaborative implementation of the good neighbourliness principle within the EU and beyond. One way to achieve this is to converge efforts to solve existing security crises and to prevent future security challenges within and beyond the EU's neighbourhood in cooperation with key security players in the region. The new generation of AAs between the EU and the eastern neighbouring countries places the good neighbourliness principle among the essential elements of the agreements. Therefore, it offers some hope that the new regulatory framework offered by the AAs will improve the *status quo* and contribute to a safe and good neighbourly 'circle of friends' around the EU's borders and beyond.





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