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The European Union and the conflict in Ukraine (2014–2018)¹

Abstract: The author has analyzed the European Union's policy towards Ukraine and put forward a thesis that, in view of Russia's opposition and the lack of progress in internal reforms, Ukraine has no immediate prospects of EU membership. Although Ukraine has been granted political and financial support in the aftermath of the Russian aggression (annexation of Crimea and war in Donbas), the extent of bilateral cooperation is limited to the signing of an Association Agreement and the abolition of the visa requirement for Ukrainian citizens. Economic sanctions against Russia symbolize the unity of EU member states, but remain the only instrument that can stop the neo-imperial intentions of the Russian Federation. This study employs the methods of systemic, institutional and legal analysis and the decision method.

Key words: European Union, Russia, conflict in Ukraine

Introduction

Ukraine returned to European politics in December 1991, following the collapse of the Soviet Union. Ukraine's sovereignty was recognized and talks on closer cooperation were initiated on December 2, during the Dutch presidency of the EU Council. Ukraine was the first country in the Commonwealth of Independent States (CIS) to sign a Partnership and Cooperation Agreement (PCA) on June 14, 1994, which regulated the principles of future cooperation for at least ten years (Kost, 2012, pp. 42–43; Pietnoczka, 2018, p. 153). During the European Commission summit held in Corfu on June 24–25, 1994, the PCA was recognized as the foundation for mutual relations, but its coming to force was conditional on the closing down of the nuclear power plant in Chernobyl and Kiev's compliance with the Non-Proliferation

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Treaty. The PCA did not come into force until March 1, 1998 (*Partnership and Co-Operation Agreement*, 1994).

The PCA did not mean a radical increase of the European Union's presence in Ukraine. On December 12, 1996, the European Council in Dublin approved an Action Plan towards Ukraine, which aimed to persuade the authorities in Kiev to strengthen relations with the West instead of Russia. On June 8–9, 1998, the EU-Ukraine Cooperation Council met in Luxembourg for the first time, and on December 11, 1999, the leaders of EU-15 approved the *Common Strategy of the European Union on Ukraine* at the Helsinki Summit (*Common Strategy*, 1999).

When the pro-Western Viktor Yushchenko took power in Ukraine as a result of the Orange Revolution, Ukraine's pro-European orientation was further strengthened. After the victory of the Orange Camp led by Yushchenko and Yulia Tymoshenko, in 2005, EU member states were strongly divided on the matter of Ukraine's admission to the European Union. Poland and Baltic and Scandinavian countries were in favor of a 'timetable' for Kiev's journey to Brussels to be drafted as soon as possible and of a clear accession prospect for Ukraine. France and the United Kingdom believed that these discussions were premature. Mediterranean countries were not interested in Ukrainian affairs. Germany, whose support Kiev especially counted on, refrained from talking about membership and promised only far-reaching assistance in strengthening the links of the Ukrainian Republic with EU structures (Schneider, Sauerbach, 2005).

Viktor Yanukovich, who was elected Prime Minister in 2006, was disappointed with the PCA and the talks with the EU about its extension, since the agreement did not mention Ukraine's EU membership. He began talks with Moscow on close cooperation within the Common Economic Space (CES). Weakened by internal divisions following the departure of Yulia Tymoshenko, the Orange Camp lost its position and ceased to provide a solid political support for President Yushchenko (Hurska-Kowalczyk, 2016, pp. 13–33).

A new 'enhanced' agreement had been under negotiation since March 2007, during the German presidency of the EU Council, to eventually provide for Ukraine receiving €500 million from the EU by 2010, to suggest new structural reforms, ensure an improved atmosphere for foreign investment in Ukraine and its contribution to the European energy security and the strengthening of Kiev's role in resolving regional conflicts, primarily in Transnistria. The new treaty, which also provided for a free

Ukraine-EU trade zone, was to be signed on September 14, 2008 at a joint summit in Kiev (Koszel, 2016, p. 94).

