CRISIS MANAGEMENT INSTEAD OF PEACEKEEPING: EU SECURITY LAW TRANSFORMATION IN THE CONTEXT OF RUSSIAN ARMED AGGRESSION IN UKRAINE

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Abstract: *The article considers the conceptual framework of EU security law and its realization in crisis management strategy, approaches to Eastern Europe and Ukrainian security issues, sanctions against Russia, EU missions to Ukraine. The object of the study is to distinguish and reconstruct the most important concepts underlying the security law of the EU, the legal ideology thereof and its implementation in the situation of Russian-Ukrainian armed conflict. The same way, the study provides a new key to understand the principal conceptual transformations of the international security law. The study shows that EU has implemented a wide range of non-military peacekeeping / anti-crisis instruments of its foreign policy in response to Russia's armed aggression against Ukraine, in particular, political, diplomatic, economic, trade, civilian operational. And they should not be derogated. But, given the general features of the development of the Union's foreign and security law and policy, there is no reason to expect that the Union will play a crucial role in restoring Ukraine's territorial integrity. Instead, as the authors propose, the intentions, potential and tools of the EU's "soft power", including the potential of two functioning EU missions, should be fully exploited to de-escalate the crisis, enhance the resilience and economic development of the Ukrainian state, and manage conflicts in Ukrainian society. That could be the proper way to implement positively the new international security law paradigm potential.*

Keywords: *international security law, peacekeeping, crisis management, mission, aggression, territorial integrity*

I. INTRODUCTION

The aggression of the Russian Federation against Ukraine, which lasts for more than five years, has led to irreparable losses – the death of thousands of soldiers and civilians, infinitely more people have been maimed or tortured, deprived of their housing, means of subsistence, forced to move to other places. The losses of infrastructure, economy, culture of the society are enormous. It is no exaggeration to claim that the very existence of Ukraine as a sovereign state has been questioned, and the political, social, economic, psychological trauma already inflicted by Russian aggression will be felt for a very long time – not years, but generations. But the biggest challenge is that the algorithm for stopping aggression and restoring Ukraine's territorial integrity has not yet been invented.

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One of the means of achieving this goal many Ukrainian and foreign experts consider to be the use of international peacekeeping mechanisms. This idea with varying degrees of intensity has been discussed in official discourse and expert circles and requires comprehensive scientific and analytical support – legal, political, military – but there is little relevant research on the specific situation, at least in open access. The discussion of these issues, unfortunately, often remains superficial or engaged.

The object of the study is to distinguish and reconstruct the most important concepts underlying the security law of the EU, the legal ideology thereof and its implementation in the situation of Russian-Ukrainian armed conflict. The same way, the study' aim is to clarify the principal conceptual transformations of the international security law.

European peacekeeping

Modern international law creates opportunities for the peacekeeping activities of international regional and sub-regional organizations. The UN Charter and other acts of this organization provide sufficient legal grounds for carrying out such activities, including coercive acts, under UN Security Council the sanction and control. Moreover, since the 1990s, the development of such "regional action" may be considered part of the UN's peacekeeping strategy, which implies decentralized decision-making, delegation of powers and cooperation with regional organizations. This is accompanied with the UN recognition of the international regional organizations' competence and responsibility in carrying out peacekeeping activities while maintaining the decisive powers of the UN Security Council.

With a view to make use the peacekeeping potential of international regional organizations, the UN acts have been developed the concepts of implementing "partnership peacekeeping": transition of peacekeeping operations/missions from one organization to another, including changing their nature and mandate; hybrid operations carried out jointly by the UN and one or more regional organizations with a division of responsibility; systematic partnerships with regional organizations that establish permanent foundations for engagement; "comparable advantages", which allows to identify the specific potential of organizations and their effective combination in order to achieve better results, optimize efforts and save resources.[1]

The European Union has been active in peacekeeping/anti-crisis activities since 2003. The institutional structure of the EU's Common Foreign and Security Policy has evolved especially in the last ten years (after the entry into force of the 2007 Treaty of Lisbon), still in the making and cannot be declared complete. Similarly, the continued funding for missions and operations in the field of CSDP issue remains in the process of resolution.

The *Common Foreign and Security Policy (CFSP)* of the EU as a whole and in particular the *Common Security and Defense Policy (CSDP)* are provided by both intergovernmental

[1] KRESIN, O.V. (ed.). *Peacekeeping Operations in Ukraine.* London: Wildy, Simmonds & Hill, 2019.

and supranational institutions, but decision-making remains intergovernmental, requires consensus on fundamental issues and qualified majority on their implementation. Joint bodies in these spheres have executive character.[2]

Concept of crisis management instead of peacekeeping

But a key concept for understanding the contemporary transformation of international security law is actual replacement of peacekeeping with crisis management that is unobserved by many analytics. In fact, peacekeeping has become part of crisis management, initially developed in the doctrine of international relations and later reflected in the legal acts of a number of states and international organizations, including the UN, EU, OSCE and NATO. In particular, the 2016 UN General Assembly and UNSC Resolution on the UN peacebuilding architecture review proposed a new vision of the sustaining peace essence as "goal and a process to build a common vision of a society, ensuring that the needs of all segments of the population are taken into account, which encompasses activities aimed at preventing the outbreak, escalation, continuation and recurrence of conflict, addressing root causes, assisting parties to conflict to end hostilities, ensuring national reconciliation, and moving towards recovery, reconstruction and development."[3] The like position reflects the study "Strategic crisis management", commissioned and overseen by the Secretariat of the Organization for Economic Cooperation and Development.[4]

Crisis management is a complex activity that proceeds from the idea of the naturalness and inevitability of conflicts in any society, the similarity and cyclical nature of crises development as manifestation of conflicts exacerbation, and encompasses prevention, de-escalation and crisis resolution. Its features are: relying mainly on civilian means (military means being avoided altogether or subject to civil means; force / coercion may apply only to non-state actors and only for de-escalation and the protection of civilians and not to the win of the state), focus on structural and institutional crisis prevention, conflict transformation and lasting social change.

This concept is characterized by the presumption of the overriding importance of domestic causes of the crisis (dysfunction of power in "fragile states", as well as unexpected or very powerful social, economic, resource challenges). For example, as mentioned in the report by the Carnegie Endowment Commission "Preventing Deadly Conflict" (1998),

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[2] Decision 2010/427/EU of 26 July 2010 establishing the organization and functioning of the European External Action Service, *OJ* [2010] L 201/30; EUROPEAN EXTERNAL ACTION SERVICE. EU Concept for Military Planning at the Political and Strategic Level (CSDP/PSDC 549 COSDP 762). In: *European Council* [online]. 23. 2. 2015 [2021-01-25]. Available at: <http://data.consilium.europa.eu/doc/document/ST-6432-2015-INIT/en/pdf>; *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* Brussels: EU, 2016, p. 47-48; European Peace Facility – An EU off-budget fund to build peace and strengthen international security. In: *EEAS* [online]. 2. 6. 2020 [2021-01-25]. Available at: <https://eeas.europa.eu/headquarters/headquarters-homepage/46285/european-peace-facility-eu-budget-fund-build-peace-and-strengthen-international-security_en>; *The European Union's Global Strategy. Three Years on, Looking Forward.* Brussels: EU, 2019.

[3] Resolution of General Assembly A/RES/70/262 of 27 April 2016. Review of the United Nations peacebuilding architecture; Resolution of Security Council S/RES/2282 of 27 April 2016.

