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EU as a Peacebuilder

Editors
Dr. Hanna Shelest
Dr. Mykola Kapitonenko

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Contacts:
website: http://ukraine-analytica.org/
e-mail: Ukraine_analytica@ukr.net
Facebook: https://www.facebook.com/ukraineanalytica
Twitter: https://twitter.com/UA_Analytica

TABLE OF CONTENTS

DIPLOMACY HAS TO BE REINFORCED BY ABILITY TO PROVIDE ALL NECESSARY SUPPORT TO OUR PARTNERS

Interview with Petras Auštrevičius, Member of the European Parliament,
Chair of the European Ukraine Group in the European Parliament

Can the European Union as an organisation be a successful mediator in current conflicts around the globe? What can be priority regions for such a mediation?

The European Union's ambition to be a real global player envisages a more proactive role in global politics. The EU has a solid political and financial background and capacities to achieve it. In the area of conflict prevention, peace building, and mediation, the European Union needs to develop an ability to speak with one voice and represent its interests in a united way. If achieved, this would allow the EU to take part in peace-building processes as a combination, not under domination, of its individual member states.

> **I believe the European Union should start increasing its global leadership by addressing security challenges in its immediate neighbourhood, where it has a legitimate interest to guarantee stability and peace**

I believe the European Union should start increasing its global leadership by addressing security challenges in its immediate neighbourhood, where it has a legitimate interest to guarantee stability and peace. Diplomacy has to be reinforced by ability to provide all necessary support to our partners.

At the moment, a new European Peace Facility is being developed with an intention to have more means to assist our partner countries in developing capacities of their armed forces to preserve peace, prevent conflict, and address security challenges.

What is the role of the European Parliament in peace processes around Europe?

The European Parliament is a primary institution in promoting democratic values and principles, upholding fundamental human rights and stability in the European continent and worldwide. In the parliament, we remain convinced that stability and cooperation are essential components for peaceful coexistence. Therefore, we work to strengthen democratic institutions and to foster cooperation on multilateral, regional, and bilateral levels. Throughout such formats as the Euronest we engage with our counterparts in the Eastern Partnership countries and share our support and guidance on democratic reforms. The Sakharov Prize for Freedom of Thought might be the most visible of our attempts to note down human rights violations worldwide, but we follow these violations, look for ways to bring an end to them and to assist the victims on a daily basis. Myself, I am a strong supporter and promoter of the Global Magnitsky Act, a global sanction mechanism against those involved in and committing human rights violations.

Should the European Union play a greater role in mediation and peacekeeping process in Ukraine?

Ukraine is an important associated partner of the European Union. We believe Ukraine can gain and achieve much more through the overall process of Europeanisation, when employing best practices developed by the EU through means of cooperation, legal approximation, and economic engagement. The European Union is a committed partner and wishes to see Ukraine politically stable, economically developed, and prosperous.

> *the Eastern Partnership countries will become even more involved and committed to strengthening the European Union's common foreign and security policy and further developing the EU's strategic autonomy*

I personally believe that the EU must be more proactive and more visible in Eastern Europe. Our actions within resumed peace negotiations need to be firm and reflect our commitment to sovereign Ukraine and its people's choice. We should help to achieve eventual removal of all armed groups from the occupied territories of Ukraine and Ukraine's regaining full control of its border with Russia. In order to ensure consistency of negotiations, we should think about additional measures, for example, a supportive package for Ukraine's macro-economic stability, including a social stability package for the population of the occupied territories of Ukraine.

Can the peacekeeping aspect be added to the cooperation between European Union and the Eastern Partnership states?

The European Union positively assesses participation of such Eastern Partnership countries as Georgia, Republic of Moldova, and Ukraine in the EU-led common security and defence policy missions. It is a clear proof of our joint commitment to develop a peace project worldwide. I truly believe the Eastern Partnership countries will become even more involved and committed to strengthening the European Union's common foreign and security policy and further developing the EU's strategic autonomy in the field of security and defence, including the peacekeeping operations.

Petras Auštrevičius, *Member of the European Parliament, Chair of the European Ukraine Group in the European Parliament. Previously he served as a Member of the Lithuanian Seimas (Parliament) (2004-2014). Previously served, among others, as Chief negotiator for Lithuanian accession to the European Union (2001-2002), Director-General of the Lithuanian Government's Europe Committee (1998-1999 and 2000-2003), Chancellor of the Lithuanian Government (1999-2000) and Lithuanian Ambassador to Finland (1994-1997). Mr. Auštrevičius is a Founder member of the Lithuanian Liberal Movement and Co-founder of the Lithuanian Free Market Institute. He holds honours: Lithuanian EU and NATO accession commemorative medal, Cross of Commander of the Order of the Lithuanian Grand Duke Gediminas, Finnish national award, French national award, Georgian Order of Honour.*

EU PEACE INITIATIVES IN THE PALESTINIAN-ISRAELI CONFLICT: PRINCIPLES AND ACTIONS

Anastasiia Gerasymchuk
UA: Ukraine Analytica

Threats to the EU from the conflicts in its southern neighbourhood do not let it keep aloof. EU peace efforts in the Palestinian-Israeli conflict are one of the key instances of the European peacekeeping activities in the Middle East. The article aims at analysing actions the EU has taken on political (negotiation process and mediation) and practical (Palestinian state-building measures and humanitarian assistance) levels as a main proponent of the two-state solution. The author argues that the EU's attempts have not led to tangible results because it appeared to be incapable of using full potential of leverage it has over the conflicting parties to underpin the principles it declared.

Introduction

The Middle East and North Africa (MENA) is a region of high potential for conflict. Pervasive social unrests, civil wars, interstate conflicts, terrorism, rivalry for regional dominance between regional powers and projecting interests of world powers have created a breeding ground for violence and instability. Located in the European southern neighbourhood and having an important geopolitical position in respect of trade routes and energy supplies, MENA's security is closely intertwined with that of the European Union (EU). Direct threats to the EU deriving from a number of regional conflicts (e.g. Syrian, Libyan crises, disturbances in Lebanon and Iraq, etc.) put stability in the region at the core of European interests. Moreover, perception of the EU as a normative power[1] declaring its global stance in terms of using soft power tools such as advocating for good governance, human rights, democracy, and liberal values does not let it stand aloof from the MENA turmoil.

For the EU, the Palestinian-Israeli conflict stands apart from others. Being the most protracted in the region, it has involved European efforts in seeking peace since the inception of the EU's Common Foreign and Security Policy (CFSP). Against the backdrop of its foreign policy evolution, the EU has participated in a wide range of activities regarding the Palestinian-Israeli conflict, from mediation to practical assistance. Unlike other MENA conflicts, the Palestinian-Israeli one is not intrastate. Both conflicting parties are partners of the EU in the region. The legal status of the Palestinian Authority (PA) is disputed. Although the EU has not officially recognised it as a state, the PA alongside with Israel is a part of such

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1   I. Manners, *Normative Power Europe: A Contradiction in Terms?* "Journal of Common Market Studies", June 2002, p. 241.

projects as the European Neighbourhood Policy and Union for the Mediterranean.

Europe has reiterated unchanged position on the conflict for decades. However, can this position be called coherent in view of legal and conceptual framework of its external actions? Have the EU's peace attempts been effective in relation to this case and is there a gap between the stated position and its implementation?

> **Against the backdrop of its foreign policy evolution, the EU has participated in a wide range of activities regarding the Palestinian-Israeli conflict, from mediation to practical assistance**

The EU as a Global Actor

In every instance of acting as a global power, the EU is guided by its general strategies and visions. United Europe enshrined an intention to act as a single voice in global affairs in 1993 (Maastricht Treaty) by introducing the CFSP, which was further promoted and underpinned in 2009 (Lisbon Treaty) with the European External Action Service established and the Common Security and Defence Policy (CSDP) solidified. After that, with peacekeeping tasks introduced, the EU acquired tools for this type of international activity. The current document that defines the international stance of the EU and projects its global ambitions is the Global Strategy of 2016. According to it, the EU acknowledges close interrelation between internal and external security and underlines the importance of unity, as "only the combined weight of a true union has the potential to deliver security, prosperity and democracy to its citizens and make a positive difference in the world"[2].

The concept of "principled pragmatism"[3] introduced in the Global Strategy has become a guideline for European external actions. It constitutes a combination of idealism and realism through the achievement of European ideals in a realistic way. It means the rejection of liberal utopianism but not of liberal ideas. In this context, five priorities were singled out: 1) the security of the EU itself, 2) the neighbourhood, 3) how to deal with war and crisis, 4) stable regional orders across the globe, and 5) effective global governance[4]. The order of the priorities is telling in understanding the primacy of achieving realistic goals in conducting European foreign policy.

Considering conflicts and crisis management conceptual framework, an "integrated approach" was established. The EU stated its intention to engage in surrounding regions to the east and to the south for peacebuilding in a practical and principled way with the accent on the capability-building measures and boosting resilience of societies[5].

The Global Strategy contains a separate section devoted to the MENA ("Prosperous Mediterranean and MENA"). Fostering dialogue and negotiation over regional

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2   *Shared Vision, Common Action: A Stronger Europe,* "A Global Strategy for the European Union's Foreign and Security Policy", June 2016, p.8.

3   Ibid.

4   S. Biscop, *Analysing the EU Global Strategy on Foreign and Security Policy,* [in:] J. Rehrl (ed.), *Handbook on CSDP. The Common Security and Defence Policy of the European Union,* Directorate for Security Policy of the Federal Ministry of Defence and Sports of the Republic of Austria: Vienna, p. 31.

5   *Shared Vision, Common Action: A Stronger Europe,* "A Global Strategy for the European Union's Foreign and Security Policy", June 2016, p. 28.

conflicts, support for cooperation in border security, energy security, counter-terrorism actions, etc. are defined as the main tasks there. Taking into account the abovementioned strategies, concepts, and principles, the EU's attention to the Palestinian-Israeli conflict is justified and falls within its priority interests in its peace-building endeavour.

The Palestinian-Israeli State of Play

In conducting its efforts, the EU has had to face deep-rooted aspects that hinder fostering peace resolution. The first aspect concerns Israeli policy. Although the Palestinian-Israeli conflict traces back to 1948, its modern stage has begun in the 1990s with the launch of the Middle East Peace Process. The Oslo Accords[6,7] under which the PA was established in 1994, were intended to lead to a final settlement between the conflicting parties. Under the terms of the Accords, the Gaza Strip and West Bank would have come under the jurisdiction of the PA with certain reservations. The West Bank was to be divided into three areas with different level of control by the PA for a provisional period of five years, after which the final status had to be settled. Thus, the PA has operated as a transitional authority with limited jurisdiction with full civil and security authority in area A, which is only 18% of the West Bank (shared security control in area B and full civilian and security control by Israel in area C).

In 25 years after the Oslo Accords, the final status is not reached, with Israel violating the terms of the Accords as well as of other documents constituting the international legal framework for the

conflict resolution. It has been pursuing settlements-building activity in area C, de facto occupying Palestinian territory. The Gaza Strip blockade, imposing control on people and goods movement and revenues, is another display of the Israeli position. Such conditions pose the primary obstacle to development of Palestinian economy and cause the aggravation of the humanitarian crisis in Gaza.

The second aspect refers to the Palestinians. The last general elections held in 2006 led to the intra-Palestinian split between Fatah and Hamas. After a confrontation between them in summer 2007, Palestinian territories have become two isolated enclaves – the West Bank represented by the PA with Fatah rule and the Gaza Strip seized by Hamas, towards which the majority of the international community, including the EU, have adopted a no-contact policy. Absence of a single Palestinian political authority inhibits the two-state solution prospect. It undermines the efforts to build effective institutions and improve security. The tense socio-economic situation in the Gaza Strip and exploitation of anti-Israel rhetoric by Hamas lead to social radicalisation, which results in waves of violence between Israel and Gaza and poses constant terrorist threat to Israel.

Middle East Peace Process: Place for the EU

The EU peace efforts in the Palestinian-Israeli conflict lie within two dimensions – political and practical. In promoting political dialogue, Europe sticks to the two-state solution as the only one to bring peace. Former High Representative of the Union for

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6 *Declaration of Principles on Interim Self-Government Arrangements (Oslo I),* 13 September 1993 [http://www.acpr.org.il/publications/books/43-Zero-oslo-accord.pdf access: 21 December 2019].

7 *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II),* 28 September 1995 [http://www.acpr.org.il/publications/books/44-Zero-isr-pal-interim-agreement.pdf access: 21 December 2019].

Foreign Affairs and Security Policy (HP/VP) F. Mogherini stated: "The two-state solution remains ... the best and the only realistic chance for peace and also for security in the Holy Places. This is at the same time a principled and pragmatic position. Nobody has presented a credible alternative to two States so far. ... Our support to the two States is a matter of international law, a matter of justice and democracy and also a matter of realism".[8] This formula means co-existence of Israel and an independent, democratic, contiguous, sovereign, and viable State of Palestine in peace, security, and mutual recognition.

> **The key endeavour in political process roots back to 2002 when the EU alongside with the UN, the USA, and Russia established the Middle East Quartet**

The EU elaborated a set of parameters for the peace process[9] based on:

1) An agreement on the borders of the two states, based on the 4 June 1967 lines with equivalent land swaps as may be agreed between the parties. The EU will recognise changes to the pre-1967 borders, including with regard to Jerusalem, only when agreed by the parties.

2) Security arrangements that, for Palestinians, respect their sovereignty and show that the occupation is over; and, for Israelis, protect their security, prevent the resurgence of terrorism and deal effectively with security threats, including with new and vital threats in the region.

3) A just, fair, agreed, and realistic solution to the refugee question.

4) Fulfilment of the aspirations of both parties for Jerusalem. A way must be found through negotiations to resolve the status of Jerusalem as the future capital of both states.

In articulating its stance, the EU is guided by the international legal framework based on the United Nations Security Council resolutions (242, 338, 1397, 1402, and 1515) and the Oslo Accords. It acts in compliance with the "Roadmap for Peace", to which the EU is a co-sponsor.

In this dimension, Europe seeks to act as a mediator and peace broker trying to foster negotiations and promoting its position on various international platforms. The EU has declared its vision since the 1990s by making political statements (e.g. Berlin Declaration of 1999 where the right of the Palestinians was acknowledged).

The key endeavour in political process roots back to 2002 when the EU alongside with the UN, the USA, and Russia established the Middle East Quartet under the auspices of which the "Roadmap for Peace" was worked out in 2003. It remains one of the key documents in the peace process. HR/VP represented the EU at Quartet meetings and conducted dialogue with third countries on the Middle East Peace Process. However, the last conference of all four representatives took place back in 2016. Alongside regular consultations with partners in the region, including the Arab League,

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8   *Speech by High Representative/Vice-President Federica Mogherini at the European Parliament plenary debate on the situation in Israel and Palestine, including the settlements,* "European Union External Action", 27 November 2019 [https://eeas.europa.eu/headquarters/headquarters-homepage/71134/speech-federica-mogherini-european-parliament-plenary-debate-situation-israel-and-palestine_sv access: 24 December 2019].