After Ukraine was embraced by the EU's Eastern Partnership (EaP) program, the European Commission optimistically assumed that association negotiations would be concluded by the end of 2010. Yet the situation in Ukraine became more complicated after Victor Yanukovich was elected as the President of Ukraine in January 2010. Prime Minister Tymoshenko was deposed and criminal proceedings were soon instituted against her. She was arrested and sentenced in December 2011 to 7 years in a penal colony.

The new president of Ukraine chose to make his first foreign trip to Brussels to emphasize the importance of the political and, above all, economic ties between Kiev and the European Union. He hoped that a free trade zone with the EU would be established and a visa-free regime for Ukrainian citizens would soon be introduced. He declared that Ukraine was ready to fulfill its obligations regarding regular supplies of gas to European consumers, and that Kiev would try to significantly improve its partnership with Russia to this end (*Janukowycz wybral Brukselę*, 2010).

It was not until March 30, 2012 that EU and Ukrainian negotiators initialed an Association Agreement of over 1,000 pages, thereby ending the negotiations that had continued since 2007. Only part of the agreement was initialed; the most controversial provisions on enhanced, free trade between the EU and Ukraine were to be further negotiated. This agreement was initialed on July 19, 2012, but the date of its signing and ratification remained unknown. The EU kept postponing it, due to the deterioration in terms of the rule of law in Ukraine and the need to have Yulia Tymoshenko released.

In view of these developments, the Ukrainian elite headed by President Yanukovich realized that Ukraine had to choose a strategic partner and either consistently pursue integration with the EU, or join the customs union with Belarus, Kazakhstan and Russia, as offered by Moscow. Opting for the former did not guarantee EU membership in the near future, and it additionally meant a long and arduous process of talks, negotiations and, above all, the gradual introduction of high EU standards. The latter option condemned Ukraine to enter the sphere of Russian influence and abandon the European aspirations of Ukrainians.

The prospect of Ukraine's officially entering the zone of the EU and broader Western influence triggered a rapid diplomatic offensive by Russia. At the end of August 2013, the imports of goods from Ukraine to Russia were suspended under the guise of the need for their 'thorough'

inspection by customs authorities. As a result of intensive consultations of the presidents of Russia and Ukraine in Sochi (October 27) and in Novo-Ogariwio near Moscow (November 9), the fate of the Association Agreement was sealed. In return for financial and economic benefits, relevant agreements were signed during President Yanukovych's visit to Moscow on December 17 (Pietnoczka, 2018, p. 160).

Having confidentially notified the European Union Commissioner for Enlargement Stefan Füle one day earlier, on November 21, 2013, the Ukrainian government announced that the preparations for signing of the Association Agreement and the Deep Comprehensive Free Trade Area (DCFTA) with the European Union had been suspended. This happened, although the Ukrainian parliament had approved a new parliamentary electoral law and a justice system reform, as requested by Brussels. The suspension was officially justified by the requirements of national security, the need to develop economic relations with Moscow and to adapt the internal market to trade with Russia and the EU (Böttger, 2014, p. 95).

Without doubt, President Putin outbid the European Union, that had offered assistance within a range of mere €610 million–€1 billion, which was not much for a country in an extremely difficult economic situation, with as little as \$20 billion in reserves. At the Eastern Partnership summit in Vilnius on November 29, Yanukovych allegedly told Chancellor Merkel that he had expected much more from the EU (“I expected more”) and that he was disappointed (Bidder, 2013).

The same day that President Yanukovych's decision to suspend talks on the Association Agreement was announced, demonstrations were staged in the streets of Kiev, demanding the president to step down. Then the attitudes of both the demonstrators and authorities radicalized. After a brutal operation by special police units (*Berkut*) in Kiev's Maidan on November 30, bloody clashes began, resulting in casualties which exacerbated on February 18–20, 2013 (Pietnoczka, 2017, pp. 376–403).

In order to prevent the escalation of this violent confrontation and achieve an agreement between the government and the opposition, Steinmeier, alongside the Polish Minister of Foreign Affairs Radosław Sikorski and his French counterpart, Laurent Fabius, resolved to seek an amicable solution in Ukraine. The talks of the Weimar Triangle proved effective. On February 21, Yanukovych, the leaders of the Ukrainian opposition – Vitaliy Klitschko, Arseniy Yatsenyuk and Olyh Tiahnybok, together with Russia's representative Vladimir Lukin and the Weimar Triangle, reached an agreement providing for earlier presidential elections, the establish-

ment of a national unity government and the reinstatement of the 2004 constitution. On February 21, the police were withdrawn from the streets of Kiev. Yanukovich fled to Russia.