[4] BAUBION, C. OECD risk management: Strategic crisis management. *OECD Working Papers on Public Governance.* 2013, Vol. 23.

conflicts within the state, regardless of the involvement of other states, always have a number of internal prerequisites that can be used by political demagogues, including "weak, corrupt, or collapsed states; illegitimate or repressive regimes; acute discrimination against ethnic or other social groups; poorly managed religious, cultural, or ethnic differences; politically active religious communities that promote hostile and divisive messages; political and economic legacies of colonialism or the Cold War; sudden economic and political shifts; widespread illiteracy, disease, and disability; lack of resources such as water and arable land; large stores of weapons and ammunition; and threatening regional relationships."[5]

Therefore, the main focus in crisis management is on strengthening the state and developing society, in particular on modernization through reforms, dialogue and trust within society and between society and government. The state remains responsible for resolving the conflict, and the international organization supports it, but does not take responsibility. This approach also lacks the algorithm for resolving hybrid conflicts and allows for the recognition of non-state actors of the crisis as parties to the conflict.[6] For example, the 2004 German governmental *Aktionsplan* states that "fragile states", often with "rudimentary state structures" (that is, outdated and ineffective), threaten destabilization, capable of causing crisis all the time, as well as a new type of war with non-state actors (warlords, militias, bandits, criminal gangs and terrorists, mercenaries and private military campaigns), interested in maintaining long-lasting conflict for the smooth implementation of the illegal activity. To counteract such conflicts with the transformed essence, the document proposes a "comprehensive approach" that provides for international and national civilian instruments to improve the socio-economic situation and strengthen the state capacity of "fragile" states.[7] The 2006 German Defense Ministry Strategy Paper directly foresees the possibility of a re-establishment of the state (nation-building) in the context of crisis management.[8]

There is some contradiction in these features of the crisis management concept. The state itself is blamed for the emergence of the preconditions of the crisis, these are largely related to the "fragility", "failure" or "collapse" of the state, which causes a "power vacuum" and the possibility of emergence of strong non-state actors as rivals of the state. The latter appeals for assistance in restoring its integrity and normal functioning to international organizations, but they see crisis resolution to be a responsibility of the state itself. To some extent, the paradox is removed by another feature of crisis management concept – the focus of international organizations' efforts on strengthening the state through reforms, in particular, of the security sector, as well as on other assistance to the state and society, which may include re-establishment the state if necessary. Such an impact, not on the conflict/crisis itself, but on the development of the

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[5] *Preventing Deadly Conflict: Final Report*. New York: Carnegie Corporation of New York, 1997, p. 26.

[6] Ibid., p. 39; TARDY, T. CSDP in action – what contribution to international security? *ISSUE. Chailot paper*. 2015, Issue 1, pp. 10, 23.

[7] BRUNE, S. C., KOVACS, A., REDING, A., PENNY, M. *Crisis and conflict prevention strategies. An international comparison*. Santa Monica, California, Cambridge: RAND Corporation, 2015, p. 76.

[8] Ibid., p. 77.

state, institutional modernization of the latter, may involve elements of interference with its sovereign functions and external governance establishment. Probable strengthening of the state could stop the conflict spread, but not directly provide for its settlement, and together with other features of crisis management can lead to the strengthening and partial legitimizing the opponent of state and freeze the conflict as a temporary crisis de-escalation.

II. EU SECURITY LAW AND PEACEBUILDING STRATEGY

Means

The EU's peacebuilding / conflict management means are divided into political, diplomatic, military, civilian, trade and development support. All military and partly civilian means and development support are covered by operational activities under the CSDP. It can be divided into civilian missions and military operations, as well as non-executive and executive missions and operations.[9]

The priority of EU peacekeeping / crisis management is crisis prevention and post-conflict stabilization, and there is no clear line between them in Union's security law. Such activities shall be carried out with the consent of the receiving State. The EU offers the so-called broad or integrative approach in this area, involving long-term actions aimed at: studying and eliminating the root national causes of conflict exacerbation, economic recovery and development, strengthening and modernizing the State's functions performance. Preferably means of such activities are non-executive advisory civilian capacity building missions as well as non-operation tools (trade and support of development). It also provides for the temporary fulfillment of certain functions by executive missions or even the re-establishment of state power ("rebuilding the social contract") to ensure inclusive democracy on the basis of European values considered by the EU as universal.[10]

At the same time, the EU is actively developing its military peacebuilding / crisis management means. Among the successes – the formation of joint headquarters structures several years ago, as well as the battle groups creation. The benchmarks in this area are the rapid deployment of troops, the quality of personnel, technical and logistical solutions,

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[9] COUNCIL OF THE EUROPEAN UNION. *European Security Strategy. A Secure Europe in a Better World.* Brussels: European Communities, 2009; Implementation Plan on Security and Defence. Note to the Council from High Representative of the Union for Foreign Affairs and Security Police. No. 14392/16. In: *European External Action Service* [online]. 14. 11. 2016 [2021-01-29]. Available at: <https://eeas.europa.eu/sites/eeas/files/eugs_implementation_plan_st14392.en16_0.pdf>.

[10] *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* pp. 9–10, 18, 28–29; *Implementation Plan on Security and Defence;* Presidency Report on Strengthening the Common European Security and Defence Policy. Santa Maria da Feira European Council. 19-20.06.2000. Conclusions of the Presidency. In: *European Parliament* [online]. 20. 6. 2000 [2021-01-29]. Available at: <http://www.europarl.europa.eu/summits/fei2_en.htm>; COUNCIL OF THE EUROPEAN UNION. Civilian Headline Goal 2008. In: *European Council* [online]. 7. 12. 2004 [2021-01-29]. Available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2015863%202004%20INIT>; *The European Union's Global Strategy. Three Years on, Looking Forward.* Brussels: EU, 2019.

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the third countries involvement in the operations, and the ability to carry military executive operations.[11]

Concepts Underlying EU Security Law

We have separated and categorized several key interconnected and flowing from one another concepts in EU security law that are repeated, developed, emphasized and together define the CFSP, and in particular the CSDP benchmarks.

1. Self-sufficiency. One of the constantly emphasized concepts is the EU "strategic autonomy", "cooperative autonomy" in decision-making and activities in the field of CSDP.[12] This concept is revealed in particular as the ability of the EU to "act and cooperate with international and regional partners wherever possible, while being able to operate autonomously when and where necessary,"[13] "to take full responsibility for our own security – something we have never managed to do in history."[14] But the EU's requirement of emancipation from NATO and the declaration of strategic partnership and engagement with the latter are constantly met together, sometimes moderated by the concepts of "responsibility" and "multilateralism."[15] In the New Strategic Agenda 2019–2024 this relationship is revealed through the European interests' priority, strengthening of responsibility for own security and defense (increasing investment in defense, capacity development, operational readiness); this implies cooperation with NATO, but the EU decision-making process autonomy.[16]

2. Corporate interests. The EU acts clearly trace the idea of a "philosophy of principled pragmatism" into the CSDP field, "identification of concrete targets … on a pragmatic, bottom-up approach, … and reflecting the political concerns of the European Council."[17] This concept is refined as pragmatism, but one that is in line with EU values.[18] Certainly, the philosophy of pragmatism involves a self-centered policy whereby the EU security and interests imperative must be taken into account more than a possible contribution to international peace and the dissemination of the Union's values.[19]

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[11] Headline Goal 2010. In: *European Parliament* [online]. 17. 5. 2004 [2021-01-29]. Available at: <http://www.eu­roparl.europa.eu/meetdocs/2004_2009/documents/dv/sede110705headlinegoal2010_/sede110705headline­goal2010_en.pdf>; *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*. p. 12, 34; *Implementation Plan on Security and Defence*.