9   *Council Conclusions on the Middle East Peace Process,* "Foreign Affairs Council Meeting Conclusions", 22 July 2014, p. 2.

the EU foreign ministers and the European Council issue regular policy statements as part of a coordinated EU policy.[10] The EU also has a special representative for the Middle East Peace Process, who maintains contacts with all parties to the peace process including political actors, countries, and international organisations in order to coordinate peace attempts.

Considering the Israeli undermining actions, the EU regularly calls on the state to cease such practices. Europe not only articulates this position in public statements, but also lays it out in its documents. Thus, in the Council Conclusions on the Middle East Peace Process (18 January 2018) the EU underlines the illegal nature of Israel's settlement policy, expressing its strong opposition. It calls on the urgent change in the political, security, and economic situation in the Gaza Strip, including full opening of the crossing points, whilst also addressing Israel's legitimate security concerns. The risk of further deterioration of livelihoods and social cohesion in the Gaza Strip is marked as critical. It also calls the Palestinians to reconciliation. As former HR/VP F. Mogherini stated: "…it is also clear that Gaza is part of the future State of Palestine and that Palestinians themselves must find unity beyond their divisions".[11]

Despite the abundance of declared principles and participation in talks, the EU's role as a mediator in the conflict proved to be ineffective. Calls on Israel to stop its policy have not been backed by meaningful actions.

The EU seems to be incapable of putting pressure. The EU conducts "differentiation" policy[12] towards Israel, which means it separates its relations with Israel from relations with occupied territories. It has the form of excluding settlement entities from the EU funding and labelling goods produced in the settlements. However, this policy is not sufficient. The EU has not imposed any sanctions on Israel for violation of international law.

> *practical – dimension of the EU activity amounts to Palestinian state-building efforts and economic recovery*

There are two possible explanations. Firstly, the EU does not want to put at risk the benefits of economic and political relations with Israel. Secondly, the lack of unity among member states does not let the EU elaborate a cohesive approach. Thus, Visegrad countries (the Czech Republic, Hungary, Poland, and Slovakia) are against condemnation policy and tend to cooperate with Israel more closely. Moreover, Hungary has recently opened a trade office in Jerusalem, and the Romanian government has announced that it wants to move its embassy to Jerusalem, although the country's president opposes it. Not even all the member states support the differentiation policy.

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10 *Middle East Peace Process,* "European External Action Service", 15 June 2016 [https://eeas.europa.eu/diplomatic-network/middle-east-peace-process/337/middle-east-peace-process_en access: 23 December 2019].

11 *Speech by High Representative/Vice-President Federica Mogherini at the European Parliament plenary debate on the situation in Israel and Palestine, including the settlements,* "European Union External Action", 27 November 2019 [https://eeas.europa.eu/headquarters/headquarters-homepage/71134/speech-federica-mogherini-european-parliament-plenary-debate-situation-israel-and-palestine_sv access: 24 December 2019].

12 B. Oppenheim, L. Scazzieri, *The EU, the US and the Middle East Peace Process: Two-state solution – or dissolution?* "Centre for European Reform Insight", July 2019, p. 2.

The EU deference to the US leadership is an additional factor that explains European impotence in the political dimension. It has always supported American initiatives without moving forward their own. All attempts to resume the peace process have failed (the last one being the Kerry initiative from August 2013 to April 2014), and no process is currently underway.

Acting on Practical Level

The second – practical – dimension of the EU activity amounts to Palestinian state-building efforts and economic recovery. The aim is to enhance the viability of the future Palestinian state as a crucial step towards reaching the two-state solution. The EU here acts independently and within multilateral formats. The main parameters of practical support were set out in the EU Action Strategy for Peace in the Middle East of November 2007. The recent strategy guiding European policy towards Palestinian state-building actions is the European Joint Strategy in Support of Palestine 2017-2020[13]. According to it, there are five pillars on which European practical assistance to the PA is based:
1) governance reform, fiscal consolidation and policy;
2) rule of law, justice, citizen safety, and human rights;
3) sustainable service delivery;
4) access to self-sufficient water and energy services;
5) sustainable economic development.

The European Commission's Directorate-General for ENP and Enlargement Negotiations (NEAR) manages the development assistance. Humanitarian assistance is supervised by the Commission's Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO). The Office of the EU Representative for the West Bank and Gaza Strip in East Jerusalem manages assistance on the ground. The EU is also a part of Ad Hoc Liaison Committee (AHLC), serving as the principal policy-level coordination mechanism for development assistance, where it has taken a leading role.[14]

To fulfil its responsibility as a peace-building actor, the EU uses various financial tools, which makes it the main donor for the PA. Recently, the combined contribution of the EU as a single entity and its member states separately has reached 1 billion euro per year. The ENP programmes are being implemented through the European Neighbourhood Instrument. A major tool is PEGASE mechanism, by means of which the EU has provided support to the development plans of the PA starting from the Palestinian Reform and Development Plan of 2007 and subsequent National Development Plans. The EU has become one of the key donors to the United Nations Relief and Works Agency for Palestine Refugees, especially after the US decision to decrease the funding of this body.[15]

Alongside with planning and financing reforms and institution-building programmes, the EU is engaged in sectorial capacity-building efforts by means of working on and financing infrastructural projects (water and energy supplies) as well as on improving public services (education, health, and social sectors). It also grants

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13 *Towards a Democratic and Accountable Palestinian State,* "European Joint Strategy in Support of Palestine 2017-2020", April 2017, p. 11.

14 *Middle East Peace Process,* "European External Action Service", 15 June 2016 [https://eeas.europa.eu/diplomatic-network/middle-east-peace-process/337/middle-east-peace-process_en access: 28 December 2019].

15 Ibid.

humanitarian and financial aid to distressed Palestinian families. The EU assists in projects on social cohesion, such as the EU's "Partnership for Peace" programme that offers support for local and international civil society initiatives that promote peace, tolerance, and non-violence.

The EU pays attention to internal security and viable institutions strengthening rule of law, which are key to effective state building. It has used two civilian CSDP missions as the main tool the European Border Assistance Mission at the Rafah Crossing Point (EUBAM Rafah) and the EU Police and Rule of Law Mission for the Palestinian Territory – Coordinating Office for Palestinian Police Support (EUPOL COPPS). Both missions are operating under the recently established "integrated approach". Introduction of the Civilian CSDP Compact in 2018[16] brings synergy of tools used under various missions. Mandates of EUBAM Rafah and EUPOL COPPS were extended until 30 June 2020.

EUBAM Rafah was launched in 2005 after Israeli disengagement from Gaza. As Israel signed the Agreement on Movement and Access with the PA, the mandate was to provide a third-party presence at the Rafah Crossing Point (RCP) between the Gaza Strip and Egypt, liaising among the Palestinian, Israeli, and Egyptian authorities in all aspects regarding the management of crossing and to contribute to building up the Palestinian capacity. Even though the operations at the crossing point were suspended after Hamas seized power in the Gaza Strip, the mission has continued operating in other forms. In 2014, it started the implementation of the Preparedness Project, demonstrating its readiness to return to the RCP when appropriate. In implementing its mandate, the mission undertakes a number of actions including training sessions, workshops, and study visits. The focus is on such topics as border management, fighting against smuggling and cross border crimes, cooperation between customs and judicial authorities, etc.[17]

> **The EU pays attention to internal security and viable institutions strengthening rule of law, which are key to effective state building. It has used two civilian CSDP missions as the main tool the European Border Assistance Mission at the Rafah Crossing Point (EUBAM Rafah) and the EU Police and Rule of Law Mission for the Palestinian Territory – Coordinating Office for Palestinian Police Support (EUPOL COPPS).**

The mission has assisted in elaborating a number of important documents and strategies (such as the Joint Road Map for cooperation with Palestinian counterparts, Integrated Border Management Strategy of 2016, Comprehensive Technical Assessment of the RCP). It assisted in creating the instructions on gathering and sharing information and the instructions on cooperation between the General Administration of Borders and Crossings (GABC) and the judicial authorities as

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16 *EU Civilian Crisis Management: Member States Review Progress in Strengthening Civilian CSDP,* "European External Action Service Press-Release", 14 November 2019
[https://eeas.europa.eu/headquarters/headquarters-homepage/70461/eu-civilian-crisis-management-member-states-review-progress-strengthening-civilian-csdp_en access: 30 December 2019].

17 *EUBAM Rafah: The European Union Border Assistance Mission for the Rafah Crossing,* "EUBAM RAFAH Factsheet 2018", October 2018, p. 1.

well as two GABC action plans: the action plan on transparency, communication, and public relations, and the action plan on the creation of an inter-agency tasking and coordination group.[18]

EUPOL COPPS, established in 2006, has aimed at improving the safety and security of the Palestinians and strengthening the rule of law. The mission has been mandated to assist the PA in building institutions in security and justice sectors. It has been operating through a range of actions:
1) coordination and facilitation of external donor assistance to the Palestinian Civil Police (PCP) and support for its reform;
2) facilitation of inter-institutional cooperation between security and justice sectors;
3) strengthening the criminal justice system.

> **EU policy towards the Palestinian-Israeli conflict is multidimensional with various tools applied, but it has not brought about tangible results**

There are two operational pillars through which the mission is being implemented: the Police Advisory and the Rule of Law Sections, comprising police officers, judges, lawyers, and other experts, from both the EU member states and the currently contributing states – Canada, Norway, and Turkey.[19]

Contrary to the political process, the EU has primacy in the practical dimension. Being the world leader in applying soft tools, it has high competence in capacity building and humanitarian support. Reforms programmes and technical assistance have become a valuable asset without which Palestinian conditions would be even worse. However, state-building efforts have also appeared to be a failure on the way to the two-state solution. Firstly, without a united Palestinian leadership there cannot be feasible state building. Intra-Palestinian split not only inhibits implementation of capacity-building measures but also does not allow effective distribution of assistance. Absence of a single Palestinian authority diminishes the chances of stopping Israeli blockade of the Gaza Strip. Yet, the EU does not make practical steps to push the Palestinian sides to reconcile.

Secondly, in the past decade, the PA has opposed political process that may lead to altering the Fatah rule. It is reflected in measures that have undermined good governance in four areas: the independence of the judiciary, the separation of power, the independence and pluralism of civil society, and the media and freedom of expression. Moreover, the PA cuts salaries of civil servants it still employs in Gaza. These cuts could lead to a complete collapse of Gaza's public services. At this conjuncture, the EU shows inability to exert influence on the PA, despite the availability of leverage over it (through conditionality of assistance).

Conclusions

EU policy towards the Palestinian-Israeli conflict is multidimensional with various tools applied, but it has not brought about tangible results. Being based on an international legal framework on peaceful resolution and compliant to strategies underlying the European foreign policy stance, the EU's peace efforts have looked solid and promising. However, the analysis

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18 *European Union Common Security and Defence Policy Operations,* "Annual Report 2018", April 2019, p. 20.

19 *European Union Police Mission for the Palestinian Territories,* "EUPOL COPSS Factsheet 2019", July 2019, p. 1.

shows the EU's inability or unwillingness to put enough pressure on those who violate international law and the principles it has reiterated in terms of the two-state solution. The Israeli settlement policy, blockade of Gaza, intra-Palestinian split, terrorist threat Israel faces due to the existing situation in Gaza, and current US policy (as an additional factor) lead to a stalemate in attempts to reach the final status. The situation on the ground is an alarm trigger for the EU.

Absence of a united position among the EU member states as well as primacy of pragmatic economic and political interests do not let the EU be effective in making efforts within both dimensions. EU actions proved to be guided by interests but not by a normative power status in certain instances. Resolution of the Palestinian-Israeli conflict falls into pragmatic principles of Europe.

Humanitarian assistance and state-building measures the EU has provided are of high importance to Palestinians. European programmes and the CSDP missions create the necessary background for the future Palestinian state. However, for this end to be reached, the primary issues need to be addressed, which necessitates European coherent and decisive actions.

Anastasiia Gerasymchuk is assistant to the editor-in-chief of UA: Ukraine Analytica. She is also an affiliated member of the Foreign Policy Council "Ukrainian Prism". Her main research interests are Middle East security problems, international conflicts studies, Ukrainian foreign policy. Anastasiia Gerasymchuk studied International Relations at Odesa National University.

THE EU AND THE IRANIAN NUCLEAR PROGRAMME: IS VENUS WEAKER THAN MARS?

Dr. Polina Sinovets
Odessa Centre for Nonproliferation
Odessa I.I. Mechnikov National University

Valeriia Gergiieva
Odessa Centre for Nonproliferation
Odessa I.I. Mechnikov National University

The article is focused on the role of the EU in resolving crisis around the Iranian nuclear programme. It covers the period starting from 2003, when the Iranian nuclear programme was revealed, and is divided into five stages of the involvement of European states in the Iranian crisis resolution. The fifth stage is still in process and demonstrates the EU attempts to save the Joint Comprehensive Plan of Action after the US withdrawal. One of the current mechanisms mentioned in this article is INSTEX, aimed at trading with Iran bypassing the US sanctions.

Historical Steps in the Iran-EU Cooperation

European countries established relations with the Islamic Republic only ten years after the 1979 Iranian Revolution, when Ayatollah Khomeini, the leader of the revolution, died and his successor, Ali Khamenei, started to build up better ties with the world. This led to the establishment of bilateral relations between most of the European capitals and Tehran.

Step by step, Europe became closely involved in cooperation with Iran, having strong interest in the Iranian gas and oil and suggesting a wide variety of goods to the Iranian markets. In the 1990s, the biggest push to the development of the relations between the EU and Iran was given by the policy of Iranian President Khatami, who declared a "dialogue of civilizations" as one of the state's policy pillars. Therefore, Khatami's years were some of the most fruitful for building up the economic and cultural cooperation between Iran and the European states.

It also has not become a surprise that the role of the EU in crisis resolution around the so-called "Iranian nuclear dossier" has become one of the most relevant. In particular, this century is marked with the significant contrast between the US "hard-line" policy and the European flexible diplomatic approach. In this regard, the Iranian nuclear programme can be considered one of the best illustrations of this tendency. One of the main drivers of the European strategy towards Iran, before and after the nuclear crisis, was the desire to provide an alternative to the US approach, which was focused on isolating and containing the Iranian regime after the revolution. As the

EU bases its diplomacy towards Tehran on dialogue rather than coercion nowadays as well, this causes serious transatlantic tensions, similar to the 1990s and early 2000s.[1]

To some extent, it is possible to say that even the deterioration caused by the discovery (by the IAEA) of Iran's undeclared nuclear facilities did not have a direct impact on cooperation with Iran. Contrary to the US policymakers, who at once connected the Iranian nuclear programme with aggressive intentions of the state, the Europeans tried to use the maximum of their diplomatic influence to settle the problem peacefully and with minimum damage for all sides. In particular, there were the "Big Three" – the United Kingdom, France, and Germany – who took an active part in mediation between the US and Iran. To make the discussion more clear, we suggest dividing the crisis around the Iranian nuclear dossier into five stages.

The first stage lasted between 2003, when the Iranian nuclear activity was discovered, and 2005, when the Security Council started to adopt resolutions as to the Iranian nuclear case.

The second stage covers the time between 2005 and 2010, when the negotiations with Iran had a more or less stable character as to the relations with the P5+1 (the main negotiators on the Iranian nuclear dossier consist of the permanent members of the UN Security Council + Germany).