Annexation of Crimea

Russia responded to the Ukrainian attempts to become independent from Moscow by invading Crimea and its official annexation to Russia on March 18, 2014, on the basis of a hasty referendum conducted on March 16.

As early as the beginning of March, the EU Foreign Affairs Council held a meeting at which it was implied that steps would be taken against the people from Russia responsible for triggering the crisis in the Crimea. At a meeting on March 6, 2014, the European Council condemned the “the unprovoked violation of Ukrainian sovereignty and territorial integrity by the Russian Federation,” called on the Russian Federation to immediately withdraw its armed forces and to enable international observers to enter Crimea. The referendum was considered to be contrary to the Ukrainian Constitution and therefore illegal. The refusal of Russia to participate in a dialogue with the Ukrainian authorities was to bring about the suspension of bilateral talks with the Russian Federation on visa facilitation issues and on the new PCA. In the absence of positive results, the European Union would decide on additional measures, such as travel bans, asset freezes and the cancellation of the EU-Russia summit (*Oświadczenie*, 2014).

One day after the referendum, the EU and the United States responded to the annexation of Crimea, introducing economic sanctions against the Russian Federation. The European Council expressed its consent to ban 164 people from traveling to the EU and 44 businesses had their assets frozen, due to their activities that undermined the territorial integrity, sovereignty and independence of Ukraine. On March 25, a boycott of the G-8 summit in Sochi was announced. EU countries also supported the suspension of negotiations on Russia’s accession to the Organization for Economic Cooperation and Development (OECD) and the International Energy Agency (*Council decision*, 2014).

Ultimately, the EU decided to resort to all measures available, namely to conduct a dialogue with Moscow, expand sanctions against Russia if necessary, and continue to provide financial assistance to Ukraine. The main objective was to prevent the crisis from spreading to eastern

Ukraine, hence the official German proposal of 23 March to send OSCE observers to Ukraine (Rinke, 2014, p. 39).

On March 21, 2014, during the Crimean crisis, the Ukrainian Prime Minister Arseniy Yatsenyuk signed the political part of the Association Agreement with the European Union in Brussels. This was a direct response of European Union countries to the annexation of the Crimean Peninsula. At a European Council meeting (March 20–21), the annexation of Crimea and Sevastopol to the Russian Federation was once again condemned and it was emphasized that the EU would not recognize it because “there is no place for the use of force and coercion to change borders in Europe in the 21st century.” Due to the absence of any steps by Moscow towards de-escalation, the European Council resolved to expand the visa ban and asset freeze, and canceled the next EU-Russia summit. The European Council would remain open to dialogue, but did not rule out additional and far-reaching consequences for relations with Russia in the case of “any further steps by the Russian Federation to destabilise the situation in Ukraine.” The EU also decided to accelerate the signing of association agreements with Georgia and Moldova (*Rada Europejska 20–21 marca 2014*).

Conflict in eastern Ukraine

As the next step in the ‘hybrid war’ waged by Russia, in April 2014, Russia unleashed a conflict in eastern Ukraine – in the Donetsk Basin, inhabited mostly by the Russian-speaking population. The separatists, who were militarily and financially aided by Moscow, announced the establishment of the self-proclaimed Donetsk People’s Republic and the Lugansk People’s Republic. After capturing key Donbas cities, in May 2014, the separatists announced the confederation of both republics. In response, the armed forces of Ukraine commenced what they called an anti-terrorist action, the aim of which was to recapture major cities and liquidate separatist armed units (Milkowski, 2017, pp. 81–82).