[12] *Presidency Report on Strengthening the Common European Security and Defence Policy*; *European Security Strategy. A Secure Europe in a Better World*; *The European Union's Global Strategy. Three Years on, Looking Forward*. p. 10.

[13] *Implementation Plan on Security and Defence*; *The European Union's Global Strategy. Three Years on, Looking Forward*. p. 30.

[14] Speech by High Representative/Vice-President Federica Mogherini at the annual conference of the European Union Institute for Security Studies. In: *European External Action Service* [online]. 4. 10. 2019 [2021-01-29]. Available at: <https://eeas.europa.eu/headquarters/headquarters-homepage/68391/speech-high-representative-vice-president-federica-mogherini-annual-conference-european-union_en>.

[15] Ibid.; *European Security Strategy. A Secure Europe in a Better World*; A New Strategic Agenda 2019-2024. In: *European Council* [online]. [2021-01-29]. Available at: <https://www.consilium.europa.eu/media/39914/a-new-strategic-agenda-2019-2024.pdf>.

[16] *A New Strategic Agenda 2019–2024*.

[17] *Presidency Report on Strengthening the Common European Security and Defence Policy*; *The European Union's Global Strategy. Three Years on, Looking Forward*. p. 8, 10.

[18] *The European Union's Global Strategy. Three Years on, Looking Forward*. p. 31.

[19] TARDY, T. Revisiting the EU's security partnerships. *Brief ISSUE*. 2018, No. 1, pp. 2–4.

3. Area of responsibility. In the EU acts partly directly and partly implicitly vision presented of security in the world and "global governance" through regional ("cooperative") security orders – with preserving the leading role of the UN.[20] EU Global Strategy 2016 presented the Union as one that is gradually becoming the "European security order" basis, intending to assume, in cooperation with the OSCE and NATO, the responsibility for the security of Europe and neighboring regions in the future and only in rare cases will distribute its crises management activities to other regions of the world, but instead will support the development of other regional security orders.[21]

Notwithstanding specified partnership and confirmation of key OSCE role in European security architecture emphasis is made on the EU responsibility in this area and this region.[22] The European Council decision of 6 March 2014, adopted in the context of countering Russia's aggression against Ukraine, stated that the EU has a "special responsibility" for the peace, stability and prosperity of European continent, including the suppression of aggression acts.[23]

4. Area of influence. One of the EU concepts can be called the defense on the distant frontiers. As 2003 European Security Strategy stated, "Our traditional concept of self-defense – up to and including the Cold War – was based on the threat of invasion. With the new threats, the first line of defense will often be abroad."[24]

Another related concept is ensuring internal security through external activities. In the preface to the 2016 Global Strategy the High Representative of the EU for Foreign Affairs and Security Policy Federica Mogherini said that the current instability and threats increase around the EU questions the purpose and very existence thereof, pointed on close domestic and foreign policy interconnection, in which "our security at home entails a parallel interest in peace in our neighboring and surrounding regions."[25] According to the 2016 Implementation Plan on Security and Defense, one of the CSDP priorities is to ensure EU internal security through external operations.[26] Related is a safe neighborhood idea that involves maintaining the stability of neighbor States. The CSDP missions and operations are aimed at "capacity building of partners", that is, enhancing their resilience and stability during periods of post-conflict recovery, conflict or instability threat.[27]

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[20] *European Security Strategy. A Secure Europe in a Better World; Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* p. 33.

[21] *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* p. 33.

[22] *Implementation Plan on Security and Defence.*

[23] Remarks by President of the European Council Herman Van Rompuy following the extraordinary meeting of EU Heads of State or Government on Ukraine. In: *President of the European Council* [online]. 6. 3. 2014 [2021-01-29]. Available at: <https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/141373.pdf>.

[24] *European Security Strategy. A Secure Europe in a Better World.*

[25] *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* p. 4, 14.

[26] *Implementation Plan on Security and Defence.*

[27] Ibid.

However, all these contradict to recent EU definition as a "cooperative global force," "global security provider", an assertion of its "global role", the need for its global involvement in security and defense.[28]

5. Soft power (soft security approach). Peacekeeping itself is present in EU acts only between the lines and in specific manifestations; it is ignored as an independent phenomenon. The notion "peacekeeping" almost disappeared. Its entire sphere, including the establishment of peace and post-conflict stabilization, had been covered by "civil and military management of conflicts" or crisis management framework.[29]

Researchers point out that the "crisis management" concept in EU acts is not clearly defined.[30] As T. Tardy summarized, the EU crisis management missions and operations "are seldom the solution to the crisis considered. At best they create the space for a political settlement to be reached, but are not per se conflict resolution mechanisms."[31]

In spite the active development of the CSDP military aspects, the EU's presumption remains: the new threats are not purely military and cannot be repelled by purely military means, they need a mix of tools.[32] As the 2003 European Security Strategy outlined, the UN's role in maintaining international peace and security is central, and the EU in cooperation with the UN should focus on post-conflict issues and "short-term crisis management situations."[33]

Some emphasis on all-encompassing responsibility of the EU and insufficiency of only "soft power" in CSDP sphere,[34] the EU's capacity "to act at all stages of the conflict cycle"[35] still do not essentially change the distinct orientation of the EU in crises preventing and resolving on institutional development or reconstruction through consultative and financial assistance and other civilian facilities. In EU acts this is reflected in the idea of focusing on "areas where the international community so far has demonstrated weaknesses", "the ability to act whenever we can provide unique added value in responding to a particular situation, because we have a particular set of instruments and tools that others do not have."[36]

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[28] Council Conclusions Reinforcing the UN-EU Strategic Partnership on Peace Operations and Crisis Management: Priorities 2019-2021. Joint Press Statement. In: *Council of the European Union* [online]. 18. 9. 2018 [2021-01-29]. Available at: <https://www.consilium.europa.eu/media/36432/st12264-en18.pdf>.
The European Union's Global Strategy. Three Years on, Looking Forward. p. 8, 10; Speech by High Representative, supra note 15.

[29] *Civilian Headline Goal 2008*; *Implementation Plan on Security and Defence*. p. 9.

[30] TARDY, T. *CSDP in action – what contribution to international security?* p. 39; АРБАТОВА, Н.К. ЕС и кризисное регулирование. In: АРБАТОВА, Н.К., КОКЕЕВ, А.М. (ред.). *ЕС и региональные конфликты*. Москва: ИМЭМО, 2011, p. 12.

[31] TARDY T. *CSDP in action – what contribution to international security?* p. 23.

[32] *European Security Strategy. A Secure Europe in a Better World*.

[33] Ibid.

[34] As High Representative F. Mogherini noted in the Foreword to 2016 Global Strategy, "the idea that Europe is an exclusively "civilian power" does not do justice to an evolving reality". MOGHERINI, F. Foreword. In: *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*. p. 4; MOGHERINI, F. Foreword. In: *The European Union's Global Strategy*. p. 4.

[35] *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy*. p. 9–10, 18, 28–29; *Implementation Plan on Security and Defence*. p. 3, 9.

[36] *Presidency Report on Strengthening the Common European Security and Defence Policy; Speech by High Representative/Vice-President Federica Mogherini at the annual conference of the European Union Institute for Security Studies*.