The third stage lasted between 2010 and 2015, when the EU imposed comprehensive sanctions on Iran and the negotiations on the Joint Comprehensive Plan of Action (JCPOA) ended with the nuclear deal.

The fourth stage covers 2015-2018, when the JCPOA came into force and then declined as a result of the US withdrawal.

Finally, we are in the fifth stage of the process, which shows the attempt of the EU to save the declining JCPOA, accompanied by the growing diplomatic pressure of Iran gradually stepping out the JCPOA.

> **this century is marked with the significant contrast between the US "hard-line" policy and the European flexible diplomatic approach.**

Stages of Cooperation

The EU, represented by its "Big Three", played an indispensable role at all stages of the process.

Since 2003, when non-declared nuclear activity in Iran was discovered, the European states tried to keep the "Iranian dossier" under the International Atomic Energy Agency (IAEA) control, not letting it go to the UN Security Council. A number of the IAEA resolutions, issued in 2003-2004, pressured Iran to stop the uranium enrichment. These actions were combined with the joint negotiations of the United Kingdom, France, and Germany with Iran and resulted in reaching the Paris Agreement in November 2004. According to this deal, Iran suspended the uranium enrichment for an indefinite period of time. It was a time to keep the negotiations on with the Big Three to reach the "grand bargain" when Iran would abandon domestic uranium

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1   S. Shine, A. Catran, *Europe-Iran Relations One Year after the Sanctions Were Lifted,* Institute for National Security Studies, 16 January 2017 [https://www.jstor.org/stable/resrep08353 access: 10 December 2019].

enrichment procedure in exchange for political, economic, and trade concessions from the EU.[2]

The Paris Agreement was supposed to sustain the suspension while negotiations on a long-term agreement were in progress; it was important for the continuation of the whole process. In the context of this suspension, the EU3/EU and Iran have agreed to begin negotiations, with a view to reaching a mutually acceptable agreement on long-term arrangements. The main concern was that having the ability to enrich uranium, Tehran could theoretically expand this procedure to be finally able to produce nuclear warheads. Meanwhile for Iran, the right to any nuclear activities within the right to peaceful nuclear use remained a national priority. Therefore, Tehran cancelled its enrichment moratorium in August 2005 when pro-national far-right President Ahmadinejad came to power.[3]

The second phase of the EU-Iranian relations was accompanied by an active inclusion of other negotiators such as Russia and the US, who looked at the Iranian issue from a completely different perspective. However, the inflexibility of the Iranian position over its nuclear programme in 2006 led to a certain convergence of the EU's position with that of the US, therefore having started the only period during which the EU and the US managed to work collaboratively on Iran. The joint dual-track policy started an era of a coherent diplomatic pressure

on Iran. In spite of the fact that the "Iranian nuclear dossier" was transferred to the UN Security Council, which adopted a number of resolutions forbidding Iran from continuing the uranium enrichment procedure and demanding it to stop other dual use nuclear activities (1696, 1737, 1747, 1803, etc.), the Europeans still tried to support initiatives that could combine both aims: to save the non-proliferation regime from the emerging nuclear power and to satisfy the Iranian national demands. In this regard, the EU3 first supported the Russian initiative on transferring the enrichment procedure to the Russian territory,[4] and when it failed, initiated the enriched uranium exchange deal between Iran, Brazil, and Turkey, which also ultimately failed.[5] We suggest that it happened because Iran never actually was going to make any concessions on its way to legalising the uranium enrichment on its national territory. The idea of strengthening its sovereignty and getting independent nuclear energy is tightly embedded in the Iranian strategic culture, as well as the deep distrust of the international environment, which throughout the history mostly worked against the national interests of Iran.[6] Thus, while agreeing to the options mentioned above, Iran just tried to gain some time for its uranium enrichment programme, thoroughly looking for the chance to avoid the suggested initiatives.

The third phase could be characterised by the decline of trust between Iran and the EU3, who finally joined the comprehensive US sanctions against Iran, including the

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2   *Tehran Agrees to Nuclear Freeze,* "Guardian", 8 November 2004
    [https://www.theguardian.com/world/2004/nov/08/politics.eu access: 21 December 2019].

3   B. Kaussler, *From Engagement to Containment: EU–Iran Relations and the Nuclear Programme,* 1992–2011,
    "Journal of Balkan and Near Eastern Studies", 14:1, 53-76, 20 March 2012
    [https://doi.org/10.1080/19448953.2012.656935 access: 27 December 2019].

4   L. Beehner, *Russia's Nuclear Deal with Iran,* Council on Foreign Relations, 28 February 2006
    [https://www.cfr.org/backgrounder/russias-nuclear-deal-iran].

5   G. Tol, *The Turkey-Brazil-Iran Nuclear Deal: Another Missed Opportunity?,* Middle East Institute, 24 May 2010
    [https://www.mei.edu/publications/turkey-brazil-iran-nuclear-deal-another-missed-opportunity].

6   V. A. Utgoff (ed.), *The Coming Crisis: Nuclear Proliferation, U.S. Interests, and World Order,* MIT Press: Cambridge,
    Mass. 2000, pp. 87-122.

embargo on oil and gas as well as precious metals, which remained the main sources of the national income for Iran. The Iranian state was switched off from the SWIFT system, which also caused great damage to the Iranian economy in general. As a result, Iran lost one quarter of its exports income at once, while the EU gained significant bargaining leverage in pushing Tehran towards the "grand bargain".[7] It is considered that the serious economic decline that accompanied the state in 2013 had resulted in the presidential victory of Hassan Rouhani, whose main slogan was starting negotiations with the West over the Iranian nuclear programme. Moreover, Rouhani was famous as the main negotiator of the Paris Agreement of 2004.

At the end of this stage, both sides made mutual concessions, having signed the Joint Comprehensive Plan of Action (JCPOA) in 2015. In spite of the fact that the JCPOA could be considered a significant Iranian diplomacy victory (winning the right to uranium enrichment), the number of limitations imposed on Iran increased the break-out time (for Iran to become a nuclear state) and therefore served as the main security insurance for Europe and the world.

The fourth stage became known for two contradictory tendencies. On the one hand, sanctions were lifted from Iran. That was the right moment for the resumption of contacts, and signing agreements between European countries and Iran; many advanced European companies started to occupy Iranian markets. On the other hand, the decision of President Trump to withdraw from the JCPOA in 2018 put the Europeans in front of a hard choice: to break the transatlantic unity or to bury

the deal that brought some stability to the EU-Iranian relations. Historically, it seems logical that for the cooperation with Iran is more attractive for the EU than it is for the US, especially regarding economic issues. And, of course, the role of Donald Trump is quite crucial – his impulsive actions and the desire to undo the previous administration's achievements play not the last role in the US decision. It was considered that the visit of President Macron to Washington, DC, in April 2018 was a bid to persuade President Trump to save the Iranian deal,[8] which Europe was greatly concerned about. Unfortunately, this plan failed due to Trump's personal attitude towards Iran and it also showed one of the first cracks in the Euroatlantic unity, which later led to a more serious crisis.

> **the decision of President Trump to withdraw from the JCPOA in 2018 put the Europeans in front of a hard choice: to break the transatlantic unity or to bury the deal that brought some stability to the EU-Iranian relations**

The fifth stage, which is currently developing, shows a clear tendency of the collapsing JCPOA with regard to the inability of the EU to save the deal in spite of the loud political statements of the European leaders that they would follow the deal. The reason is that the American sanctions imposed as the consequence of the US withdrawal from the deal had actually frozen the cooperation of the biggest European enterprises with Iran, as the US dollar is still the main currency of the international trade.

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7   S. Shine, A. Catran, *Europe-Iran Relations One Year after the Sanctions Were Lifted,* Institute for National Security Studies, 16 January 2017 [https://www.jstor.org/stable/resrep08353 access: 10 December 2019].

8   *Can Macron's White House Visit Save the Iran Deal?,* "Local News", 22 April 2018 [https://www.thelocal.fr/20180422/can-macrons-white-house-visit-save-the-iran-deal].

The renewed US sanctions against Iran have damaged the Iranian economy. Iran's president has said that the US sanctions have cost Iran $200 billion in lost foreign income and investment over the past two years. "Iran would have earned $200 billion surplus income...if the country were not involved in an economic war," Hassan Rouhani said.[9] After the deal was implemented, Iran's economy bounced back and GDP grew 12.3%, according to the Central Bank of Iran. But much of that growth was connected with the oil and gas industry, and the recoveries of other sectors were not as significant as many Iranians had hoped.

Thus, after the US withdrawal from the deal, the reinstatement of the US sanctions in 2018 – particularly those imposed on the energy, shipping, and financial sectors – caused foreign investment to dry up and hit oil exports. Since the United States abandoned the deal in 2018, Iran has lost 90% of its oil exports, a key source of revenue. The result of the sanctions is obvious for the economy, as according to the International Fund, Iran's GDP contracted an estimated 4.8% in 2018.[10] The unemployment rate meanwhile rose from 14.5% in 2018 to 16.8% in 2019.[11] The US-Iran relations have become more complicated because of the recent strikes on Saudi oil facilities. The United States saw this as an "act of war" and blames Iran, although Tehran denies any role in the attacks that hit two of the kingdom's most important oil facilities.[12]

INSTEX: Way out or Waste of Time?

Trying to fix the deal, the Europeans have developed a separate mechanism of trade with Iran, the so-called INSTEX, aimed at trading with Iran bypassing the US sanctions. INSTEX was a creation of France, Germany, and the UK and was launched in January 2019. Recently six more European countries have joined the INSTEX mechanism – Belgium, Denmark, Finland, the Netherlands, Norway, and Sweden, which demonstrates European efforts to facilitate legitimate trade between Europe and Iran. For the time being, it is still not working, while Iran uses diplomacy of graduated pressure since June 2019, as its "strategic patience" is over: Each month it takes one more step of withdrawal from the JCPOA, threatening Europe that it would have to break the deal if the EU is not able to fix it. INSTEX cannot directly resist the Trump administration's "maximum pressure" campaign, nor can it fully deliver on the JCPOA's economic promises. However, given its focus on humanitarian trade, INSTEX can play an important role in securing Iran and the Iranian people.[13]

Several UN Security Council resolutions required Iran to cooperate fully with the IAEA's investigation of its nuclear activities, suspend its uranium enrichment programme, suspend its construction of a heavy-water reactor and related projects, and ratify the Additional Protocol[14] to its

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9   *Iranian President Says U.S. Sanctions Have Cost Country $200 Billion,* "Radio Free Europe / Radio Liberty", 31 December 2019 [https://www.rferl.org/a/iranian-president-says-us-sanctions-have-cost-country-200-billion/30354022.html access: 01 January 2020].

10 International Monetary Fund [https://www.imf.org/en/Countries/IRN].

11 *Six Charts that Show How Hard US Sanctions Have Hit Iran,* "BBC News", 9 December 2019 [https://www.bbc.com/news/world-middle-east-48119109 access: 01 January 2020].

12 *Saudi Offers 'Proof' of Iran's Role in Oil Attack and Urges US Response,* "Guardian", 18 September 2019 [https://www.theguardian.com/world/2019/sep/18/saudi-oil-attack-rouhani-dismisses-us-claims-of-iran-role-as-slander].

13 E. Batmanghelidj, S. Shah, *Protecting Europe-Iran Trade to Prevent War: A Provisional Assessment of INSTEX,* European Leadership Network, 27 June 2019 [https://www.europeanleadershipnetwork.org/wp-content/uploads/2019/06/ELNBB-INSTEX-June-27-2019-ADVANCE-COPY.pdf].

14 *Additional Protocol,* "Safeguards Legal Framework", IAEA [https://www.iaea.org/topics/additional-protocol].

IAEA safeguards agreement. Although the Additional Protocol is not obligatory for signing, it plays a crucial role, as it increases the agency's ability to investigate undeclared nuclear facilities and activities by increasing the IAEA's authority to inspect certain nuclear-related facilities and demand information from member states. Iran signed such a protocol in December 2003 and agreed to implement the agreement pending ratification; however, it never ratified it. There were high expectations that Tehran ratifies the Additional Protocol after the JCPOA was signed, but as Iranians are dragging their feet with ratification until the ultimate lift of sanctions, it has never been done.

Nevertheless, before July 2019, all official reports and statements from the United Nations, the European Union, the IAEA, and the non-US participating governments indicated that Iran has complied with the JCPOA and related UN SC Resolution 2231 requirements.[15]

Now, month by month, Iran publically announces the gradual stepping away from the basic JCPOA restrictions. In November 2019, a report from IAEA Acting Director General Cornel Feruța declared that Tehran has also started to conduct JCPOA-prohibited uranium enrichment, as well as research and development activities, at its enrichment facility located at Natanz.[16]

For now, the Iranian public behaviour should be seen not as a change of strategy, but as a consistent diplomatic pressure. Having become disappointed in the "reconciliation line" where its adherence to the JCPOA was never enough for saving the deal, Tehran has gradually transferred from the "carrots" to the "sticks" diplomacy. It seems Iran warns everyone about its gradual violation of the agreement to receive something more crucial from European countries, trying to make Europe act even at the cost of worsening relations with the US.

Conclusions

Summing up, let us say that the role of the EU has always been crucial to resolving the crisis around the Iranian nuclear programme. Retaining its comprehensive non-proliferation concern, the EU is still the "good cop" in its diplomatic pressure over Iran. It can be explained not only by the traditional reliance on soft power peculiar to the EU, but also by the close economic ties between the EU and Iran as well as certain geographic proximity, which account for the high interest of the EU states in stabilising the situation around Iran.

> *Retaining its comprehensive non-proliferation concern, the EU is still the "good cop" in its diplomatic pressure over Iran*

However, the situation around the "Iranian nuclear dossier" shows that in spite of its important role in the international system, the EU cannot defend its interests on its own. The sanctions the US imposed on Iran, cutting it off from the main sources of income (such as the energy field), turned out to be impossible to overcome by the EU states. And the problem is not the lack of their

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15 *Verification and Monitoring in the Islamic Republic of Iran in Light of United Nations Security Council Resolution 2231 (2015),* GOV/INF/2019/9, IAEA, 8 July 2019 [https://www.iaea.org/sites/default/files/19/07/govinf2019-9.pdf].

16 *Cornel Feruta, Acting Director General's Introductory Statement to the Board of Governors,* IAEA, 21 November 2019 [https://www.iaea.org/newscenter/statements/introductory-statement-to-the-board-of-governors-21-november-2019].

political will to preserve the JCPOA, which clearly and officially exists as the official EU policy towards Iran. The real problem is the inefficiency of economic mechanisms, which were not able to protect the EU citizens and big enterprises from abandoning trade relations with Iran due to the unbearable costs of the consequences of retaining the deal.

Therefore, lessons from the past and the present show that without the participation of the US, the EU is still not capable to influence Iran's behaviour in a way it has a potential to do. There are two kinds of news here: the good and the bad. The good news is that recently the EU approach has shown certain strategic autonomy from the US and the INSTEX mechanism is a good example of the seriousness of this approach. The bad news is that up to now all the EU attempts to save the nuclear deal have possibly been in vain, as in spite of a possible loophole in the US sanctions there will not be serious possibilities to avoid the US economic barrier in trading with Iran. In the meantime, the tendency is clear: The more independent initiatives the EU will use in breaking up the fences built up by their transatlantic ally and the more effective they will turn out to be, the more efficient the role of the EU will be.