In the face of the new threat of the destabilization of Ukraine and the outbreak of a Ukrainian-Russian war, the leaders of EU countries began to call for greater involvement of Germany in resolving this conflict. Germany was ready to act as an intermediary and became a key actor in the policy of sanctions against Russia. Chancellor Angela Merkel believed that the policy of Germany and the European Union towards the latest threat from the East should focus on providing political and economic

support to Ukraine, especially since the democratically held presidential election on May 25 had been won by the pro-Western Petro Poroshenko. Simultaneously, a dialogue with Moscow should patiently be carried out to seek a diplomatic solution to the conflict while gradually alleviating the existing tensions. The third line of action should involve sanctions against Russia which, albeit unwanted, would be implemented nevertheless, if Moscow tried to continue its policy.

At the turn of May and June, a change in the Kremlin's policy could be seen. The OSCE hostages held by separatists were released, Putin recognized the legitimacy of Petro Poroshenko's election and proposed direct talks between the presidents of both countries. In this situation, on June 6, on the occasion of the 70th anniversary of the Allied forces landing in Normandy, Chancellor Merkel, French President François Hollande and – for the first time – Petro Poroshenko and Vladimir Putin met. They agreed that a group of four ministers of foreign affairs would be set up to solve the crisis in eastern Ukraine.

This initiative was supported by all EU member states and, on July 2, the first meeting of the ministers in the 'Normandy format' took place in Berlin. OSCE representatives were to actively join the implementation of the ceasefire and to send additional observers to the Russian-Ukrainian border (*Joint Declaration, 2014*).

All political expectations associated with the establishment of the 'Normandy four' fell through, because new incidents occurred in the east of Ukraine despite the formal ceasefire. Putin's double game, in which he declared his readiness to talk about the de-escalation of the conflict while simultaneously supplying weapons and soldiers to the battlefield, somewhat confused the EU countries, resulting in a lack of joint consent for tougher sanctions. The European Council (meeting on June 26–27) addressed only the lack of progress in mitigating the conflict in eastern Ukraine, for which the Russians were blamed. The program of economic support for Ukraine and the transfer by the European Commission of €750 million "in the framework of the State Building Contract and the Macro Financial Assistance" were confirmed. The decision adopted by the Commission on June 25 to ban imports of goods without a Ukrainian certificate of origin from Crimea and Sevastopol was approved.

After the meetings of a contact group, composed of the representatives of Ukraine, Russia and the OSCE, with the separatists in Donetsk on June 23, the situation temporarily calmed down, but it did not last long. Again, the operations of the separatists armed by Russia intensified

in eastern Ukraine, as they seized further public buildings, took hostages and resumed their attacks on Ukrainian law enforcement officers and border guards (Iwański, Rodkiewicz, 2015).

In response, on July 11, the European Union issued travel bans on a further 11 people – high Kremlin officials, and froze their assets on EU territory for activities “undermining the territorial integrity, sovereignty and independence of Ukraine.” On July 16, the European Commission was requested to once again review bilateral and regional cooperation programs. Only those regarding cross-border cooperation and civil society were to be maintained (*Specjalne posiedzenie*, 2014).

The next day the tension in Donbas seriously increased, due to the shooting down of a Malaysian passenger plane, which killed 295 people. The aircraft was hit by a BUK-M1 type anti-aircraft missile produced by Russia from a launcher deployed in the area occupied by separatists.

Although both sides of the conflict accused one another of the shooting down, the EU and the United States responded by introducing further sanctions against Russia. On August 1, an arms embargo was imposed, the operations of large Russian banks which were at least half-owned by the state were restricted, access to capital markets was impeded, the sale of advanced technologies needed to extract crude oil from hard-to-reach deposits and shale oil was banned, and a ban on the export of dual-use items (civil and military) for the Russian defense sector was issued (*Unijne sankcje*, 2014).

At a special meeting of the European Council on 30 August, attended by President Petro Poroshenko and the newly elected Chairman of the Council Donald Tusk, EU leaders reiterated their position on the illegal annexation of Crimea by Russia and called on Russia to immediately withdraw all “military resources and forces” from Ukraine. Due to the attitude of Italy and Austria, a compromise formula was adopted for the pursuit of a lasting political solution based on respect for the sovereignty, territorial integrity, unity and independence of Ukraine. The Council confirmed only its preparedness to introduce new sanctions in accordance with the Council decisions of 16 July (*Specjalne posiedzenie Rady Europejskiej (30 sierpnia 2014 r.)*).