As highlighted in a recent document, there are "fragile states" already affected by conflicts/crises, often protracted, or constantly threatened with them. With respect to such states and conflicts/crises, there are "no quick fix solutions" and "constant investment and engagement over time" is needed, which either brings positive development or simply does not allow the situation become worse. At the same time, such "supporting stability" does not mean the preservation of the imperfect, sometimes authoritarian, regime, and implies the development of state and social institutions. Ukraine and other Eastern partners are directly pointed as examples.[37]

III. SECURITY ISSUES OF EASTERN EUROPE AND UKRAINE IN EU POLICY

The attitudes

In many respects the attitude of the EU towards Ukraine for many years had been defined throw mentioned strategic concepts, including safe neighborhood, because "even in an era of globalization, geography is still important."[38] In the 2003 European Security Strategy the inexpediency was proclaimed of neighboring countries integration in case if it moves the EU borders closer to dangerous regions or creating new dividing lines in Europe. Instead the document proposes the countries circles with good governance formation around the Union to develop close relationships and collaboration. One of the priorities specified was conflicts prevention in neighboring countries and regions, and peaceful conflicts management promotion in the Caucasus, Middle East, Southern Mediterranean and the Arab world.[39] According to the Treaty of the European Union, as amended by the 2007 Treaty of Lisbon, "The Union shall develop a special relationship with neighboring countries, aiming to establish an area of prosperity and good neighborliness, founded on the values of the Union and characterized by close and peaceful relations based on cooperation" (Article 8).

The EU-Ukraine Association Agreement, the political part of which was signed on March 21, 2014, effective September 1, 2017, sets out in section 2 the objectives of the parties, including the promotion of international stability and security, the principles of independence, sovereignty, territorial integrity, and inviolability of borders, cooperation in the field of security and defense (Articles 4, 7, 9).

The 2016 Global Strategy indicated as one of the CFSP main priorities the resilience of states and societies to the East and South of the EU. And, as already noted, the EU intention in future to take responsibility for the European and neighboring regions security, participate in the Eastern Partnership countries protracted conflicts solution, willingness to invest in conflicts prevention and long-term involvement in post-conflict stabilization.[40] The Strategy states that to the East of the EU, "the European security order has been violated". The principled challenges to this order are called, in particular, unacceptable

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[37] *The European Union's Global Strategy. Three Years on, Looking Forward.* pp. 22–23.
[38] Ibid.
[39] Ibid.
[40] *Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign and Security Policy.* p. 18, 28–29.

violations of international law through annexation of Crimea and the "destabilization of Ukraine" by Russia, as well as protracted conflicts in the region around the Black Sea.[41] Priority is given to strengthening the stability of the EU's eastern neighbors and "uphold their right to determine freely their approach towards the EU." However, given the interdependence between the EU and Russia, it is proposed to discuss differences and cooperate in areas where the interests of both intersect.[42]

According to the 2016 "Implementation Plan on Security and Defense", the purpose of CSDP missions and operations is the "capacity building of partners", i.e. strengthening their resilience and stability during periods of recovery after or in threat of conflicts or instability. A clear geographical priority for CSDP activities is called "surrounding regions", proposed are to improve neighborhood policy and cooperate with partners among neighboring countries.[43]

The 2019 report on the three years of the Global Strategy implementation emphasizes the support for the territorial integrity of Ukraine and the peaceful resolution of the conflict in Eastern Ukraine. The package of assistance provided by the Union to Ukraine since 2014 is defined as unprecedented in scope and the Association Agreement as the most ambitious of the EU's with any partner country.[44] Document points on a double-track approach to Russia, which remains a strategic challenge for the EU: "We have constrained Russia's assertive and uncooperative behavior whilst cooperating with Russia on a wide range of foreign policy matters."[45]

The Eastern politics

As the strategic vision develops, the EU's institutional responses to security challenges in Eastern Europe in general and Ukraine in particular should be considered. As Hanna Shelest points out, for a long time the EU has not taken any position on the settlement of conflicts in the post-Soviet space, except for general statements about peaceful methods of resolving them.[46] In 2003 the European Commission recognized the conflict over the Transnistrian region being the threat for EU security: "Unrecognized statelets such as Transdniestria are a magnet for organized crime and can de-stabilize or throw off course the process of state-building, political consolidation and sustainable development."[47] It was therefore proclaimed that the EU should help resolve disputes over Transnistria (as well as Palestine and Western Sahara) with the OSCE and other mediators.[48] In March 2003

[41] Ibid., p. 33.

[42] Ibid.

[43] *Implementation Plan on Security and Defence.* p. 11.

[44] *The European Union's Global Strategy. Three Years on, Looking Forward.* p. 42.

[45] Ibid.

[46] SHELEST, H. The Prospects of the European Union Mediation and Peacekeeping in the Eastern Partnership. *Centre for European Studies Working Papers.* 2016, Vol. 8, No. 3, p. 477, 480.

[47] Wider Europe — Neighbourhood: A New Framework for Relations with our Eastern and Southern Neighbours. Communication from the Commission to the Council and the European Parliament. In: *European External Action Service* [online]. 11.3.2003 [2021-01-31]. Available at: <http://eeas.europa.eu/archives/docs/enp/pdf/pdf/com03_104_en.pdf>.

[48] КОВАЛЬСЬКА, В. В. Правове регулювання діяльності місій ЄС (на прикладі Місії ЄС з прикордонної допомоги Молдові та Україні). Дисертація. Одеса: 2016, pp. 71–72.

and January 2004, the European Commission consulted with Moldova and Ukraine on their border demarcation, certain customs and joint border control issues. Following consultations EU confirmed: the Transnistrian region is Moldova's integral part, the negative impact of the Russian peacekeepers presence on the prospects for resolving the conflict and the need for their withdrawal, the Transnistrian region leaders illegal activity, particularly in the area of customs policy, and the need for compliance with Moldova's customs legislation.[49] The 2005 EU-Moldova Action Plan and the EU-Ukraine Action Plan identified the compliance with Moldova's border management regime in Transnistria to be one of the conflict resolving priorities as well as cooperation of Moldova, the EU and Ukraine on this matter; Ukraine pledges to mediate conflict resolution, and EU pledges to support OSCE and mediator states efforts.[50]

The 2005 Ukrainian initiative to establish a 5+2 format in negotiations on the Transnistrian region with the EU involvement, as well as the establishment of EU Mission at the Ukrainian-Moldovan border, was outlined in the 2005 President Yushchenko Plan, supported by GUAM. At that time, the EU did not propose and was not prepared to take responsibility for the settlement of the conflict superseding the OSCE, even if the mandate will be changed from military to police one.[51]

EU decided in 2007 to set up a Black Sea Synergy regional initiative, but it focused on economic development and democratic reforms, reflecting the EU's reluctance to engage in Eastern European security issues, although the European Commission generally mentioned frozen conflicts in the region and suggested that the EU "promoting confidence-building measures", including cooperation programs for the parties to the conflict.[52] The situation began to change in 2008, when the EU first tried to act as the sole mediator in the moment of Russia's armed aggression against Georgia, diplomatically intervened in hostilities and terminated them, set up a monitoring mission in Georgia.[53]

In fact, the founding of Eastern Partnership within the framework of the European Neighborhood Policy was the response to the threat of Russian aggression against the post-Soviet states – as EU policy and, at the same time, the intergovernmental organization-like. The European Council decision of 1 September 2008 proposed a series of measures aimed at both peacekeeping in the Russo-Georgian conflict area, reconstruction and other assistance to Georgia, and strengthening relations with Eastern Europe and the South Caucasus countries. In particular, it was noted "the impact which the current crisis is having on the whole of the region". The EU considered that "it is more necessary than ever to support regional cooperation and step up its relations with its eastern neighbors."[54]

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[49] Ibid., pp. 72–73.
[50] Ibid., p. 74.
[51] SHELEST, H., supra note 47, p. 480.
[52] Ibid., p. 478.
[53] Ibid., p. 477, 480; СОКОЛОВА, П.С., УТКИН, С.В., Операции ЕС в конфликтных регионах. In: АРБАТОВА, Н.К., КОКЕЕВ, А.М. (ред.). ЕС и региональные конфликты. Москва: ИМЭМО РАН, 2011, p. 45.
[54] Extraordinary European Council, Brussels 1 September 2008. Presidency Conclusions. In: *Council of the European Union* [online]. 1. 9. 2008 [2021-01-31]. Available at: <http://register.consilium.europa.eu/doc/srv?l=EN&f=ST%2012594%202008%20INIT>.