Polina Sinovets, *PhD, is the Head of the Odessa Centre for Nonproliferation. She is an associate professor, Faculty of International Relations, Political Science, and Sociology, at Odessa National I.I. Mechnikov University. In 2004, she defended a PhD in Nuclear Deterrence in US and Russian Policy after the Cold War at Kyiv Institute of Global Economy and International Relations. Between 2003 and 2012, she worked for the Odessa branch of the National Institute of Strategic Studies. Sinovets was a visiting fellow at Monterey J. Martin Nonproliferation Center in 2006, a fellow at NATO Defense College in 2015, and a Fulbright scholar in 2017-2018. She has more than 70 publications in international and Ukrainian academic papers.*

Valeriia Gergiieva *is a PhD candidate at the Faculty of International Relations, Political Science, and Sociology, at Odessa I. I. Mechnikov University. She is also a Junior Research Fellow at the Odessa Center for Nonproliferation. Gergiieva was a visiting fellow at the James Martin Center for Nonproliferation Studies (CNS) of Middlebury Institute for International Studies in Monterey, California, Fall 2019. Her main research interests are the US non-proliferation policy, nuclear programmes of North Korea and Iran.*

EU PERSPECTIVES FOR MEDIATION AND PEACEKEEPING IN UKRAINE

Christine Karelska
Public Association "Community Associations"

In this article the author elaborates upon possible "hybrid peace" and the EU's new perspectives in resolving the conflict in eastern Ukraine in the framework of the Common Security and Defence Policy. The conflict resolution will hardly follow the classical and predetermined approach of peaceful settlement, such as the package of the Minsk Agreements I and II, for instance. Given that the "Ukraine crisis" is not a domestic Ukrainian problem alone but challenges the regional setting as well, the anticipated "hybrid peace" overshadows also wider regional politics in Europe, rather than Russian-Ukrainian bilateral relations per se. Inevitably, the involvement of external actors, such as the EU and individual states such as France and Germany specifically, is inherent to the conflict resolution in Ukraine. The author also touches upon the repercussions of the possible implementation of the so-called "Steinmeier formula" for Ukraine and European security and the role of the EU in this process.

Introduction

The "Ukraine crisis" has been a puzzle for the EU security order since 2014, although nothing too radical was offered by EU actors to the Ukrainian side in peace settlement in Donbas so as to make Russia stop the war completely. In the context of the ongoing Russian hybrid war, it is crucial to study the concept of a possible "hybrid peace" in Ukraine. Before elaborating upon the concept, I would like to more specifically point out the meaning of hybrid war. Then, the possible implementation of the so-called "Steinmeier formula" will be considered as well as the results of the Normandy Summit on 9 December 2019. Finally, there will be some recommendations about the EU's old/new perspectives for the conflict resolution in eastern Ukraine in the framework of the Common Security and Defence Policy.

Russian aggression and its hybrid war in eastern Ukraine took every state by surprise – everyone was simply numb to make a radical move against it. Each state did what it thought was appropriate at that time. As a result, it led to a swift and "peaceful" annexation of Crimea, bloody battles in eastern Ukraine, deaths of thousands of Ukrainians, and millions of questions and scenarios on how to restore territorial integrity of Ukraine.

"Hybrid war" is an undeclared act of war (illegal annexation of Crimea, atrocities in eastern Ukraine) and a way of warfare that combines kinetic (military) and non-kinetic (economic, political, diplomatic, especially information warfare, etc.) means, so the conflict resolution will hardly follow the classical and predetermined approach of peaceful settlement by an agreement (such as the Minsk Agreements I and II. The so-called "Ukraine crisis" resembles an

umbrella term for several layers/dimensions of conflict. It would be impossible to think of a single solution to the wide-ranging scope of this hybrid conflict.

The package of the Minsk Agreements, supported by France and Germany in 2014 and 2015, seemed to have stopped severe atrocities in eastern Ukraine at that time, but by 2020 a complete restoration of the Ukrainian territorial integrity has not yet taken place. There are still hot debates among Ukrainian politicians and experts on how to implement the provisions of the Minsk Agreements or whether to simply refuse them. Contradictory provisions of the Minsk Agreements that were signed back in 2015 spark disagreements.

With the election of Volodymyr Zelenskyy in April 2019, there was a rise of hope among the Ukrainians about swift ending of the war. The main message of his electoral campaign was to achieve the long-expected peace, but without specifying how. In contrast, the possible implementation of the so-called "Steinmeier formula" was met with outrage, demonstrations, and "Say No to Capitulation" campaign throughout Ukraine.

Then German foreign minister and now President Frank-Walter Steinmeier offered in 2015 a simplified sequence of steps needed for the peace settlement in Donbas. However, each side of the Minsk Agreements interprets its provisions in their own way. This formula calls for elections to be held in the so-called "DNR/LNR" territories in the framework of the Ukrainian legislation and with the supervision of the OSCE. If elections are free and fair according to the OSCE, a special status will be given to these territories and Ukraine will regain its control over them. Volodymyr Zelenskyy said, "There won't be any elections under the barrel of a gun. There won't be any elections there if the troops are still there."[1] In return, the Russian president's spokesman highlighted that "there is no doubt that this is an important step towards implementing the earlier agreements. Hopefully, the implementation of the Minsk agreements will continue, since this is the only way to resolve the Ukrainian conflict in the country's east."[2]

It seems Russia is very eager to implement this formula as soon as possible. Moreover, the Ukrainians found out from the Russian media that Kyiv agreed to sign this formula. This step is highly condemned by the Ukrainian opposition. For them, the "Steinmeier formula" is as an act of capitulation, treason, and crossing all "red lines". In turn, former Ukrainian President Petro Poroshenko, who signed the Minsk Agreements, is being accused by the current authorities of agreeing to some tricky provisions in the agreements.

The EU, on the other hand, perceives it as a strategic breakthrough in the peace settlement in Donbas. The French counterpart in the Minsk process, Emmanuel Macron, has recently called for a rapprochement with Russia. German Chancellor Angela Merkel looks for some rapprochement with Russia as well, especially in the context of the Nord Stream 2 project.

Normandy Summit: A Never-ending Limbo?

On 9 December 2019, the long-expected Normandy Summit took place in Paris after three years of stalemate. The mere fact of such a high-level meeting is considered to

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1   C. Miller, *Explainer: What Is the Steinmeier Formula. Did Zelenskiy Just Capitulate to Moscow?* 'Radio Free Europe/ Radio Liberty', 12 October 2019 [https://www.rferl.org/a/what-is-the-steinmeier-formula-and-did-zelenskiy-just-capitulate-to-moscow-/30195593.html access: 04 December 2019].

2   Ibid.

be a great success and a step towards peace by all sides. But a "meeting for the sake of a meeting" cannot bring long-expected peace to eastern Ukraine overnight.

The main positive outcomes for Ukraine, according to the joint communiqué, are promises of a full and comprehensive implementation of the ceasefire before the end of 2019, an implementation of the demining plan, an agreement on three additional disengagement areas by the end of March 2020, the release and exchange of conflict-related detainees by the end of 2019 ("all for all", starting with "all identified for all identified"[3]), an agreement on new crossing points along the contact line based on humanitarian criteria, safe and secure access of the SMM OSCE around the clock.[4] All in all, however, it is not something new but a mere reiteration of provisions of the previous negotiations.

However, the main stumbling block on the negotiation table was the issue of local elections in Donbas (the implementation of the "Steinmeier formula") and the control of the Ukrainian border. The sequence of these steps caused major disagreements. Vladimir Putin continues to insist on full commitment to the Minsk Agreements – holding local elections first and only then will Ukraine get control over its state border. Ukraine insists on security guarantees: complete withdrawal of Russian military units and then full-fledged control over its state border; after such measures, local elections in Donbas in accordance with Ukraine's constitution can take place.

The way to the elections can be rougher than it seems, as currently the Donbas region is deeply influenced by pro-Russian media and needs full reintegration into Ukraine, especially from a mental readiness point of view, that is to win "hearts and minds" of the local population there. During his inauguration speech, Zelenskyy pointed out that first we need to return our people and territories mentally. Such a process can take five years or even more. It is dangerous for Putin and that is why it is crucial for him to hold local elections on his terms or simply freeze the conflict.

It seems that the Kremlin is not going to modernise the Minsk Agreements, as Zelenskyy hoped. If the provision regarding the sequence of local elections and Ukraine's control over its national border were different back in 2015, there would be no room for manoeuvre for Putin. It is obvious that the Kremlin is eager to make Ukraine implement the special status of Donbas in Ukraine's legislation and further promote the idea of federalisation and deep polarisation of Ukraine. Nevertheless, Zelenskyy is not going to fall for this trap yet and if no political agreements are reached in spring 2020, new ways to reach peace should be looked for. In such a case, the question is whether a frozen conflict is the best scenario for the EU and Ukraine. Are there any other alternatives?

"Hybrid Peace": A Hybrid War's Best Bedfellow?

As a whole, international community is now on the verge of hybridisation and under the constant threat of possible spillovers from the hybrid war in eastern Ukraine. The question of "hybrid peace" as probably the main tool of the conflict resolution seems to

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3   The prisoner swap took place on 29 December 2019. Ukraine received 76 captives while the so-called DNR/LNR – 124. Such an act was positively welcomed by Merkel and Macron.

4   *The Official Normandy Summit Communiqué,* 9 December 2019 [https://liveuamap.com/en/2019/9-december-heres-the-full-normandy-summit-communique- access: 10 December 2019].

beg itself.[5] But is it even possible to reach any peace after a hybrid war? If the answer is affirmative, then what forms should it take and what are the main differences with a traditional conflict resolution? Or maybe, this "hybrid peace" is just a chimera and a simple continuation of the hybrid war?

According to a professor of International Relations and director of the Centre for Peace and Conflict Studies at the University of St. Andrews (UK), Oliver P. Richmond,

…peace is not a universal concept that can be transposed identically between different contexts of conflict. Rather, unique forms of peace arise when the strategies, institutions and norms of international, largely liberal-democratic peacebuilding interventions collide with the everyday activities, needs, interests and experiences of local groups and the goals, norms and practices of international policy-makers/implementers overlap.[6]

In other words, each armed conflict, each war is unique, and so the world community has to find some new recipes of conflict resolution for each particular case. The war in eastern Ukraine is not an exception. If we talk about a hybrid war, there should be some form of a "hybrid peace", but it should satisfy the needs of all parties so as not to provoke further escalations, which is rather difficult to achieve. It makes us realise that each actor in an armed conflict always finds a way to disguise its actions by adapting to new realities; thus the conflict itself never stops. It takes smoothly the form of a "hybrid peace". Even the last Normandy Summit could not resolve the conflict completely,

as each actor sees their own way out of this conflict without making any concessions.

"Hybrid peace" is some kind of alternative to the traditional liberal peacebuilding as "post-liberal (or hybrid peace) approach defines the crisis of liberal peace, at the base, as one of legitimacy."[7] It is more inclusive and implies active interaction between international and local actors.

In the situation in eastern Ukraine, the hybrid peace may take form of decentralisation of power in Ukraine, granting equal rights to all regions, without providing some kind of a special status to Donbas, as this may lead to negative spillover effects and undermine Ukrainian sovereignty. President Zelenskyy also made a proposal to include internally displaced persons (IDPs) in the Trilateral Contact Group so that their voice could be heard. In turn, President Putin wants direct talks with so-called "DNR/LNR" authorities. In the long term, it could potentially lead to a stalemate in the peace-building process.

The old forms and models of traditional peace building and state building do not work. That was vividly illustrated in Ukraine when international actors (France, Germany) and local actors (representatives of the so-called "LNR/DNR") agreed to sign the package of the Minsk Agreements in 2015 but as of now failed to implement them. It seems that the long-expected Normandy Summit on 9 December 2019 has not brought anything new.

The traditional way of ending a war has not worked yet. Nevertheless, practically all politicians claimed that the Minsk

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5   This section was elaborated during my studies at the College of Europe in my master's thesis, "A Hybrid Peace in Donbas? Russia's Hybrid War in Ukraine and the (Im)possibilities of Conflict Resolution," 2018.

6   O. P. Richmond, A. Mitchell, *Hybrid Forms of Peace. From Everyday Agency to Post-Liberalism,* Palgrave Macmillan: England 2012, p. 1.

7   Ibid., p. 2.

Agreements are the only way to end the war in eastern Ukraine. The stable international system that seemed to work like a clock shattered into pieces at once and had nothing in response to the Russian aggression in Ukraine, even though it was quite clear that the Russian Federation violated the norms of international law – "inviolability of borders, non-interference in the internal affairs of other states, prohibition of using armed forces or threats to settle conflicts and so on."[8] As the result, there was no appropriate reaction that could have induced Russia to stop its further aggression.

Another possible form of hybrid peace is a frozen conflict with the UN peacekeeping mission in eastern Ukraine, which can last for many years, depleting internal resources of Ukraine, which is quite attractive to the Kremlin. Such a form of hybrid peace is unacceptable as it could lead to possible future escalations and encourage Russia to continue its hybrid warfare in other countries as well. Russia is willing to achieve such a form of "peace" that would last for a very long time, giving it room for manoeuvre in conducting its hybrid warfare activities. The Russian form of "peace" will restore neither the Ukrainian borders nor the sovereignty of Ukraine in the long run.

Moreover, there will be ongoing and painful negotiations over the future status of the so-called "DNR/LNR" temporarily occupied territories within various international frameworks (Normandy Format). In hybrid warfare, local agencies should not be ignored; as it has been stated previously, the traditional liberal peace is hard or practically impossible to achieve without taking into account the concept of the "local". However, this concept has been constantly ignored and twisted. The Kremlin still insists on direct negotiations with the representatives of those unrecognised republics, whereas the concept of the "local" includes ordinary Ukrainians left behind Ukrainian borders and IDPs.

Hybrid peace is like a bomb that could be triggered by anything and anyone and explode when no one is prepared. Ukrainian journalist Vitaly Portnikov stressed that such a form of peace is rather "offensive" and "it is critically important that Ukraine not fall into the trap the Kremlin leader is laying. It is very important to understand that peace will not be hybrid. In a hybrid war, real people die; but in a hybrid peace, real states are destroyed. Moscow has no interest in the survival of Ukraine."[9]

In short, there is no future perspective to achieve liberal peace in Donbas except the Russian form of a hybrid peace, which is unacceptable for Ukraine, as it will further deepen the "Ukraine crisis", exhaust Ukraine internally, and give room for manoeuvre for Russia by adapting its hybrid warfare to new realities.

Early local elections on Putin's terms are a time bomb for Ukraine without full control over its border and mental reintegration. The latter condition purely depends on the Ukrainian authorities and their ability to propose incentives for people in the illegally occupied territories, for instance, economic help, infrastructure projects, simplified access to administrative services, effective informational policy, etc. Thus, the Ukrainian

8   V. Horbulin, *The World Hybrid War: Ukrainian Forefront* (monograph abridged and translated from Ukrainian), Folio: Kharkiv 2017, p. 118 [http://www.niss.gov.ua/public/File/book_2017/GW_engl_site.pdf access: 12 December 2019].