On September 4–5, 2014, a NATO summit was held in Newport, Wales, where a decision was made to launch new programs to strengthen the capabilities of the armed forces of Ukraine. On September 5, the first Russo-Ukrainian agreement was concluded in Minsk (Minsk Protocol on Bilateral Ceasefire). Among other things, the agreement provided for an

immediate bilateral ceasefire, granting the OSCE the role of ceasefire observer, implementation of the decentralization of power through the adoption of a law on the special functioning of local government in parts of the Donetsk and Lugansk oblasts, establishment of a security zone on both sides of the Ukrainian-Russian border and OSCE monitoring of the situation on the border, and immediate release of all prisoners and hostages by both parties (PROTOCOL 2014).

After the Newport NATO summit and the signing of the first Minsk agreement (Minsk-I), the Association Agreement between Ukraine and the European Union was ratified in Kiev and Strasbourg on September 16. The Verkhovna Rada adopted it unanimously and President Poroshenko signed it on the same day. The European Parliament also ratified the Association Agreement by a majority (535), with 127 votes against and 35 abstentions (*Parlament Europejski*, 2014).

On September 12, the strongest EU sanction package to date was introduced to halt the supplies of materials and services for Russian oil production at sea and in the Arctic. The access of Russian banks and state-owned enterprises to EU and US capital markets was restricted. On the other hand, due to Russia's reservations, the EU announced that the economic part of the EU-Ukraine Association Agreement would not enter into force until the end of 2015 (*Unijne sankeje*, *ibid.*).

At a meeting on October 23–24, the European Council approved the Minsk agreement and expected it to be fully observed. The Council called for early elections in the Donetsk and Lugansk regions in accordance with Ukrainian law and warned that the EU would not recognize the 'presidential' and 'parliamentary' elections in those regions organized by the self-proclaimed authorities, and demanded unrestricted access to the crash site of the Malaysian MH17 aircraft (*Rada Europejska*, 23–24.10.2014).

At the European Council meeting on December 18, EU leaders expressed their support for the new Ukrainian government headed by Arseniy Yatsenyuk and encouraged him to launch the necessary political and economic reforms. Further financial assistance to the Ukrainian economy was promised. The adoption of an ambitious joint strategy towards Russia was announced and sanctions on Crimea were introduced. They included the export of technologies for the extraction of mineral resources, a ban on capital investments in enterprises located in the Crimea, transportation services, telecommunications projects, the purchase of real estate, tourist services and a ban on cruise ships using Crimean ports, including Sevastopol (*Crimea and Sevastopol*, 2014).

After a period of relative silence around the New Year and Orthodox Christmas (January 7–9), pro-Russian separatists resumed fire on Ukrainian positions, and the number of Russian troops and heavy equipment in Donbas increased. Due to resumed fighting in the Donetsk region, the Council extended individual sanctions against 132 people and 28 entities for actions threatening the territorial integrity and sovereignty of Ukraine until September 2015 (*Unijne sankcje*, *ibid.*).

Minsk Agreement

President Poroshenko sought to continue peace talks with Russia under the Minsk Agreement, and he offered the inhabitants of Donbas, occupied by pro-Russian separatists, a free economic zone, resumption of budgetary financing, conducting local elections in the occupied territories that would be in accordance with Ukrainian law, and the resumption of humanitarian assistance.

In early February, Chancellor Merkel decided that she should be personally engaged in resolving the conflict. EU countries willingly entrusted the pursuit of a diplomatic solution to the German Chancellor, because, with the exception of an ambitious France, no one was keen on embarking on this difficult mission with little hope of success.