It was decided to launch a new Eastern Partnership policy for these countries, including in the context of their right to freely choose their foreign policy directions, join some associations, and to secure energy supply routes to Member States, in particular through diversification. While condemning Russia's "disproportionate reaction" to the allegedly internal "crisis in Georgia" and not recognizing the declared independence of Abkhazia and South Ossetia, emphasizing Georgia's territorial integrity, the mutual dependence of the EU and Russia was emphasized and the need for their cooperation in resolving global problems. And although the relations are "at the crossroads", it is called upon Russia to "choice in favor of mutual interest, understanding and cooperation", "not to isolate itself from the Europe."[55] The European Council decision of 20 March 2009 on the implementation of the Eastern Partnership and the Declaration annexed stated that the initiative aims at stability, good governance and economic growth for partners, creating the conditions for political association and economic integration.[56] The Joint Declaration of the EU and the Member States of the Eastern Partnership of 7 May 2009, which formally launched the Partnership, stated that the main aim is "to create the necessary conditions to accelerate political association and further economic integration between the European Union and interested partner countries" by political and socio-economic reforms for which the EU will provide macro-financial aid. The four "thematic platforms" of the partnership are: democracy, good governance and stability; economic integration and convergence with EU sectoral policies; energy security; contacts between people.[57] The Joint Declaration stated the need for peaceful settlement of conflicts within the eastern partners, but only at the level of statement.

Ukraine

The impetus for the revision of the European Neighborhood Policy and the Eastern Partnership was Russia's armed aggression against Ukraine. The decision of the EU Council on the revision of the Eastern Partnership policy of 14 December 2015 declared the eastern partners' political, economic and security stabilization to be the Union priority. The EU Council agreed to strengthen the Eastern Partnership security dimension, namely: to promote the resilience of partners in counterterrorism activities, prevent radicalization, reform the security sector and border management, link the Eastern Partnership to the CSDP, "support the management and resolution of conflicts."[58]

Thus, in 2015 the EU established a framework for enhanced understanding of the goals of the Eastern Partnership, involving elements of responsibility or at least involvement of

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[55] Ibid.

[56] Presidency Conclusions of the Brussels European Council (19/20 March 2009). In: *Council of the European Union* [online]. 20. 3. 2009 [2021-01-29]. Available at: <http://data.consilium.europa.eu/doc/document/ST-7880-2009-INIT/en/pdf>.

[57] Joint Declaration of the Prague Eastern Partnership Summit Prague, 7 May 2009. In: *Council of the European Union* [online]. 7. 5. 2009 [2021-01-29]. Available at:
<https://www.consilium.europa.eu/media/31797/2009_eap_declaration.pdf>.

[58] Council conclusions on the Review of the European Neighbourhood Policy. In: *Council of the European Union* [online]. 14. 12. 2015 [2021-01-29]. Available at: <https://www.consilium.europa.eu/en/press/press-releases/2015/12/14/conclusions-european-neighbourhood/>.

the Union in the crisis management sphere. At the same time, it would be difficult to develop appropriate mechanisms because of the rather different positions of the EU Member States.

During the Russian Federation armed aggression against Ukraine the EU had been involved in attempts to stop it with diplomatic means. On April 17, 2014, four parties' talks were held between the top diplomatic representatives of Ukraine, the EU (High Representative), the USA and Russia in Geneva. Following the meeting the parties stated that: they pledged to refrain from violence; all illegal military units had to be disarmed, buildings seized to be returned to their rightful owners, occupied areas (streets, squares, etc.) to be released; the participants in the riots were guaranteed amnesty, except the serious crimes perpetrators; the participants agreed on the activities of the OSCE Special Monitoring Mission, which should assist the authorities and local self-government of Ukraine in the immediate implementation of the provisions of this statement, and pledged to support the efforts of this mission; in Ukraine to take place inclusive, transparent and credible constitutional process that will provide for a national dialogue involving all regions and political forces to work out Constitution of Ukraine amendments; participants expressed their readiness to discuss further the economic and financial stability in Ukraine support.[59] The provisions did not apply to the annexed Crimea.

There were no other meetings in the Geneva format. In our opinion, there were no interested parties except Ukraine. But there have been initiatives to bring the EU back to the negotiating table, in particular the restoration of the Geneva format or the establishment of a new, enlarged one. On January 14, 2016, President of Ukraine Petro Poroshenko proposed the Geneva Plus negotiations format, in which had to participate also the 1994 Budapest Memorandum signatories.[60] The European Parliament resolution of 4 February 2016 on the human rights situation in Crimea endorsed and supported the Geneva Plus initiative, "which should include direct engagement by the EU."[61] Instead, already in 2014, following the first Minsk agreement conclusion, Russia essentially rejected the possibility of returning to the Geneva format, insisting on direct talks between Ukraine and the "DPR" and the "LPR."[62]

In the appeal to the UN Security Council, approved by the Verkhovna Rada of Ukraine on March 17, 2015, because of SMM OSCE civil nature, limited financial resources and instruments at its disposal, along with it was expressed request "to start the relevant procedures to deploy an international UN peacekeeping and security operation in Ukraine, the specific terms of which will be determined in consultation with the Ukrainian side", and to send an evaluation mission to Ukraine to investigate the situation and introduce rele-

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[59] Text of Joint Diplomatic Statement on Ukraine. In.: The New York Times. 17.04.2014.

[60] Президент пропонує новий формат переговорів із деокупації Криму. In: *Українська правда* [online]. 14. 1. 2016 [2021-01-29]. Available at: <https://www.pravda.com.ua/news/2016/01/14/7095393/>.

[61] European Parliament resolution 2016/2556(RSP) of 4 February 2016 on the human rights situation in Crimea, in particular of the Crimean Tatars. In: *European Parliament* [online]. 4. 2. 2016 [2021-01-29]. Available at: <http://www.europarl.europa.eu/doceo/document/TA-8-2016-0043_EN.html>.

[62] Лавров назвав "женевський формат" минулим. In: *Українська правда* [online]. 19. 11. 2014 [2021-01-29]. Available at: <https://www.pravda.com.ua/news/2014/11/19/7044703/>.

vant recommendations for the UN Security Council consideration.[63] The appeal to the European Council proposed to initiate appropriate procedures to launch in Ukraine the EU operation under the CSDP, the specific modalities of which will be determined in consultation, and send to the Ukraine mission to estimate situation.[64]

According to Kostiantyn Yeliseev, the representative of Ukraine to the EU, this mission was not an alternative to the Minsk agreements. On the contrary, it could be aimed at their safe implementation, and the EU would act as their guarantor. As expected, with the relevant UN Security Council resolution, but possibly without it. Among the reasons for resorting to this idea were named Russia's failure to comply with the Minsk Agreements, in particular, the resumption of its offensive in Donbas, the limited mandate of the OSCE SMM and its resources due to Russia's membership in the organization, the inability of the OSCE SMM to fulfill the full range of urgent tasks for Minsk agreements implementation. The desirable for Ukraine task of the EU mission should be to "create safe and stable conditions for the peace process", in particular: to prevent the escalation of the conflict, the remilitarization of the Donbas after the illegal military formations and equipment removal, as stipulated by the Minsk agreements, ensuring effective border control with Russia, filling the security vacuum before restoring the law enforcement and security system in Donbas in accordance with the Minsk agreements and Ukrainian legislation, creating the proper environment for holding democratic and free local elections, post-conflict stabilization.[65]