9   P. Goble, *Putin's "Hybrid Peace" More Threatening to Ukraine than His "Hybrid War"*, 'StopFake.org', 17 January 2018 [https://www.stopfake.org/en/putin-s-hybrid-peace-more-threatening-to-ukraine-than-his-hybrid-war-portnikov-says/ access: 12 December 2019].

form of peace, in the form of decentralisation (which has been taking place since 2015) and active cooperation with local and international actors, seems to be the only available and reasonable solution to settle the military conflict.

> **currently, the main goal for the EU is not only to mitigate the armed conflict in eastern Ukraine but also to stop further Russian hybrid warfare and its negative spillovers outside Ukraine as well**

Conclusions: Any New Perspectives for the EU to End the "Ukraine Crisis"?

The "Ukraine crisis" is still perceived as a severe geopolitical and security challenge for the EU and its foreign policy. So, currently, the main goal for the EU is not only to mitigate the armed conflict in eastern Ukraine but also to stop further Russian hybrid warfare and its negative spillovers outside Ukraine as well. The Ukraine crisis could have serious negative consequences for the whole security architecture of the post-Cold War world. Yet, the Normandy, as the only peace tool at hand, has not brought anything radical enough to put the Russian aggression to a complete end.

Despite all the ominous perspectives, EU actors still have new possibilities for successful mediation and peace building in Ukraine. In the framework of the Common Security and Defence Policy and the 2016 Global Security Strategy, it was vividly stated that "the EU has learnt the lesson: my neighbour's and my partner's weaknesses are my own weaknesses."[10] France and Germany as the parties to the Normandy Format should stick to these provisions and continue political and diplomatic pressure on Russia in a more assertive way. The "Ukraine crisis" is not only about politics between Ukraine and Russia, but also about geopolitics between Russia and the West.

"Business as usual" with the Kremlin will not strengthen the EU position as a peace mediator. During the joint press conference after the Normandy negotiations, there were no harsh reactions from Merkel or Macron towards Russia's statements and its ongoing assertive policy in Donbas. There is still no punishment in the Minsk Agreements in case any side does not implement its provisions. Currently, forces in Donbas backed up by Russia continue to violate the Minsk Agreements and the way to peace seems thorny again.

EU sanctions have a paradoxical effect, as some sectors of the Russian economy strengthened and overall they do not compel Russia to make any concessions on Donbas or Crimea. Otherwise, it is perceived that they affect not only French and German economies to some extent but those of other EU member states (Slovakia, the Czech Republic, and Italy, etc.) as well. For six years, sanctions have still not been enough to make Russia play by international rules on a full scale. However, they flow directly from the Common Foreign and Security Policy, as they are "designed to bring about a change in policy or activity by the target country, entities or individuals."[11]

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10 *A Global Strategy for the European Union's Foreign and Security Policy, EU*, 2016 [http://eeas.europa.eu/archives/docs/top_stories/pdf/eugs_review_web.pdf access: 25 December 2019].

11 *Sanctions*, Council of the European Union, 2014 [https://ec.europa.eu/fpi/what-we-do/sanctions_en access: 20 December 2019].

Because of the absence of the military arm, the EU could not offer military assistance to Ukraine. But if it did have it, Brussels would not do it either, as the use of military force would not be conducive to peace resolution in this particular conflict and would lead to its further escalation: According to the logic of the Russian foreign policy, it would be a direct incursion on its post-Soviet space.

Since 2015, the Minsk Agreements have been constantly violated and not fully implemented as the EU and the Contact Group had expected. Currently, there is no perspective that the armed conflict will be frozen or the humanitarian situation in "DNR/LNR" will improve in the near future. The Kremlin does not plan to stop its hybrid activities in order to implement the Minsk Agreements fully, and its constant covert military actions on a daily basis, as one of the main features of its hybrid warfare, are aimed to destabilise further the internal situation in Ukraine and gain some advantage before a possible future escalation or the establishment of a "hybrid peace". In other words, the Minsk Agreements have had a reverse effect on Russia – the situation of open war change to limited war. The possible implementation of the "Steinmeier formula" will be detrimental to the regional and EU security orders. It could set a negative precedent – any annexed territory could get a "special status" and a country-aggressor would continue to challenge the norms of the international law.

The EU's inability to resolve the "Ukraine crisis" could be posed as a Western diplomatic flop. A sound solution for the EU will be to continue to support financially Ukraine's structural reforms and increase its military aid so as to strengthen the country internally. It can also engage Ukraine in its PESCO initiatives to increase Ukraine's military capabilities.

As the Common Security and Defence Policy lacks real military tools, it is logical for the EU to continue to exert its influence on its neighbourhood as a normative player, not a military one. Nevertheless, hybrid wars require radical and swift actions. The EU's position towards Russia should be more assertive, as a statement of a deep concern does not solve complex security puzzles. The EU's image of a passive bystander should be transformed into that of an active peace broker by real actions and strategic documents against Russian hybrid warfare.

> *As the Common Security and Defence Policy lacks real military tools, it is logical for the EU to continue to exert its influence on its neighbourhood as a normative player, not a military one*

Apart from sanctions and financial support to Ukraine, "business as usual" with Russia, especially the Nord Stream 2 project, should be completely stopped until all annexed territories are fully reintegrated into Ukraine, including Crimea. The strategic review of the EUAM's mandate should take place as well so as to make it more flexible together with a strong security and defence component to counter potential hybrid threats. Isolating Russia from all international platforms would send a strong signal of the EU's intentions to finish the "undeclared war" in Donbas. Currently, it seems that it does not fall along the geopolitical lines for the EU and there is a lack of political will among EU member states and a prevailing "Ukraine fatigue". Thus, the issue of lifting sanctions will be raised on a constant basis.

Overall, the "Ukraine crisis" is not merely a conflict between Ukraine and Russia, it is a conflict between Russia and the West; therefore, the EU should think over a more

broad strategy to prevent the negative spillovers of the Russian hybrid warfare outside the Ukrainian borders. If the EU's economic and energy cooperation (Nord Stream 2) had been completely stopped until Russia fulfilled all Minsk Agreements under Ukrainian conditions and the logic of the international law, the "Ukraine crisis" quagmire would have been patently resolved long ago. But now it seems like a distant illusion.

Christine Karelska is an alumna of the College of Europe in Natolin and the Democracy Study Centre in Kyiv. Her main specialisation is the European Neighbourhood Policy. Currently, Christine is a student at the East European Multiparty Democracy School and an intern-analyst of the Public Association "Community Associations" in Odesa. Her main academic spheres of interest are security studies, international relations, and local governance.

BUILDING PEACE THROUGH POLICING? THE EU AND POLICE REFORM IN BOSNIA AND HERZEGOVINA AND UKRAINE

Stiven Tremaria
Institute of Social Sciences,
University of Osnabrück, Germany

In this paper, efforts deployed by the EU to reform the police in Bosnia and Herzegovina and Ukraine, as part of a broader peacekeeping and peacebuilding strategy, are analysed from a critical and comparative perspective. It is argued that the EU was able to influence the policymaking process because of a positive conditionality policy and a favourable pro-reformist political context. This enabled the adoption of innovative police legislation consistent with the principles of democratic policing and EU standards. However, during its implementation, the police reform foundered in the conflictive internal political dynamics observable in both countries and due to the little leverage of the EU in such processes.

The EU as Peacekeeper and Peacebuilder

Since the early nineties of the twentieth century, the European Union (EU) has been gradually more involved in peacekeeping and peacebuilding processes worldwide. On the one hand, as a peacekeeper the EU has actively supported the implementation and observance of peace agreements in war-torn zones and the organisation of free and fair elections, and assisted in the disarmament, demobilisation, and reintegration of former combatants; all these are interconnected components of a broader strategy aimed at creating the conditions for a stable peace – by avoiding the relapse of armed violence – in which democratisation may take place. On the other hand, as a peacebuilder the EU has followed the traditional approach of the peacebuilding theory, in which four areas of actions have been addressed simultaneously in post-conflict scenarios: security aspects concerning the restructuring of the security sector, political aspects related to the establishment of a functional state administration and the protection of civil and political rights, socio-economic aspects linked to the reconstruction of the economic apparatus and tackling social inequality, and psycho-social aspects, which include the reconstruction of the social fabric and transitional justice processes.[1]

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[1] U. Schneckener, *Frieden Machen: Peacebuilding und peacebuilder (Making Peace: Peacebuilding and Peacebuilder),* "Die Friedens-Warte" 80 (1/2), 2005, pp. 21–22; S. Duke, A. Courtier, *EU Peacebuilding: Concepts, Players and Instruments,* [in:] S. Blockmans et al (eds.), The European Union and Peacebuilding: Policy and Legal Aspects, T.M.C. Asser Press: The Hague 2010, pp. 15–53.

The EU has supported peacekeeping and peacebuilding processes worldwide by means of different strategies, complementary to each other, including technical assistance and advising by staff attached to European institutions, the provision of economic development funds, and active financial and human support to the efforts deployed by the Department of Peace Operations of the United Nations (UN) or by the Organisation for Security and Co-operation in Europe (OSCE). The participation of the EU in multilateral international military and police missions goes back to the times of the Cold War, in which Western European countries were involved (to a different extent) in various monitoring, advisory, executive, or special political missions launched by the UN Security Council. After the end of the Cold War, the EU started to assume progressively a stronger role in international crisis management efforts, and especially after the outbreak of the Yugoslav Wars (1991–2001), framed within the UN endeavours.[2] Nevertheless, it remained a second player because of political instability and since internal cohesion within the Union was still fragile.

The EU has advanced in the last two decades from a laggard to a leading position as a conflict manager in its immediate fringe. Its first test took place in the western Balkans, when in January 2003 the EU launched its first own stabilisation mission in the scope of the European Security and Defence Policy[3] in Bosnia and Herzegovina. Seventeen years later, there have been 35 operations and missions run by the EU in Eastern and Southeast Europe, Northern

and Central Africa, and the Middle East, of which 23 were of a civilian and 12 of a military character. As of December 2019, there are six ongoing EU military operations abroad (in Bosnia and Herzegovina, Somalia, Mali, Central African Republic, on the South Mediterranean Sea, and in the Gulf of Aden) and 10 civilian/police missions (a police and a border mission in the Palestinian territories, Kosovo, Georgia, Ukraine, Iraq, Niger, Libya, Mali, and Somalia, plus the special border assistance mission to Moldova and Ukraine), with around 5,000 people currently deployed.[4]

This paper traces the trajectory of the EU as a peacekeeping and peacebuilding actor by critically reviewing, in a comparative perspective, the outcome of the first and the latest police missions launched in two EU neighbouring countries: Bosnia and Herzegovina and Ukraine, respectively. From the overall strategies set into motion by the EU in both countries as part of a crisis management and peacebuilding agenda, emphasis is placed on the endeavours and support given by the EU – by means of technical assistance, advising, and monitoring – to legally reform the Bosnian and Ukrainian police.

Police reform is selected as a case study because the EU placed a bet on the card of reforming the police institution as a peacebuilding strategy in both countries, departing from the understanding that policing is a state function through which a new social order may be reshaped and interests of the citizenry may harmoniously converge. Both countries inherited from

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2   T. Tardy, *The European Union and UN Peace Operations: What Global–Regional Peace and Security Partnership?,*
     [in:] C. de Coning, M. Peter (eds.), *United Nations Peace Operations in a Changing Global Order,* Palgrave Macmillan:
     Cham 2019, pp. 237–240.

3   Renamed as the Common Security and Defense Policy (CSDP) after the entry into force of the Lisbon Treaty in
     2009.

4   European External Action Service (EEAS), *Military and Civilian Missions and Operations,* 5 March 2019,
     [https://eeas.europa.eu/topics/military-and-civilian-missions-and-operations/430/military-and-civilian-
     missions-and-operations_en access: 2 January 2020].

their Communist past a militarised and repressive style of policing and have attempted to move forward a civilian and preventive- and service-oriented model of public security delivery by which protection is delivered and law is enforced equally for all people.

In this sense, in this paper the policymaking and outcome of the police reform in Bosnia and Herzegovina and Ukraine are reviewed in the light of the role played during the process by the EU police missions. Right after, the shortages in the implementation of the police reform are critically addressed, as well as these are linked to an analysis on the effectiveness of police reform as a peacekeeping and peacebuilding strategy of the EU.

The Setting up of EU Police Missions

Bosnia and Herzegovina and Ukraine have a common hallmark: The two cases constitute the first and the latest serious challenges to intra-European security and the political status quo after the end of the Cold War. The brutal Yugoslav Wars and their aftermath brought about not only the first violent change (by means of an armed conflict) of the territorial order in Europe after 1945, but also made it clear to European politicians and high-ranking policymakers that the crisis management capacities of the Union should be improved and pushed actively; only so the EU would be able to manage effectively crisis situations in its immediate neighbourhood.

In January 2003, the EU started its own peacebuilding way by setting up its first crisis management operation, the EU Police Mission in Bosnia and Herzegovina (EUPM), as the successor to the multinational UN Mission and its civilian police, the International Police Task Force (IPTF), both in operation from 1995 until 2002.[5] The EUPM was in late 2004 supplemented separately by a military component, the still-active EU Force in Bosnia and Herzegovina (EUFOR), as a replacement for the NATO-led Stabilisation Force (SFOR) established in the country since 1995 for peacekeeping and deterrence purposes and overseeing the implementation of the Dayton Peace Agreements (DPA).

> **EU placed a bet on the card of reforming the police institution as a peacebuilding strategy in both countries, departing from the understanding that policing is a state function through which a new social order may be reshaped**

The EUPM ran the operation for nine years and aimed mainly at triggering the reform of the Bosnian police into a professional, sustainable, and multi-ethnic police force. This very broad aim had three pillars: "to improve governance on the middle and higher levels, to reform the judiciary system further and to depoliticize the police".[6] In particular, emphasis was placed on reinforcing the capacity of the Bosnian police to tackle and prosecute organised crime and corruption, strengthening oversight and accountability mechanisms over police work, as well as enhancing the cooperation among the different

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5   It is worth clarifying that, contrary to the IPTF, the EUPM was an advisory and not an executive mission, "which means that EUPM monitors were not present in the field to implement or oversee police operations and they did not have enforcement tools", in A. Juncos, *Police Mission in Bosnia and Herzegovina,* [in:] M. Emerson, E. Gross (eds.), *Evaluating the EU's Crisis Missions in the Balkans,* Centre for European Policy Studies: Brussels 2007, p. 69.

6   K. Osland, *The EU Police Mission in Bosnia and Herzegovina,* "International Peacekeeping" 11 (3), 2004, p. 552.

agencies with law enforcement powers within the country. In this sense, on the one side, the EUPM sought to achieve a better management of the public security apparatus of the country and to bring "Bosnian policing mentalities, institutions and practices closer to European norms and standards".[7] On the other side, the EUPM aimed at reinforcing the quality of democratic governance in post-war Bosnia by improving the relationship between citizens and police and by encouraging a closer understanding among the different groups comprising the Bosnian multi-ethnic society.