It was thanks to the persistent and conciliatory attitude of the German Chancellor that on February 12, 2015 the Minsk-II peace agreement was signed. The main item agreed on in the document (*Package of Measures for the Implementation of the Minsk Agreements*) was the ceasefire and withdrawal of all heavy weapons from the line of contact. Among other things, the release and exchange of all hostages and unlawfully detained persons as well as humanitarian aid for those in need were ensured. Constitutional reform in Ukraine was promised. The changes were to enter into force by the end of 2015 and assumed decentralization (taking into account the specificities of certain areas in the Donetsk and Luhansk regions), as well as adopting permanent legislation on the special status of certain areas of the Donetsk and Luhansk regions (*Oto porozumienie*, 2015). It was beneficial to involve France in the joint mediation and to include this crisis as a permanent agenda item of the European Council's deliberations. The Chancellor could breathe a sigh of relief, because President Putin had failed to divide EU member states on the issue of Ukraine, which was partly due to the rise of Islamic terrorism, the escala-

tion of xenophobic sentiments, the possible exit of the United Kingdom from the EU, and of Greece from the eurozone after the victory of the extremely populist leftist SYRIZA party. The Chancellor maintained the volatile unity of EU countries on the continuation of sanctions against Russia, and managed to stop anti-Ukrainian propaganda and the coordinated offensive of the *Russlandversteher* (those who understand Russia) in her own country.

After 48 hours, the Minsk agreement entered into force and the withdrawal of heavy weapons from the front line began. To be on the safe side, Merkel sought to extend the restrictions imposed on Moscow by the end of 2015, which made her the leader of the 'hawks.' Having obtained France's approval at the meeting on March 19, 2015 the European Council conditioned the continuation or suspension of sanctions on the degree of implementation of the Minsk arrangements by Moscow and the separatists. If they failed to be implemented, the European Council threatened to "be ready to take further measures" (*Konkluzje Rady Europejskiej*, 2015).

A convenient stalemate?

On April 27, 2015, the 17th Ukraine-EU Summit was held, where the focus was on the implementation of the Association Agreement, political and economic reforms in Ukraine, as well as EU support for resolving the crisis in eastern Ukraine and the implementation of the Minsk Agreements, including a special OSCE observation mission. All this was to serve the preparation of the Eastern Partnership summit in Riga in May (*17. Szczyt UE-Ukraina (Ukraina)*, 2015).

At the same time, criticism of the Yatsenyuk government could be heard in the EU for the first time. Whereas EU diplomats admitted that pro-Russian separatists were violating the Minsk agreement much more often than Ukrainian forces, they also called on President Poroshenko to stick to the Minsk agreement and implement its political provisions. In this situation, the fourth summit of the Eastern Partnership in Riga, held in the 3+3 formula (three associated countries: Georgia, Ukraine and Moldova plus three non-associated countries: Armenia, Azerbaijan, Belarus), did not leave any doubts as to the prospects of their EU membership. Despite support from Sweden, Poland and Baltic states, most EU countries supported Merkel's declaration that the EaP was not an instrument for expanding the EU, but only for 'bringing its members closer' to the

EU. After lengthy disputes, the final declaration was eventually agreed on, which merely reiterated the “recognition of European aspirations” and “respect for the European choice” of these countries (Bielecki, 2015).

As far as Ukraine was concerned, it was decided that the free trade agreement with Ukraine would come into effect starting in January 2016 and the intention to abolish EU visas for Ukrainian citizens in the near future was confirmed. The promise of further loans to Kiev of €1.8 billion to carry out economic reforms and combat corruption was important. A further €200 million was promised for the development of small and medium enterprises in Ukraine, Georgia and Moldova. All the summit participants agreed to make every effort to de-escalate and politically resolve the crisis in Ukraine and seek peaceful ways to resolve the remaining conflicts in the region (*Szczyt Partnerstwa Wschodniego*, 2016).

In the summer of 2015, the war in eastern Ukraine was replaced in the EU agenda as a priority by the mounting refugee crisis, the civil war in Syria and the British referendum on Brexit. The subject of Ukraine did not feature in the final documents of the EU summits on June 25–26, October 15 or December 17–18, 2015. However, due to repeated cases of separatists violating the Minsk-II Agreement, on June 22, EU Ministers of Foreign Affairs unanimously decided to extend the sanctions until January 31, 2016.