High representative F. Mogherini later said that the EU will not consider the issue of the peacekeeping mission in Donbas without a UN Security Council decision, and meanwhile we talk about enforcing the mandate of the OSCE SMM.[66]

IV. SANCTIONS AGAINST RUSSIA AS AN ELEMENT OF EU PEACEKEEPING/CRISIS MANAGEMENT

The possibility of using sanctions as a temporary restrictive measure, an element of non-military action on the threat of peace, violations of peace and acts of aggression, laid down in Art. 41 of the UN Charter. The 2005 UN World Summit Outcome Document identifies targeted, controlled and time-limited sanctions against individual countries designated by the UN Security Council as an important non-force means of maintaining international

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[63] Постанова Верховної Ради України «Про схвалення звернень від імені України до Ради Безпеки Організації Об'єднаних Націй та Ради Європейського Союзу стосовно розгортання на території України міжнародної операції з підтримання миру і безпеки» від 17.03.2015. In: *Verkhovna Rada of Ukraine* [online]. 17. 3. 2015 [2021-01-29]. Available at: <https://zakon.rada.gov.ua/laws/show/253-19>.

[64] Ibid.

[65] Єлісєєв: Операція ЄС – оптимальний варіант врегулювання на Донбасі (Інтерв'ю Укрінформу), 21.03.2015. In: *Mission of Ukraine to the European Union* [online]. 21. 3. 2015 [2021-01-29]. Available at: <https://ukraine-eu.mfa.gov.ua/ua/press-center/publications/3621-jelisejev-operacija-jesoptimalynij-variant-vregulyuvannya-na-donbasi-intervju-ukrinformu>.

[66] Федерика Могерини: Мы хотели бы, чтобы СММ ОБСЕ в Украине имела полный доступ ко всей территории Украины, в том числе вдоль украинско-российской границы, 11.03.2018. In: *Unian.net* [online]. 11. 3. 2018 [2021-01-29]. Available at: <https://www.unian.net/politics/10037618-federika-mogerini-my-hoteli-by-chtoby-smm-obse-v-ukraine-imela-polnyy-dostup-ko-vsey-territorii-ukrainy-v-tom-chisle-vdol-ukrainsko-rossiyskoy-granicy.html>.

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peace and security.[67] The UN Security Council sanctions committees are run, and sanctions groups are seen as a kind of UN political mission in the context of preventive diplomacy.[68]

It is in this context, in our view, we should understand the nature and significance of the sanctions imposed by the EU against Russia. On March 6, 2014, the European Council President, Herman Van Rompuy, on behalf of the EU stated "unprovoked violation of Ukrainian sovereignty and territorial integrity" by Russia. He demanded a solution to the situation with full respect for international law and the territorial integrity of States. In the event of Russia's refusal to de-escalate, changes to the EU's relations were envisaged. In particular, a three-step approach was adopted. The first step was to approve the decision proposed on March 3, 2014 by the EU Council to suspend the visa dialogue and process of developing new comprehensive EU treaty with Russia to replace the current Partnership and Cooperation Agreement, and to suspend Russia's participation in the G8 format.[69] The second step was the Council Regulation of 17 March 2014 which imposed restrictions on travel to the EU, freezing of assets and economic resources of individuals, responsible for actions against the territorial integrity, sovereignty and independence of Ukraine, as well as the natural and legal persons associated with the perpetrators of such acts, and also declared the possibility of expanding or reducing the corresponding list.[70]

On March 20-21, 2014, the European Council extended this list, canceled the forthcoming EU-Russia summit, decided not to hold any bilateral summits of member states with Russia, and invited the European Commission to prepare a draft of broader economic and trade sanctions[71]. Sanctions have been stepped up and the list has been expanded by decisions of the Council and the European Council: dated 15 April 2014 (sanction list expanded),[72] May 12, 2014 (expanded sanctions list, including with legal entities confiscated in Crimea),[73] June 23, 2014 (ban on imports of goods produced in the occupied Crimea),[74] 16 and 18 July 2014 (expanded list of natural and legal persons, including those who financially support actions against Ukraine, allowed freezing of their assets, suspended new financial transactions between the European Investment Bank and Russia, proposed the same actions on the EBRD, decided to review and suspend bilateral and regional cooperation programs with Russia; the European Commission was invited to develop a decision

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[67] Resolution of General Assembly A/RES/60/1 of 16.09.2005. 2005 World Summit Outcome. In: *United Nations* [online]. 16. 9. 2005 [2021-01-29]. Available at:
<http://www.un.org/ru/documents/decl_conv/declarations/outcome2005.shtml>.

[68] KRESIN, O.V.

[69] *Remarks by President of the European Council Herman Van Rompuy following the extraordinary meeting of EU Heads of State or Government on Ukraine.*

[70] Council Regulation (EU) 269/2014 of 17 March 2014 concerning restrictive measures in respect of actions undermining or threatening the territorial integrity, sovereignty and independence of Ukraine. In.: OJ. 2014. L 78/6.

[71] European Council meeting, 20-21.03.2014. In: *Council of the European Union* [online]. 21. 3. 2014 [2021-01-29]. Available at: <https://www.consilium.europa.eu/en/meetings/european-council/2014/03/20-21/>.

[72] Timeline - EU restrictive measures in response to the crisis in Ukraine. In: *Council of the European Union* [online]. 1. 10. 2020 [2021-01-29]. Available at: <https://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/history-ukraine-crisis/>.

[73] Foreign Affairs Council, 12.05.2014. In: *Council of the European Union* [online]. 12. 5. 2014 [2021-01-29]. Available at: <https://www.consilium.europa.eu/en/meetings/fac/2014/05/12/>.

[74] Foreign Affairs Council meeting, 23.06.2014. In: *Council of the European Union* [online]. 23. 6. 2014 [2021-01-29]. Available at: <https://www.consilium.europa.eu/en/meetings/fac/2014/06/23/>.

to limit investment in the Crimea; international financial institutions were invited "to re-
frain from financing projects that explicitly or implicitly recognize the illegal annexa-
tion"),[75] July 25, 2014 (expanded sanctions list, including with individuals and legal entities
benefiting from annexation of Crimea and destabilization of Eastern Ukraine),[76] July 30-
31, 2014 (extension of the sanction list, prohibition of crediting, buying and selling secu-
rities of Russian state banks for more than 90 days, embargo on import and export of arms,
related products and dual-use products from and to Russia, ban exports to Russia of
equipment and technology for the energy sector, including oil and gas; the prohibition of
investment, sale of equipment, crediting in the Crimea in the fields of infrastructure proj-
ects in transport, telecommunications, energy sector, including oil and gas),[77] September
11, 2014 (extension of the sanction list, including individuals and legal entities that belong
to the occupation administration in the east of Ukraine and the Crimea, or maintain eco-
nomic relations with them; ban on crediting the five largest Russian state-owned banks,
three defense companies, three energy companies, trading their securities with term over
30 days),[78] November 28, 2014, January 29, 2015, February 9, 2015, February 16, 2015,
March 13, 2015, November 9, 2016, August 4, 2017, November 21, 2017, May 14, 2018, July
31, 2018, December 10, 2018, March 15, 2019 (extension of sanction list).[79]

    The imposed personal and economic sanctions are divided into two main groups: 1)
related to the annexation of the Autonomous Republic of Crimea and the city of Sevastopol
(sanctions against individuals and legal entities related to the annexation and occupation
administration; restriction of economic cooperation with these territories); 2) related to
the "destabilization of Eastern Ukraine". Significant sectoral economic sanctions against
Russia in the energy sector, including the oil and gas sector, banking, etc. belong to the
second group and according to the decision of the European Council of 19-20 March 2015
were tied to the implementation of the Minsk agreements.[80] All sanctions are continued
every six months, including the second group of sanctions, following the results of the re-
port of the President of France and the Federal Chancellor of Germany (as participants in
the negotiation process) on the implementation of the Minsk agreements.