> **the EUAM is a good example of the EU peacebuilding agenda, which includes the promotion of the values linked to Western liberal democratic tradition but also of a particular model of how public security should be delivered**

Meanwhile, in Ukraine the latest threat to the European security and the latest test to the crisis management capacity of the EU are currently taking place. The Revolution of Dignity (2013–2014) and the ongoing armed conflict (after the Russian occupation of Crimea and the armed aggression in Donbas) called the EU to an active involvement in the country. In spite of the different possible interpretations of the causes leading to Euromaidan,[8] the Revolution of Dignity may be well understood as the outcome of the demands of a large sector of the Ukrainian population for closer relations with the EU and the expectation that it gets actively involved in supporting a Western liberal-oriented democratisation of the country. Particularly, it was expected that the EU supported actively the requested changes in the law enforcement agencies, the judicial sector, and fighting corruption, which ultimately were the top initial demands during the Revolution of Dignity.

The EU Advisory Mission in Ukraine (EUAM) was established by the European Council in December 2014 with the aim to support the restructuring of the security sector, and, in more concrete terms, to "provide strategic advice, and hands-on support, to Ukrainian law enforcement and rule of law agencies – with a focus on police reform, fighting corruption, and reform of the prosecution system".[9]

The definition of the mission's mandate has been perceived by academics and politicians in two contrasting ways, but to some extent they also reflect two sides of the same coin. For one thing, the EUAM pursues a clear political objective (comparable to the Bosnian example), since it aims at "promoting European values, rule of law and democratic principles in order for Ukraine to develop a modern political framework that is conducive to the political and economic modernization of the country, which includes security sector reform".[10] By extension, the EUAM is a good example of the EU peacebuilding agenda, which includes the promotion of the values linked

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7   Z. Torun, *Strengths and Weaknesses of EU Police Mission in Bosnia-Herzegovina,* "Avrasya Etütleri" 50 (2), 2016, p. 16.

8   In this regard, see V. Yakushik, *Competing Interpretations of the Socio-political Crisis in Ukraine in 2013–2016,* "Argum (Vitória)" 8 (3), 2016, pp. 105–121.

9   EUAM, *Progress in Reform* [http://www.euam-ukraine.eu/our-mission/progress-in-reform/ access: 15 January 2020].

10   N. Nováky, *Why So Soft? The European Union in Ukraine,* "Contemporary Security Policy" 36 (2), 2005, p. 257.

to Western liberal democratic tradition but also of a particular model of how public security should be delivered.

For another thing, sceptical voices within the EU and the Ukrainian state have criticised the fact that the EUAM is a mission with a low-profile mandate in relation to scope, size, and powers, which reflects the divergent positions within the Union towards the current developments in Ukraine.[11] The establishment of the EUAM was the outcome of a fragile consensus among EU members with opposing interests, which agreed in the setting up of a more technocratic-bureaucratic mission with a narrowed scope, which "distanced itself from any activity which could be interpreted as a direct or indirect contribution to conflict resolution [in Eastern Ukraine], with the military/defence reform treated as the realm of NATO".[12]

The involvement of the EU in Bosnia and Herzegovina and Ukraine through police missions has been matched by a policy of economic and diplomatic incentives, whose target is the prospect of a future EU membership. This approach might be named the "European peacebuilding formula," a sort of carrot-and-stick policy that rewards collaboration in the advance of reforms by stepping up negotiations for a prospective EU candidacy, while punishing non-compliance. Since factual and effective reform of the law enforcement system has

been announced to be one of the key pillars to move both countries closer to the EU membership, such a linkage has been called figuratively as the process of "becoming European through police reform".[13]

Policymaking and Outcome of Police Reform

Despite similarities in their outcomes, police reforms in Bosnia and Herzegovina and Ukraine differ in essence from one to another in the way the adoption of the new law on police took place. The dissimilarity lies in the level of consensus achieved between decision-making actors (also called veto players) and the weight of the influence exerted by external actors over the policymaking process. To a big extent, this is reflected in the kind of policymakers who participated in the reform. In Bosnia and Herzegovina, the EUPM assumed the steering role together with political leaders of the Bosniak, Serb, and Croat constituencies. In Ukraine, state institutional actors took over policy formulation and adoption, in close collaboration with international advisors and civil society actors. It should be noted that in both cases, state actors with veto power (regional authorities, the parliament, the president, and the council of ministers) and the EU were the main actors involved in police reform; what differed was the influence that one or the other actor had on the decision-making stage.

11 As stated in the letter from the Ukrainian Foreign Minister to the EU High Representative for Foreign Affairs and Security Policy on 8 May 2014, the setting up of a strong-scope CSDP mission with broader defence reform powers and a monitoring task on-site in Crimea and the Donbas was expected. This position was supported by some EU member states such as Estonia, Poland, Lithuania, Sweden, and the United Kingdom. However, other countries, such as France, Germany, Finland, Italy, Hungary, and the Netherlands, opted for a softer mandate, thus avoiding direct confrontations with Russia, in: S. Jayasundara-Smith, *From Revolution to Reform and Back: EU-Security Sector Reform in Ukraine,* "European Security" 27 (4), 2008, p. 459; N. Nováky, *Why So Soft? The European Union in Ukraine,* "Contemporary Security Policy" 36 (2), 2005, p. 249–250.

12 L. Litra et at, *Assessing the EU's Conflict Prevention and Peacebuilding Interventions in Ukraine,* Institute of World Police, Kyiv 2017, p. 34.

13 G. Collantes, *Becoming 'European' through Police Reform: A Successful Strategy in Bosnia and Herzegovina?,* "Crime, Law and Social Change" 51 (2), 2009, pp. 231–242.

International actors involved in the police reforms in Bosnia and Herzegovina and Ukraine come from a wide spectrum: While in the Bosnian case, the EU (by means of the EUPM but also through the "double-hatted" post at the Office of the UN High Representative and the EU Special Representative) played a pivotal role during policymaking, in Ukraine, a confluence of various actors with overlapping agendas is observable. Within the EUAM, actors include the OSCE and experts from Georgia, the United States, the United Kingdom, Canada, and Japan, among others.[14]

> *participation of the EU in the Bosnian and Ukrainian police reform was not limited only to providing advice and funding, but it "manufactured" the agenda of the police reform and imposed it through various mechanisms*

In Bosnia and Herzegovina, after a phase of recertification in the immediate aftermath of war and reorganisation of the federal police forces undertaken by the IPTF during the 1990s, the 2004–2008 police reform under the EUPM auspices focused mainly on building a single structure under the oversight of state-level institutions and adopting a common regulatory framework (in the sense of standardisation and harmonisation of norms) for the police function on a national level. Policymaking of the Bosnian police reform reveals two dynamics of the country's

politics: firstly, the threat or actual use of veto powers by ethno-nationalist groups when their political interests and privileges were at stake; and secondly, the use of a conditionality policy by the EU in negotiations for the signing of a Stabilisation and Association Agreement (SAA) to foster concord among the parties. In this sense, the conditionality policy gave the EU the power to alter, through positive incentives, the behaviour of Bosnian political actors.

After a three-year period of deadlocks and minimal progress due to contradictions among the regional governments, state-level legislators and ministers decided to unlock negotiations and comply with the EU minimal requirements but without greatly altering the power relations framed in the DPA, so "separating police matters from 'statehood' matters and separating the entire process from other components of state and entity government system were mandatory components of negotiation success".[15] The enactment of a batch of three laws on police in April 2008[16] closed a long and dizzying four-year path for restructuring the Bosnian police. Such a step was considered by the EU as satisfactory enough for starting negotiations regarding the SAA two months later.

The policymaking of the 2015 Ukrainian police reform reflects the changes taking place in the arenas of power relations and elite consensus after the Revolution of Dignity. As a result of the return to the parliamentary-presidential system, policy formulation took place within the confines of the legislative branch and the cabinet

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14 This has resulted in coordination problems among actors but also in opposed philosophies of what the new police should look like and which powers should fall on the institution; see: C. Friesendorf, *Polizeireform in der Ukraine. Probleme und Perspektiven (Police Reform in Ukraine: Problems and Perspectives),* "Osteuropa" 66 (3), 2016, p. 108.

15 D. Hadžović et al, *Overview of Policing in Bosnia and Herzegovina,* Center for Security Studies: Sarajevo 2013, p. 24.

16 Namely: 1) Law on Police Officials, 2) Law on Directorate for Coordination of Police Bodies and on Agencies for Support to Police Structure, and 3) Law on Independent and Supervisory Bodies of Police Structure; all laws include at the end the name "of Bosnia and Herzegovina".

of ministers but under direct steering by President Petro Poroshenko, including active consultations and review of draft proposals with external (mainly the EUAM and the OSCE) and civil society experts.[17]

The year of 2014 was decisive for boosting police reform for two reasons. Firstly, a partial reshuffling of the political regime was possible thanks to an elite change after Euromaidan; newly elected MPs with a liberal-democratic, pro-EU, and nationalist orientations were present in the parliament and were willing to cooperate in order to push a swift adoption of reforms.[18] In this sense, higher elite consensus drove to less need for external pressure. Secondly, the police reform was framed within a broader reform package fostered by the central government and the EU after the signing of a bilateral Association Agreement in September 2014 and was at the top of the reform agenda.

In this sense, the EU made use in the Ukrainian case, in the same way as in Bosnia and Herzegovina, of a carrot policy to foster substantive progress of police restructuring, but in contrast to the Bosnian experience, it was about a softer role, since agreement and commitment by decision-makers were on the table. This is why policymaking of the Ukrainian police reform was a fast-track process lasting just eight months from the phase of agenda setting to policy enactment. The core outcome of this process is the Law on the National Police, which came into effect in November 2015, whereby the old militsiya was formally dismantled and the legal ground for organisation of the newly established National Police of Ukraine was defined.

Beyond the fact that the Bosnian and Ukrainian police systems are administratively and functionally organised under a decentralised and centralised structure and command respectively, both laws on police show remarkable similarities concerning regulations on police powers, the use of force and firearms, police career, and accountability and oversight mechanisms over police work. In a broader sense, the agenda of the reform is largely the product of a (subtle and not always explicit) process of "globalization of policing",[19] which manifests itself in two ways. First, the participation of the EU in the Bosnian and Ukrainian police reform was not limited only to providing advice and funding, but it "manufactured" the agenda of the police reform and imposed it through various mechanisms including the continued presence of experts, EU-sponsored NGOs, and think tanks throughout policymaking, the offer of training for police officers and technical assistance programmes, and a conditionality policy as well. These strategies did not only enable reforms to be adopted in complex internal political contexts, but also allowed the standardisation and uniformity of their contents, and therefore they acted as mechanisms for transferring policing ideologies, norms, and practices from one centre to the periphery.[20]

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17 O. Sushko, *Reforming Ukraine: Policymaking after the Euromaidan,* "PONARS Eurasia Policy Memo" 409, 2015, p. 2.

18 F. Felten, *Polizeireform, Revolutionen und Eliten in der Ukraine. Warum hatte der Euromaidan eine Polizeireform zur Folge und die Orangen Revolution nicht? (Police Reform, Revolutions and Elites in Ukraine: Why Did the Euromaidan Lead to a Police Reform and the Orange Revolution Did Not?),* University of Hamburg: Hamburg 2017, pp. 35–36.

19 G. Ellison, N. Pino, *Globalization, Police Reform and Development. Doing It the Western Way?,* Palgrave Macmillan: London 2012.

20 O. Marenin, *The Goal of Democracy in International Police Assistance Programs,* "Policing: An International Journal", (21) 1, 1998, pp. 159–177; A. Antillano, La Reforma Policial. Luces y Sombras (Police Reform. Lights and Shades), Universidad Central de Venezuela: Caracas 2013, p. 39.

Secondly, a standardisation of practices for police service delivery on a worldwide scale is observable after the end of the Cold War, by means of a reproduction in democratising countries of the strategies previously set in motion in consolidated industrial Western democracies under the model of "democratic policing".[21] The democratisation of the police does not aim only at building an inclusive social consensus, but also at combining reasonable and effectively forcible methods to keep public order and to preserve and spread liberal values.[22] In this regard, this model is conceived as a prerequisite for the establishment of a functional liberal democracy and liberal peace and, by extension, a strategy for peacekeeping and peacebuilding in conflict zones.

The EU promoted through the advisory police missions the agenda of democratic policing in Bosnia and Herzegovina and Ukraine (as in other countries where police missions have been deployed as well) and this is reflected to some degree in the scope and nature of the laws on police. Three core features mark this approach: a demilitarisation and depoliticisation of the police and accountability and civilian oversight of police function.

Demilitarisation means the removal of the participation of armed forces in citizen security tasks and in the management of the police and the non-participation of law enforcement agencies in military operations, as well as the non-use of a military structure, training, tactics, and equipment in policing; in other words, all this alludes to a "civilianization" of police service. According to the Bosnian and Ukrainian laws on police, the Ministry of Security and of Interior (respectively) are responsible for managing and overseeing the police function, and any public security function was delegated to the Ministry of Defence. Both legislations frame police powers exclusively in the scope of a preventative maintenance of public order through a service-oriented approach and conducting pre-trial investigation of criminal offences, in opposition to a military-like repressive reaction. In this sense, the use of firearms and coercive or lethal violence by officers is restricted to the protection of human lives and prevention of the occurrence of crime.

Depoliticisation implies making "police forces politically independent, meritocratic, transparent and accountable to the public".[23] To put it in another way, it means setting strict limits on the control of governmental decision-makers over operational policing matters, the definition of strategies for an unbiased police service delivery, and establishing clear regulations on police selection and promotion. In this connection, at the level of management, a clear separation between the relevant ministry and the direction of the police is observed in both laws on police, since the former is responsible for strategic planning and the latter for the operational management of the police.

Moreover, the impartial character of police function without political interference and the orientation of the service to an equal protection of citizens without discrimination are highlighted by law. For this reason, it is significant that the Bosnian and Ukrainian legislations include an explicit statement of the incompatibility of police work with political proselytism and its independence from decisions, statements, and positions of political parties or civil associations. By

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21 N. Pino, M. Wiatrowski, *Democratic Policing in Transitional and Developing Countries,* Ashgate: Aldershot 2006.

22 B. Ryan, *Statebuilding and Police Reform: The Freedom of Security,* Routledge: London 2011.

23 M. Merlingen, R. Ostrauskaite, *The EU and the Democratisation of Policing in Countries in Transition: The Case of BiH,* "População e Sociedade" 11, 2004, p. 137.

extension, police function is defined as a professional public service to be delivered in an impartial and efficient way, aimed at protecting civilians and ensuring law enforcement. In order to make police career meritocratic and transparent, in both laws clear, standardised, and transparent procedures for recruitment, selection, promotion, and suspension of officers are extensively defined.

Lastly, the model of democratic policing emphasises the need to oversee police work by state institutions and citizenry, in order to ensure efficiency and performance by officers in accordance with law and to restrict political interference. Accountability means that "police activity – ranging from the behaviour of single police officers to the strategies for police operations, appointment procedures or budget management – is open to observation by a variety of oversight institutions".[24]

Both Bosnia and Herzegovina and Ukraine advanced to varying degrees in the setting up of accountability and oversight mechanisms over police function. These devices were strongly developed in the Bosnian case, which includes the establishment of Internal Control Departments for continuous monitoring of the performance of police officers and starting disciplinary procedures in case of misconduct. External oversight mechanisms by citizens are set up in the Public Complaint Board, as an independent body comprising representatives from civil society human rights organisations. Such procedures are not laid down in the Ukrainian legislation, where "apart from the annual reports required to police chiefs,

and police commissioners' participation in the hiring process, there is practically no possibility for the public to examine decision-making within the police force".[25] However, the principles of transparency and openness of police activity and normative legal acts to state authorities and the general public are explicitly prescribed under the law.