After autumnal talks held in the Normandy format, EU leaders agreed on a line of action which boiled down to stopping further bloodshed and abiding by the ceasefire, while meeting the demands of Russia and demanding that Ukraine fully implement the political part of the Minsk provisions. The governments in Berlin and Paris expected the agreement to be gradually fulfilled in four stages: maintaining the ceasefire; adopting legislation agreed with the separatists allowing unrestrained local elections to be conducted in the areas they controlled and amnesty for participants in the elections; conducting the elections within 90 days; and introducing a special status in the areas granted to separatists within Ukraine on the voting day. The last step would involve Ukraine restoring full control over its border with Russia and the withdrawal of all foreign troops from the area of combat (*Merkel und Hollande*, 2015).

On January 1, 2016, the Agreement between Ukraine and the European Union on the Deep and Comprehensive Free Trade Area (DCFTA) entered into force, which was the most important and largest part of the Association Agreement signed between Ukraine and the EU in June 2014. The agreement provided not only for the establishment of a free

trade zone, but also for Ukraine to adopt about 60 percent of European Union law, including energy regulations, as well as technical, sanitary, phytosanitary, customs and intellectual property protection regulations. The agreement also provided for the flow of capital and equal competition conditions to be ensured. On the same day, by decision of President Putin, the free trade agreement between Russia and Ukraine ceased to be in force (*Anwendung*, 2016).

In a referendum of April 6, 2016, 61 percent of the Dutch rejected the EU's Association Agreement with Ukraine. The turnout was 32.3 percent, which exceeded the required minimum by over 2 percent. In the opinion of the opponents of the ratification, the Association Agreement opened the door to Ukraine's EU membership, which they were against, and which resulted from the undemocratic way of making decisions in the EU. This also indirectly affected Ukraine, which was portrayed in dark colors as a nationalist and unstable state ruled by corrupt elites (Sadowski, 2016).

Since the referendum was not binding, the Dutch government started talks with the European Commission to find a formula that would enable the ratification of the document by the parliament. At the European Council summit on December 15, 2016, EU leaders adopted a declaration stating that "the Agreement does not confer on Ukraine the status of a candidate country for accession to the Union, nor does it constitute a commitment to confer such status to Ukraine in the future." Thus, as emphasized by the Prime Minister of the Netherlands Mark Rutte, the Agreement neither obliges the EU to defend Ukraine, nor opens the EU labor market for Ukrainians (*Konkluzje Rady Europejskiej w sprawie migracji*, 2016). In this situation, on June 1, 2017, the ratification entered into force upon the agreement having been adopted by both houses of the Dutch parliament.

The implementation pace of the Minsk Agreements gave no grounds for optimism, and Brussels admitted with some helplessness that the EU was unable to persuade Moscow, Kiev and the separatists to advance in implementing the arrangements they themselves had adopted in Minsk. Despite the ceasefire, 3,400 people died in Donbas between February 2015 and February 2016 alone, bringing the death toll to over 9,000. The changes to the Ukrainian constitution that had been announced, which were to enable the establishment of local governments dragged on, because Kiev feared that the state would be weakened due to decentralization and federalization. Brussels believed that internal reforms were not being implemented under the guise of the protracted war, corruption continued to thrive, cultural divisions were strong, nationalist and populist

groups were gaining importance, and the economy was in the hands of irremovable oligarchs. In 2016, the European Court of Auditors (ECA) examined whether the aid provided by the Commission and the European External Action Service in 2007–2015 was effective in supporting Ukraine's transformation into a state with good governance in the field of public finance management and the fight against corruption, as well as in the gas sector. The ECA concluded that EU assistance to Ukraine had been only "partially effective" in these three areas and had had little impact until 2014. It was confirmed that in spite of new incentives for reforms since 2014, "the results achieved so far remain fragile" (*Pomoc UE na rzecz Ukrainy*, 2016).