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[75] Special meeting of the European Council, 16.07.2014. In: *Council of the European Union* [online]. 16. 7. 2014
[2021-01-29]. Available at: <https://www.consilium.europa.eu/en/meetings/european-council/2014/07/16/>;
COUNCIL OF THE EUROPEAN UNION. Ukrainian crisis: EU broadens remit of sanctions. In: *Council of the
European Union* [online]. 18. 7. 2014 [2021-02-03]. Available at:
<https://www.consilium.europa.eu/media/22026/144047.pdf>.

[76] EU sanctions over situation in Eastern Ukraine strengthened. In: *European Council* [online]. 25. 7. 2014 [2021-
01-29]. Available at: <https://www.consilium.europa.eu/media/22025/144144.pdf>.

[77] COUNCIL OF THE EUROPEAN UNION. Adoption of agreed restrictive measures in view of Russia's role in East-
ern Ukraine. In: *Council of the European Union* [online]. 31. 7. 2014 [2021-01-29]. Available at: https://www.con-
silium.europa.eu/media/22019/144205.pdf ; Adoption of agreed EU restrictive measures over Crimea and East-
ern Ukraine. In: *Council of the European Union* [online]. 30. 7. 2014 [2021-01-29]. Available at:
<https://www.consilium.europa.eu/media/22021/144174.pdf>.

[78] Reinforced restrictive measures against Russia. In: *Council of the European Union* [online]. 11. 9. 2014 [2021-
01-29]. Available at: <https://www.consilium.europa.eu/media/21992/144868.pdf>.

[79] *Timeline – EU restrictive measures in response to the crisis in Ukraine.*

[80] European Council meeting (19-20.03.2015) – Conclusions. In: *Council of the European Union* [online]. 20. 3.
2015 [2021-01-29]. Available at: <https://www.consilium.europa.eu/media/21888/european-council-conclu-
sions-19-20-march-2015-en.pdf>.

V. EU MISSIONS TO UKRAINE

There are two EU civilian missions operating in Ukraine. Foundation of *European Union Border Assistance Mission to Moldova and Ukraine* (EUBAM) in 2005 was largely related to security threats for the EU connected with the conflict in Moldova. November 24, 2015 signed Supplement to the Memorandum on the EUBAM establishment, according to which the mission operates not only under the supervision of the European Commission, as it was from the outset, but in coordination with High Representative of the EU for Foreign Affairs and Security Policy; to its tasks was added assistance in preventing cross-border organized crime, including smuggling, illegal migration and human trafficking, the fight against corruption in border agencies of Ukraine and Moldova, its activities extended to all territory of these two states.[81]

As Viktoria Kovals'ka notes, the mission activities gradually led to the extension of the Moldovan legislation operation on significant part of Transnistrian region economic activity, a material decrease in illicit flows and human trafficking, streamlining and improving border procedures, increase the revenues from customs duties to the budgets of the two states, reduce of actual Transnistrian administration illegal proceeds; indirectly, this contributed to the weakening of the conflict, the partial economic reintegration of the Transnistrian region, creating favorable conditions for political settlement.[82]

European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM UKRAINE) was founded December 1, 2014 following decision of the Council of 22 July 2014 and the agreement of 17 November 2014, that Ukraine ratified February 4, 2015.[83] According to the mission's mandate, its activities are aimed at police reform and the promotion of the rule of law and are to provide mentoring and advisory assistance to Ukrainian government bodies in developing updated security strategies and implementing reforms. Among the objectives of the mission are: to create a concept of reform to provide the relevant state authorities of Ukraine with reliable security services compliant with the rule of law; reorganization and restructuring of security services in a way that restores control and reliability.[84] In May 2019, the Council of the EU, on the proposal of the High Representative, extended the mandate of the EUAM until 31 May 2021 and approved the increase of its budget.[85]

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[81] КОВАЛЬСЬКА, В. В. *Правове регулювання діяльності місій ЄС (на прикладі Місії ЄС з прикордонної допомоги Молдові та Україні).* p. 94.

[82] Ibid, pp. 149–152.

[83] Угода між Україною та Європейським Союзом щодо статусу Консультативної місії Європейського Союзу з реформування сектору цивільної безпеки України (КМЄС в Україні). In: *Verhovna rada* [online]. 4. 2. 2015 [2021-01-29]. Available at: <https://zakon.rada.gov.ua/laws/show/984_012>.

[84] Council Decision 2014/486/CFSP of 22.07.2014 on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine). In: *Official Journal of the European Union* [online]. 22. 7. 2014 [2021-01-29]. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014D0486&rid=2>.

[85] Council Decision (CFSP) 2019/761 of 13.05.2019 amending Decision 2014/486/CFSP on the European Union Advisory Mission for Civilian Security Sector Reform Ukraine (EUAM Ukraine). In: *Official Journal of the European Union* [online]. 13. 5. 2019 [2021-01-29]. Available at: <http://www.euam-ukraine.eu/wp-content/uploads/2019/05/Mandate-till-31.05.21.pdf>.

The EUAM is a civilian non-executive mission. Civil security sector means there the entire security infrastructure of the state, society and individual, except the purely military. The reform of the sector now covers the following agencies: Ministry of Internal Affairs, National Police, State Border Guard Service, General Prosecutor's Office, Security Service, State Fiscal Service, National Anti-Corruption Bureau, Specialized Anti-Corruption Prosecutor's Office, National Agency for Preventing Corruption, Ministry of Justice, local courts system, but also representatives of civil society and the Verkhovna Rada of Ukraine. Cross-cutting issues for all priorities are: 1) respect for human rights and gender equality; 2) ensuring good governance; 3) fight against corruption.[86] With the EUAM participation a lot of draft laws and strategic documents were developed; the National Police introduced new approaches to community engagement, mass events management, public safety etc.[87]

VI. CONCLUSIONS

The study shows that EU security law is rather conceptualized. Its recent transformation has importance in principle not only for international politics, but also for legal philosophy and theory. *The essential turn is actual disappearance of peacekeeping paradigm and the formation of crisis management approach in security law.* The peacekeeping had been centered mainly at restoring the national state and its legal order as the key and only legitimate element of world legal map, the foundation of world legal order. On the contrary, non-state actors (excluding the peoples struggling for their self-determination) were unambiguously considered illegal and non-negotiable. The crisis management is also generally orientated on state and its legal order preservation, but tolerates the state fragmentation and ready to recognize non-state actors and negotiate with them. The same it considers to be in principle possible the external governance of a state as well as re-establishment of the latter (rebuilding the social contract) with the international organization assistance. So the crisis management concept and approach leaving aside the principle of sovereignty of the state and inviolability of its legal order (legal system). It prizes any stability (strengthening the state, freezing the conflict, fragmentation of the state) thus eroding the international law foundations.