Building Peace through Policing? Assessment of Police Reforms

Police reforms in Bosnia and Herzegovina and Ukraine were welcome due to their scope and innovative character by some national politicians, the EU, and certain sectors of society at large. However, after years of their enactment, it is hard to identify an optimistic balance of a factual restructuring of the police in both countries. While it is true that these reforms set the foundations for a substantive change in police service delivery, the gap between norms and implementation has so far been huge. Police reform has been conceived essentially as a legal-normative process, but changing social practices within the political system, the police institution, and society is something more complex, and that is where the weakest point lies in both cases.

Reform standards were defined to a large extent by police missions, "sometimes without sufficient consideration of real changes in society and did not provide rapid changes of moral values, habits and daily practices of the police"[26]; this is however a well-documented shortage identifiable in other international police aid schemas. Likewise, the EU opted for

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24 OSCE, *Guidebook on Democratic Policing,* DCAF and OSCE Secretary: Geneva 2011, p. 20.

25 B. Harasymiw, *Police Reform: Challenges and Prospects,* [in:] O. Berensen (ed.), Revolution and War in Contemporary Ukraine, Ibidem: Stuttgart 2016, p. 367.

26 V. Zhminko, *Possibilities and Limitations of International Experience in Law Enforcement Reform Implementation in Ukraine,* "National Security and Defence" 2–3 (151–152), 2015, p. 104.

a strong emphasis on the legal nature of reforms in two societies that have not been traditionally distinguished by a strong observance and commitment to the law.

In addition, the EUPM and the EUAM are characterised by a limited scope of the mission, limited to providing advice and technical assistance to the legal reform and to the adoption of complementary legislation, but they lacked extensive implementation powers and had in consequence low leverage in the actual enforcing of reforms. Implementation is in essence a state affair and it depends on internal support, on the stability of the political regime, and on the broader social and political context that provides the conditions to put reform into force.

The shortages in a factual police reform in Bosnia and Herzegovina and Ukraine show common and distinctive features. In the Bosnian case, there are two main explaining factors: the low prospect for the EU accession that could have worked as an incentive for implementing reforms and the instability of the Bosnian state project based on Dayton's schema. On the one side, with the withdrawal of the EUPM in December 2012, the prospect for the EU candidacy became also diffused since negotiations for the SAA had been advancing at an exceedingly slow pace for seven years until it finally came into force in June 2015. Since then, Bosnian candidacy for joining the EU has been rejected by the Union's members since the political stalemate, in which the country has been stuck during the last decade, has limited the advance of many other substantive reforms required for the EU accession.

On the other side, the return of ethno-nationalist hardliners into power in Bosnian politics has meant that political actors have been less interested in advancing reforms than rolling them back. Particularly, obstructionism to move forward with – and even to counter – police restructuring has been exercised by the Bosnian-Serb constituency. In the Republika Srpska, and later in the Federation, there were repeated attempts during 2011–2012 to set aside the regulations of the law on police through federal legislation, but these were restrained under EUPM pressure.[27]

In addition, a de facto militarisation and politicisation of the Republika Srpska police is observable since 2014, which has meant a direct intervention by right-wing politicians in the operation and a military rearmament of the police, and even the unconstitutional establishment of a gendarmerie attached to the Ministry of Interior in September 2019.[28] To sum up, the Bosnian experience provides us with the lesson that police reform may be propelled in a top-down fashion by means of an attractive carrot policy, but such reforms are doomed to fail if incentives are any longer on the table and if reforms are not structurally supported by the political national elites.

In the Ukrainian case, it is too soon to talk about a counter-reform of policing as in the Bosnian experience, since it is still in an early stage, but three explaining factors causing a stalemate in its implementation during the Poroshenko administration (2014–2019) may be identified. Firstly, police reform was welcomed by one important sector of the population (mainly among the pro-reform political elite and the pro-European upper

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27 B. Weber, *The Police Forces in BiH – Persistent Fragmentation and Increasing Politicization,* "AI-DPC BiH Security Risk Analysis Policy" 6, Democratization Policy Council and Atlantic Initiative: Berlin 2015, pp. 8–9.

28 R. Bajrović et al, *Bosnia on the Chopping Block: The Potential for Violence and Steps to Prevent it,* Foreign Policy Research Institute, March 2018 [https://www.fpri.org/article/2018/03/bosnia-russian-chopping-block-potential-violence-steps-prevent/ access: 19 December 2019].

and middle social class in big cities), since it met their expectations of a model of policing that resembles Western European patterns.

At the same time, it was met with scepticism by another segment of society, of the state administration and the police institution itself. Thus, on the one hand, competing and divergent agendas among conservative and reformist politicians and bureaucratic actors have resulted in a stalemate in the advance of the police reform. Some of the most conservative politicians, particularly the minister of the Interior, Arsen Avakow, continue to exercise a strong influence and patronage over the police (still inclusive in the apparently pro-reformist administration of President Volodymyr Zelenskyy), calling into question the factual depoliticisation of the institution.[29]

On the other side, setting into motion the new police model brought about a clash within the institution between the old militsiya and new officers, which provoked resistance to embracing change and even boycott.

Secondly, opponents of the reform consider it unsuitable to meet the real security needs of the country, signified by an open armed conflict. The war in Donbas and the conflict with Russia act as obstacles to the demilitarisation of the police, since a considerable part of the security sector forces is tied up indirectly or directly in the conflict. Moreover, the armed conflict confronts the security apparatus with challenges (such as growth of street gangs, paramilitary and parapolice groups, terrorist attacks, organised crime, and smuggling of goods and weapons) that the new police seem unable to meet, since they are tied to a more service-oriented and preventative model.[30]

> *opponents of the reform consider it unsuitable to meet the real security needs of the country, signified by an open armed conflict*

And thirdly, the narrow mandate, technical-bureaucratic character, and restricted financial support by the EUAM have produced frustration among local stakeholders, who have complained of the lack of hands-on advice, training, and projects by the EU that could enable the putting into practice of the new police model. After a strategic review in autumn 2015, the EUAM was endowed with powers to support implementation of law enforcement reform by adding to its mandate operational and training activities as well as community policing projects, and only as of early 2016, the Ukrainian national police was enlisted within the mission's beneficiaries.[31]

Balance

In Bosnia and Herzegovina and in Ukraine, the EU has made an effort to institutionalise the core principles of democratic policing by means of actively influencing the content of the laws on police and setting out the guidelines for a demilitarised, depoliticised, and service-oriented police service delivery. Endeavours by the EU have focused on

29 T. Goncharuk, *Erfolge und Probleme der Polizeireform in der Ukraine (Successes and Problems of the Ukrainian Police Reform),* "Ukraine Verstehen", 4 June 2018 [https://ukraineverstehen.de/gontcharuk-polizeireform-ukraine-erfolge-probleme/ access: 12 January 2020].

30 C. Friesendorf, *Polizeireform in der Ukraine. Probleme und Perspektiven (Police Reform in Ukraine: Problems and Perspectives),* "Osteuropa" 66 (3), 2016, p. 104.

31 EUAM, *Progress in Reform* [http://www.euam-ukraine.eu/our-mission/progress-in-reform/ access: 15 January 2020].

> **This is part of a broader EU strategy aimed at promoting liberal peace in its immediate neighbourhood, since by improving the quality of policing the EU aims at supporting democratisation and socio-political stability**

supporting the transformation of the Bosnian and Ukrainian police from agents of coercion linked to the interests of local elites to providers of an unbiased protection to citizens based on the rule of law and guarantors of civil rights.

This is part of a broader EU strategy aimed at promoting liberal peace in its immediate neighbourhood, since by improving the quality of policing the EU aims at supporting democratisation and socio-

political stability. However, a partial balance of the implementation shows stagnation (in the Ukrainian case) or even reversion (in the Bosnian case) of reforms. This is the result of the incapability of the EU to remain an influential actor throughout the implementation path and, above all, of the lack of internal support and political stability in the internal context in which the reforms are taking place.

Stiven Tremaria is a doctoral candidate in the Department of International Relations and Peace and Conflict Research of the Institute of Social Sciences at the University of Osnabrück, Germany. He currently works as a research assistant in the Unit of International Police Relations at the German Police University. His research interests comprise research on democratisation, police studies, civil-military relations, and comparative politics.

AZERBAIJAN'S PROSPECT FOR THE EU'S CSDP PEACE MISSIONS

Rahim Rahimov
Independent political analyst

The goal of this article is to reflect on the prospect of Azerbaijan as an Eastern Partnership state of joining the EU Common Security and Defence Policy (CSDP) peace missions and operations. In researching the topic, the paper focuses on the analysis of Azerbaijan's Law on Participation in Peace Operations, National Security Concept, and Military Document. It also refers to Azerbaijan's peacekeeping experience as part of NATO/US-led coalition forces in Afghanistan, Iraq, Kosovo, and as part of the UN Mission in South Sudan. Finally, Azerbaijan's profile as a potential peacekeeper is juxtaposed to the EU's CSDP expectations regarding third-country contributions to its missions and operations.

Analysis of Azerbaijan's prospect of joining the EU's Common Security and Defence Policy (CSDP) missions and operations will be conducted in the following three directions: what legal basis the nation's domestic legislature represents; whether Azerbaijan's practical experience in international peace operations favours such a prospect; and whether the nation's profile from the legal and practical points could satisfy the EU's expectations in that regard.

The major domestic legal sources for Azerbaijan's participation in international peacekeeping missions are the Azerbaijani Law on Participation in Peace Operations (2010), Military Doctrine (2010), and National Security Concept (2007). The paper will focus on the Law on the Participation of the Republic of Azerbaijan in Peace Operations, adopted in May 2010, which provides details of a wide variety of aspects in participation in peace operations. It also clarifies various types of peace operations through specific terminology and concepts. Such terminology provided in the law represents a useful guide to understand legal basis and necessary conditions for participation in various types of individual peace missions and operations.

The date of adoption is important because by that time Azerbaijan had already been contributing to international peace missions for about 11 years. The nation's participation in the peace operations long preceded the making and adoption of the law. Therefore, the law as well as the Military Doctrine and the National Security Doctrine were based on the country's preceding practical experience in the matter. This experience has been based mostly on participation through a partnership with NATO and on one occasion through the UN, and presents an optimistic picture about Azerbaijan's willingness to further contribute to such peace missions. This sends a positive signal towards Azerbaijan's potential contribution to CSDP missions and operations. Whether the EU would reciprocate this signal positively is explored in the final part of the paper in the light of its experience, expectations, and principles regarding third-country contributions the CSDP missions and operations.

The Law of the Republic of Azerbaijan on Participation in Peace Operations

The Law on Participation in Peace Operations establishes that Azerbaijan legally and practically independently decides whether to participate in a peacekeeping operation or not. Azerbaijan is not a member of any military alliance, so its decision is not subject to approval or coordination, formal or informal, with anybody[1]. To put it into a comparative context, other Eastern Partnership nations such as Armenia or Belarus are members of the Russia-led Collective Security Treaty Organisation and therefore are subject to at least informal OK'ing from Moscow to join peace missions or operations. Otherwise, Russia might move against their peacekeeping contributions "since these are done outside the limits and control of CSTO missions".[2] On top of that, Azerbaijan is accepted by Russia and USA/NATO as a neutral country. Indeed, the country is an active member of the Non-Aligned Movement and is chairing the organisation for 2019-2022.

In deciding whether to participate in peace operations, Azerbaijan is guided by the decisions of the United Nations Security Council or international regional organisations. Thus, there are two major international legal sources for Azerbaijan to refer to in making commitment to contribute to international peace operations and missions: decisions of the UN Security Council and international regional

organisations. This is specifically and clearly imprinted in Article 5 titled "International Legal Basis and Necessary Conditions for Participation in Peace Operations" of the law as follows[3]:

5.1.1. Availability of a proper decision (resolution) from the UN Security Council or a proper mandate from the UN as well as availability of a special agreement with the UN Security Council;

5.1.2. Availability of a proper decision from international regional organizations or within international agreements, to which Azerbaijan is a party, or international regional organizations whose competence are considered by the UN to be in accordance with the provisions of Chapter VIII of the UN Charter, as well as availability of a consent from the state, whose territory is undergoing a conflict;

5.1.3. Availability of bilateral or multilateral international agreements with a state, whose territory is undergoing a conflict, as well as availability of a consent from the latter to the intervention and assistance of the Republic of Azerbaijan to cease and regulate the conflict.

Among these legal sources for Azerbaijan's participation in international peace operations, the dimension of international regional organisations is particularly relevant for the nation's prospect of joining the EU's CSDP missions and operations due to the following grounds: First, the EU

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1   R. Rahimov, *Turkish Council, Non-Aligned Movement Summits Illuminate Azerbaijan's Foreign Policy Strategy and Priorities,* "Eurasia Daily Monitor", Vol. 16, No. 151, 30 October 2019 [https://jamestown.org/program/turkic-council-non-aligned-movement-summits-illuminate-azerbaijans-foreign-policy-strategy-and-priorities/ access: 26 December 2019].

2   G. Richard, *Peacekeeping Contributor Profile: Armenia,* "Providing for Peacekeeping", November 2015 [http://www.providingforpeacekeeping.org/2015/12/14/peacekeeping-contributor-profile-armenia/ access: 25 December 2019].

3   *Sülhməramlı Əməlliyatlarda İştirak Haqqında Azərbaycan Respublikasının Qanunu (The Law of the Republic of Azerbaijan on Participation in Peace Operations),* 2010 [http://www.e-qanun.az/framework/19857 access: 25 December 2019].

is an international regional organisation. Second, the EU closely cooperates with the UN in conducting international peace operations and missions, and therefore, its activity is in line with the UN Charter. Third, the dimension of international regional organisations is also relevant from the perspective of multilateral dimension, which is referred to in the law.

Indeed, one of the priorities of the UN-EU Strategic Partnership on Peace Operations and Crisis Management 2019-2021 is "to enhance cooperation with and support to African-led peace operations, explore together with the African Union (AU), possible initiatives to deepen trilateral cooperation – UN-EU-AU – on peace operations, conflict prevention and crisis management, as well as on regional strategies"[4]. And Azerbaijan has already committed itself to the peacekeeping mission in South Sudan as part of the UN peacekeeping mission.

Various forms of Azerbaijan's possible contribution to international peace operations and functions of its peace personnel are established by the law: monitoring and observation of compliance with international agreements on cease-fire and ceasing other forms of hostilities, preventive and stabilising measures, separation of conflicting parties, disarming and dissolving their units, mediation and facilitation in organising of negotiations, addressing of consequences of conflicts, carrying out engineering and other works, render of aid to relieve problems of refugees and internally displaced persons (IDPs), provision of medical and humanitarian assistance, fulfilment of policing and other functions for ensuring compliance with

human rights and safety of population, as well as international enforcing actions in accordance with the UN Charter. The functions may also include protection and safeguarding of strategic facilities and buildings, industrial infrastructure, and transportation roads. In case of participation in peace enforcement operations, Azerbaijani personnel may also be engaged in combat action and use of force in accordance with the orders of the military command and the mandate of the peace operation.

> **one form of contribution provided for by the law is that Azerbaijan can participate in peace operations by contributing food, medicines, other kinds of humanitarian aid, communication and transportation means, and other material-technical resources without sending its military and civilian personnel**

Moreover, one form of contribution provided for by the law is that Azerbaijan can participate in peace operations by contributing food, medicines, other kinds of humanitarian aid, communication and transportation means, and other material-technical resources without sending its military and civilian personnel. This kind of commitments can play a complementary role to the EU's CSDP operations and present some relief for the budget of a specific mission. Indeed, Azerbaijan renders humanitarian aid to various conflict-affected regions independently of a peace operation, such as to Palestine.

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4   *Reinforcing the UN-EU Strategic Partnership on Peace Operations and Crisis Management: Priorities 2019-2021,*
     Joint Press Statement, "United Nations Peacekeeping", 25 September 2019
     [https://peacekeeping.un.org/en/reinforcing-un-eu-strategic-partnership-peace-operations-and-crisis-management-priorities-2019-2021 access: 25 December 2019].

Under the decision-making procedure on sending Azerbaijani military personnel to participate in peace operations, the decision is adopted by the parliament of Azerbaijan on the basis of a submission from the proper executive authority (the president of the republic) on individual basis. Namely, each specific case of sending an Azerbaijani peace mission beyond the territory of the country must be approved individually, and the decision represents the legal basis for each case of sending military personnel beyond the territory of the country. The decision also provides the details of the mission, including the number, functions, dislocation district, subordination, rotation, types of arms, social benefits, privileges and protection, etc.

As regards civilian personnel's participation in peace operations, the decision is made by a proper executive authority as agreed with another proper executive authority. The decision on both military and civilian personnel's designation, functions, composition, number, places of dislocation, and duration of stay in the designated country, for participation in peace operations that are conducted through international regional organisations, is adopted by the supreme body of such organisations.

Article 8.5 and Article 9.4 of the law establish that in connection with a change in international military-political situation or lack of conditions that had justified the participation in peace operations, Azerbaijani military and civilian personnel can be recalled in accordance with the procedures stipulated in the law. Azerbaijan has once recalled its personnel from peace operations. That happened in response to Kosovo's unilateral declaration of independence from Serbia in 2008.

Azerbaijan withdrew its peacekeepers from NATO's Kosovo Force (KFOR) peace mission, where they had served from 1999, as per the decision adopted by the parliament on the basis of an appeal from the president of Azerbaijan[5]. Thus, the Kosovo case of 2008 connected with the declaration of independence of Kosovo played a role, if not catalysed, the drafting and adopting of the law in 2010. Article 8.5 of the Law on the Participation of the Republic of Azerbaijan in Peace Operations is just a clear case in point.

Military Doctrine of the Republic of Azerbaijan

The Military Doctrine states that "Azerbaijan's active participation in international community's peace supporting operations as well as in the coalition partners' international anti-terror operations among other developments has become a serious factor that impacts the country's security environment and considerably increased the likelihood of being targeted by terror organizations"[6]. Nonetheless, the doctrine aims, as part of the main measures to serve Azerbaijan's wider defence policy, to support efforts for the creation of a security system in the Euro-Atlantic space and continued cooperation with NATO, and to continue cooperation with the global community and its security structures for prevention of wars and armed conflicts, and for support or restoration of peace.

Under the doctrine, one of the principles of building the nation's armed forces and other military units is an effective use of the world's modern military-building experience. Furthermore, the document

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5   *Azerbaijani Peacekeepers Back from Kosovo,* "Trend News Agency", 15 April 2008
     [https://en.trend.az/azerbaijan/politics/1177043.html access: 25 December 2019].

6   *Azərbaycan Respublikasının Hərbi Doktrinası (The Military Doctrine of the Republic of Azerbaijan)*, 2010
     [http://anl.az/down/meqale/azerbaycan/2010/iyun/124735.htm access: 25 December 2019].

clearly states that the Azerbaijani Armed Forces can participate in international peace, humanitarian, and other operations, and emphasises the importance of improving the level of preparedness, training, and material and technical provision of the national peacekeepers' contingent and bringing them up to international standards and procedures. Therefore, specialised units are designated for the national peacekeeping contingent. The capability of conformity and the interaction with partner armed forces are raised through multilateral and bilateral cooperation. The doctrine is in line with the Law on Participation in Peace Operations with regard to details of the country's participation in international peace operations and missions.

Finally, under the doctrine's section of "Military Building Development Perspectives", it attaches particular importance to using NATO's Peace for Partnership programme including the Operation Plan on Individual Partnership, on the one hand, and the development of specially selected personnel with a view to participation in peace operations and achieving operational conformity in international cooperation formats.

National Security Concept of the Republic of Azerbaijan

The National Security Concept describes Azerbaijan as an "integral ring of the Euro-Atlantic security architecture" and expresses its resolve to "share the burden of building a single security system in Europe and in the region"[7]. While the concept establishes the European integration as a strategic goal for the country, currently Azerbaijan has downgraded its aspirations for the European Union from integration to partnership. Nevertheless, its determination on contributing towards the security in the

European continent, where Azerbaijan itself is located, particularly and in the world generally remains intact.

One major way of such a contribution could be through participation in peace operations to stabilise the situation in sensitive regions in partnership with various parties, including European states and institutions such as the European Union and the Organisation for Cooperation and Security in Europe, as provided for by the concept. This document considers continuation of participation in NATO's Peace for Partnership programme, and bilateral and multilateral military cooperation with NATO states, most of which are EU members, as a basis for the national defence policy to step up the nation's defence capability under Article 4.2. It also establishes that some of the main directions of Azerbaijan's defence policy are to participate in peace operations that are carried out on the basis of a mandate from relevant international organisations in response to crises, integrate with the Euro-Atlantic space's security system, and develop military operation forces that are compatible with the forces of NATO states.

EU's Expectations versus Azerbaijan's Profile

Azerbaijan has experience in NATO peace missions within the Turkish contingent

The EU has cooperated with third parties in its international operations through the CSDP. Partnerships with third parties are conducted in two ways: with individual states and with international organisations. Most EU states are NATO members, and additionally, there is a close partnership between non-EU NATO nations and the CSDP at institutional and individual levels. Turkey is just a case in point. Turkey is one of the

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7   *Azərbaycan Respublikasının Milli Təhlükəsizlik Konsepsiyası (The National Security Concept of the Republic of Azerbaijan)*, 2007 [http://www.e-qanun.az/framework/13373 access: 26 December 2019].

most important and largest third countries that have contributed to the EU CSDP operations[8]. Its active participation also presents room for Azerbaijan's participation. This argument is especially supported by the fact that Azerbaijan has already participated in NATO-led peace operations within the Turkish contingent.

> **" *the EU expects that states which are going to contribute to the CSDP peacekeeping missions and operations do not seek to influence its decision-making or strategic planning or management***

Azerbaijan does not seek a political influence in CSDP missions

Turkey has signed a Framework Partnership Agreement with the EU. Participation of third countries – non-EU member states' military and civilian personnel – in the EU CSDP missions and operations is governed by such Framework Partnership Agreements (FPAs). Over 20 FPAs have been signed so far. However, the number of third countries that have contributed to the EU missions or operations is over 50 due to the fact that third countries also participate through Participation Agreements (PAs). Based on the precedents of participation in NATO operations within the Turkish contingent, Azerbaijan can do so for the EU CSDP operations through a PA, if not the FPA.

While FPAs are higher profile and more comprehensive documents regulating a third country's participation compared to PAs, and the contents of FPAs can vary from one to another to a very limited extent, none allows third countries to be involved in political decision-making, strategic management, or planning regarding the missions. Therefore, the EU expects that states which are going to contribute to the CSDP peacekeeping missions and operations do not seek to influence its decision-making or strategic planning or management. Accordingly, "third countries have no formal role in decision-making or planning", but "have some influence at an operational level"[9]. This is in line with Azerbaijan's expectations. As a small power, Azerbaijan does not seek to do so, and the nation's major interests are diversification of its foreign partnerships, building better international reputation, and exchange and learning of best practices in the military and defence sphere. Indeed, third countries gain an opportunity to get familiarised with the CSDP structure and work with various EU political, military, security, and crisis management agencies and instruments.[10]

Azerbaijan does not seek rewards from the EU for its participation, but can contribute towards burden sharing for CSDP missions or operations

Other Eastern Partnership nations have also participated in NATO-led coalitions' peacekeeping operations, but so far, only two of the six Eastern Partnership nations,

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8   T. Tardy, *CSDP: Getting Third States On Board*, Brief, European Union Institute for Security Studies, March 2014 [https://www.iss.europa.eu/sites/default/files/EUISSFiles/Brief_6_CSDP_and_third_states.pdf access: 26 December 2019].

9   *Brexit: Common Security and Defence Policy Missions and Operations,* 116th Report of Session 2017-19, HL Paper 132, European Union Committee, UK Parliament, 14 May 2018 [https://publications.parliament.uk/pa/ld201719/ldselect/ldeucom/132/13207.htm access: 26 December 2019].

10 *Common Security and Defence Policy Structure, Instruments, Agencies,* European Union External Action Service, 8 July 2016 [https://eeas.europa.eu/topics/common-security-and-defence-policy-csdp/5392/common-security-and-defence-policy-csdp-structure-instruments-agencies_en access: 26 December 2019].

Georgia and Ukraine, have contributed to the EU's CSDP missions. However, they expect rewards, direct or indirect, from the EU in exchange for their participation. In particular, Georgia and Ukraine try to get their EU aspirations accepted. This is something that the EU is absolutely reluctant to do. Unlike Georgia or Ukraine, Azerbaijan has made it clear that it does not seek EU membership or an integration perspective. It also does not seek financial or economic aid from the EU unlike such Eastern Partnership countries as Armenia. "We do not expect any privilege from the European Union and we are self-satisfied unlike some other countries involved in the program [Eastern Partnership], and we have already become a donor nation absolutely according to the report by the International Development Association".[11]

Currently, Azerbaijan provides humanitarian assistance to various conflict-affected regions on its own initiative, independently of a peace operation, through the nation's specialised agency AIDA (Azerbaijan International Development Agency) and other instruments. The agency's assistance and humanitarian activities in Palestine, Afghanistan, and elsewhere are just a case in point[12]. Involvement in the EU-led peace operations would further stimulate Azerbaijan to do so and transform its willingness into real efforts in that regard.

Azerbaijan has also made a considerable contribution to peace building in Afghanistan. In particular, Azerbaijan is active in transferring its know-how known as Asan (Easy Service or Asan Service) to Afghanistan for development of e-government and good governance.[13] Asan Service is a platform to bring hundreds of public and governmental services under one roof, extensively using digital and ICT capacities and minimising the negative impact of human factors, and has proved to be effective in countering red tape and related petty corruption or bribery. This performance has been recognised by international institutions, including the UN.[14]

The material and financial dimensions of participation in the CSDP missions and operations are a particularly sensitive issue because contributors to NATO and EU operations are responsible for covering the costs of participation themselves as compared to UN missions. Therefore, the EU's Implementation Plan on Security and Defence emphasises the need to share burden with its partners.[15] Not all third countries intending to contribute to the EU CSDP missions can afford to assume all the material and financial undertakings required for participation. Ukraine is just a case in point. "The US has helped Ukraine pay for its participation in KFOR in Kosovo. However, when Ukraine offered to contribute a military hospital to EUFOR

11 *Interview with the President of the Republic of Azerbaijan Ilham Aliyev*, 3 December 2019 [https://president.az/articles/35325 access: 26 December 2019].

12 Azerbaijan International Development Agency [http://aida.mfa.gov.az/en/vulnerable_people/page/1/ access: 27 December 2019].

13 *Asan Khedmat Project* [https://mmd.gov.af/asan-khedmat-project access: 27 December 2019].

14 *United Nations Public Service Awards (UNPSA)*, UN, 2015 [https://publicadministration.un.org/unpsa/innovation-hub/Home/Winners/2015-Winners/ASAN-Service access: 29 December 2019].

15 *Implementation Plan on Security and Defense,* Council of the European Union, 14 November 2016, p.4 [https://eeas.europa.eu/sites/eeas/files/eugs_implementation_plan_st14392.en16_0.pdf access: 28 December 2019].

Tchad/RCA on the condition that the EU would fund the purchase of additional equipment, it received no support and was unable to participate".[16]

Upsides of Azerbaijan's Profile Prevail over Its Downsides

Against the backdrop of the above-outlined upsides of Azerbaijan's potential to join the EU's CSDP and operations, there are also certain downsides that might play out unfavourably for Azerbaijan on part of the EU. First, the EU prioritises work with those third countries in its neighbourhood that share common values and principles with the EU.[17] Whether Brussels sees it as a country with shared values is a somewhat tricky issue particularly in the light of Azerbaijan's recent rhetoric against the European integration and Baku's stated defence of traditional values. Another point is related to closeness with the EU's policies and Community acquis. A study conducted at the request of the European Parliament's Sub-Committee on Security and Defence says: "The EU adapts its relationships with third countries to the circumstances and context. And, when so doing, the size and weight of its partner is certainly taken into account. However, the EU tends to enter into deeper relationships with states that come closer to its policies and Community acquis".[18]

Unlike Georgia and Ukraine, Azerbaijan has not signed an association agreement with the EU. Nor has it signed a new framework agreement, oftentimes referred to as a "strategic partnership agreement", as the protracted negotiations on the strategic partnership agreement appear to have deadlocked. While these two points can be loosely and obliquely interpreted, and the deadlocked negotiations on the new Azerbaijan-EU agreement might also fetter Azerbaijan's prospect of joining the EU CSDP operations, the nation's history of two decades of participation in peacekeeping operations led by NATO could be supportive of the country's profile. Furthermore, what Azerbaijan can offer as contrasted to other Eastern Partnership countries is an additional counterbalance to the downsides in its prospect of joining CSDP peace missions.

Rahim Rahimov is an independent political analyst focusing on Russia and Eastern Partnership region, with research interests in foreign policy, conflicts, and economic and political integration projects in the post-Soviet space. Rahim is a regular contributor to the Russia File of the Wilson Centre and Eurasia Daily Monitor. He holds an MA in International Relations from Hult International Business School in London, UK, and a BA from the Baku State University, Azerbaijan.

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16 K. Oksamytna, *"Peacekeeping Country Profile: Ukraine"* "Providing for Peacekeeping", August 2016 [http://www.providingforpeacekeeping.org/2016/09/21/peacekeeping-country-profile-ukraine/ access: 26 December 2019].

17 J. Rehrl, G. Glume (ed.), *Handbook on CSDP Missions and Operations*, the Common Security and Defense Policy of the European Union, 2015, p.65 [http://eeas.europa.eu/archives/docs/csdp/structures-instruments-agencies/european-security-defence-college/pdf/handbook/final_-_handbook_on_csdp_missions_and_operations.pdf access: 27 December 2019].

18 F. Santopinto, *CSDP After Brexit: The Way Forward*, Policy Department, Directorate-General for External Policies, the European Parliament, May, 2018 [https://www.grip.org/sites/grip.org/files/RAPPORTS/2018/CSDP%20after%20Brexit.pdf access: 26 December 2019].