This transformation of EU security law is closely connected with new implicit identity of the Union as corporative legal order. We have distinguished five mutually related EU concepts, defined mostly in 2016–2019. First is the self-sufficiency, "strategic autonomy" in decision-making and activities implementation that do not question the cooperation with other organizations and third countries, but stresses the responsibility of the EU. Second is the corporatism of interests, or the "philosophy of principled pragmatism", which effectively places the security and interests of the EU above the maintenance of peace and the spread of European values in the world. Third is the definition of an area of EU responsibility that follows from the idea of developing of "cooperative security orders" in

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[86] EUAM Ukraine. Our priorities. In: *EUAM Ukraine* [online]. [2021-01-29]. Available at: <http://www.euam-ukraine.eu/ua/our-mission/our-priorities/>.

[87] EUAM Ukraine. Progress in reform. In: *EUAM Ukraine* [online]. [2021-01-29]. Available at: <http://www.euam-ukraine.eu/ua/our-mission/progress-in-reform/>.

the world, and one of that is a "European security order" in which the EU is a major and responsible actor for the security of all Europe and the surrounding regions, although in collaboration with other organizations, and also supports the development of other security orders. Fourth is the idea of an EU area of influence that links the security of the EU with the security and stability of neighboring countries. Fifth is "soft power approach", in which peacekeeping ignored as the comprehensive phenomenon with its military aspects, but instead argued the idea of crisis management (subsidiarity of EU activities to the UN and functional division of tasks between international organizations; focus on crises prevention and institutional development / reconstruction, in which EU activities have the biggest "added value"; responsibility of "local actors", supported by EU; coercion only towards non-state actors, not states; the aim of EU activities is the creation of a space for resolving the crisis, not the settlement itself; the cause or prerequisite of the crisis is the "fragility" of states, their inability to manage conflicts by themselves; the sustainability of "fragile" states should be maintained through continuous investment in their modernization and democratization).

Other characteristically example of the new security law principles implementation is EU position towards the security of Eastern Europe and Ukraine. For long it had been defined with the general ideas of safe neighborhood and inexpediency of these countries political integration because it would bring EU borders closer to dangerous regions and can provoke conflicts. This region was regarded as an area of particular attention and influence of the EU, the "area of prosperity and good neighborliness". EU showed unwillingness to take a material part in conflicts resolution and counteracting security threats in the region, initiatives concerning Eastern Europe ignored safety issues. The EU's first major involvement in the region's security issues was the mediation during the 2008 Russo-Georgian conflict and the establishment of a monitoring mission in Georgia.

The answer to the events in Georgia was the formation of the Eastern Partnership – the EU regional policy and the international organization of Eastern European states (Ukraine, Moldova, Georgia, Belarus, Armenia, Azerbaijan). The initiative was aimed at strengthening, modernizing and democratizing these states, supporting their European choice (including creating conditions for political association and economic integration), but the security issues of these states were ignored, apart from borders management including their demarcation, and early detection of threats.

After the 2008 military aggression of Russia against Georgia the EU (at the European Council level) confined itself to concern with Russia's disproportionate solutions and the actions aimed at freezing the conflict and its de-escalation, but in 2014 EU for the first time defined the armed aggression of Russia against Ukraine as a violation of the European security order, annexation of the Crimea and "destabilization of Ukraine by Russia" – as unacceptable. Regarding Russia, the positions of the EU were substantially revised, the consequence was "two-track approach" – restrictions and sanctions and at the same time preserving selective cooperation conditioned by mutual dependence and the need for cooperation in solving global problems. Also in 2015 the first, albeit rather obscure, elements of the Eastern Partnership's security dimension were laid. In 2016 the EU announced the idea of resilience strengthening of Eastern European states and societies, and intention in the future to take responsibility, together with other organizations, for security throughout Europe.

The EU has realized a wide range of non-military anti-crisis instruments of its foreign policy in response to Russia's armed aggression against Ukraine – political, diplomatic, economic, trade, civilian operational. 1. Ukraine has been provided with an unprecedented EU assistance package, and concluded in 2014 the Association Agreement between Ukraine and the EU considered the most ambitious among others. 2. In 2014, the EU entered the so-called "Geneva format" of negotiations on the restoration of the territorial integrity of Ukraine in Donetsk and Lugansk regions (together with Ukraine, the USA and Russia). While this format was discontinued, the EU now to some extent acts as the guarantor of fulfillment of the Minsk agreements, as Union sanctions on Russia are conditioned with the implementation of these agreements and rapporteurs of the European Council on maintaining the sanctions issue are the German Federal Chancellor and French President, who are also parties to the "Normandy format" of negotiations aimed at implementing these agreements. 3. In March – September 2014, the EU imposed temporary non-military restrictive measures (personal and sectoral sanctions) on Russia. Since September 2014, sanctions have not been extended, except for a slight increase in the list of individuals and legal entities subject to personal restrictions. 4. The EU carries out two civilian missions in Ukraine. The Advisory Mission for Civilian Security Sector Reform aimed at modernizing and democratizing the state security and the entire law enforcement system, as well as implementing good governance, strengthening the rule of law and combating corruption. The activity of EU Border Assistance Mission to Moldova and Ukraine was significantly expanded in 2015: its status was increased and the territory of its activities extended to the entire territory of Ukraine and Moldova. At the same time, Ukraine's initiative in 2015 to launch military EU peacekeeping operation to restore Ukraine's territorial integrity on the territories of Donetsk and Luhansk regions had not been supported by the EU.

The value of the anti-crisis instruments used by the EU to stop Russia's armed aggression against Ukraine should not be derogated. On the other hand, given the general features of the development of the Union's security law and policy, there is no reason to expect that it will play a crucial role in restoring Ukraine's territorial integrity.

EU is corporative and couldn't be blamed for this. And it is anyway having no conceptual framework of counteracting hybrid conflict in Europe and not ready for dealing with it. *Union's liberal conflict management approach in security law is inconsistent and dangerous in real dimension: it is no more sufficiently guarding the State and ready to tolerate endlessly temporary chaotic fragments-building. But in the case of Ukraine, being really threatened, the EU doing its best in the conditions of all pressures from inside and outside.*

Any hopes that the EU will (a) while not overcome dependence (including energy) on Russia, agree to a radical economic confrontation with the latter, or (b) use military instruments against Russia without the UN Security Council resolution and the respective EU member states will, or (c) simply launch a military operation in Ukraine (for example, to strengthen the military capability of the state) in the possible event of a declaration of war between Ukraine and Russia, are insufficiently substantiated and largely flows from Ukrainian politicians or experts wishes rather than from knowledge of the legal foundations, capabilities and policies of the EU in the crisis management sphere.

Instead, the intentions, potential and tools of the EU's "soft power" to de-escalate the crisis, enhance the resilience and economic development of the Ukrainian state, and man-

age conflicts in Ukrainian society should be fully implemented. In particular, the existing EU civilian CSDP missions in Ukraine require careful attention. Expanding the activities of the EUBAUM to the entire territory of the country makes it possible to use the mission experience (of border control in the context of a hybrid conflict, affected region partial economic reintegration, the economic capacity of the occupation administration limitation, crisis de-escalation) for the similar tasks on the occupied Donbas territory. At the same time, the implementation of the broad mandate of the EUAUM makes it possible to use EU assistance to further modernize the various spheres of the state's life, as well as the Union's crisis management experience for the development of Ukrainian society (conflict resolution culture, avoidance of radicalization and violence, tolerance, solidarity, responsibility, social activity, etc.).

The new EU security law and politics propose no clear tools for neighbors and other states and not providing for any Union' responsibility for armed conflicts resolution. It assigns the latter solely to the victim states. Crisis management as the approach in security law of EU and some other key international organizations need to be comprehended, so as its implicit influence on domestic and international legal theory and practice.