Chancellor Merkel, who held an informal EU mandate to manage the peace process in eastern Ukraine, in 2016 abandoned the ambitious pursuit of a comprehensive resolution of the conflict and limited her activity to stopping the bloodshed and providing humanitarian aid. She was aware that a lasting peace was not in the interests of either party. Acting under pressure of the situation, President Poroshenko agreed in Minsk that it would be a precondition to amend the constitution of Ukraine, thereby enabling the decentralization of the state, new elections in the areas occupied by separatists and granting a special status to this region. This would allow the Ukrainian authorities to regain full control over the border with Russia, thereby cutting off the supply of the separatists. In the opinion of Ukrainians, the decentralization and federalization of the state would mean its actual weakening and creating new opportunities for Russia to destabilize Ukrainian statehood. For the separatists, on the other hand, closing the border and cutting off Russian supplies would mean relying on Ukraine for the supply of basic goods and energy.

At the EU-Ukraine Summit on November 24, 2016, the promise was made to abolish the visa regime for Ukraine and Georgia, after meeting the technical standards related to passports and expulsions of people violating the visa regime. The ball was then in the court of the President of the European Parliament Martin Schulz, who did not hide that some EU countries – Germany, France, Belgium and Italy – had reservations about the abolition of the visa regime for Ukraine. During the summit, it was decided to transfer another €104 million for public administration reform. An agreement was also signed on the financing of The European Union Anti-Corruption Initiative, EUACI, (€15 million) and a memorandum of understanding on the strategic energy partnership between the EU and Ukraine (*Szczyt UE–Ukraina w Brukseli, 24.11.201*).

At the European Council meeting on December 15, it was recognized that Ukraine had met the conditions for visa-free travel to the EU which would be introduced as soon as a “solid suspension mechanism” was adopted for its application. The EU intended to wait with the full implementation of the Association Agreement for the Netherlands to make a decision on this matter. At the same time, it was agreed to extend the sanctions against Russia for another six months – until July 31, 2017.

With some delay, after talks with the European Parliament, on June 11, 2017, Brussels abolished the visa requirement for Ukrainian citizens traveling to the European Union. They could enter EU member states, as well as Switzerland and Norway, without a visa for a period of 90 days for business, tourist or family purposes (*EU – Parliament, 2017; Sushko, 2018*).

The abolition of visas was not emphasized in any special way at the European Council meeting of June 22–23, 2017. The extension of the sanctions against specific sectors of the Russian economy until 31 January 2018 was more important (*Unijne sankcje, ibid.*).

In July, the ratification process of the Association Agreement with Ukraine was completed in member states, which enabled it to fully enter into force on September 1, 2017. As part of EU assistance, a financial package was prepared for Ukraine for a total amount of €12.8 billion, the largest such package for a non-member of the EU. It included €3.41 billion of general macroeconomic assistance, €3 billion in loans for 2014–2016 from the resources of the European Investment Bank, €2.7 billion from the European Bank for Reconstruction and Development, and €879.2 million of a special grant to fight corruption, build administration, strengthen local governments, reform law and justice, and build civil society. In addition, Ukraine could expect support of €200 million in 2017 under the European Neighborhood and Partnership Instrument (*Ukraine and the EU, 2017*).

At the 5th Eastern Partnership Summit on November 24, 2017 in Brussels, a joint declaration was signed, but there was no mention of possible European prospects for EaP countries. This disappointed Ukraine strongly. Enlargement, or even suggesting its possibility had traditionally been opposed by France, Ireland, Portugal, Spain and the Netherlands, which did not even send top-level delegations to the summit. Finally, after a direct conversation with Chancellor Merkel, President Poroshenko signed the joint declaration for fear that he would be blamed for the fail-

ure of the summit. However, he criticized Brussels' position, that was in his opinion too conservative towards Russia, and declared to pursue further integration with the EU (*Szczyt Partnerstwa Wschodniego*, 2017; Szeligowski, 2017).

EU members were aware that until the presidential election in Russia in March 2018, President Putin would seek to escalate the conflict in eastern Ukraine rather than stop it, in order to mobilize his political camp. After Vladimir Putin won the presidential election on March 18, 2018, as had been expected, the EU did not return to the conflict in eastern Ukraine until mid-2018. It was hoped that, given the upcoming world football championship in Russia, for prestigious reasons, the president of Russia would seek to alleviate existing tensions, which could be used to run constructive talks about the conflict in Donbas. Until then, the situation in the region had become aggravated even further. According to Ukrainian authorities, 776 shelling attacks, and thus ceasefire violations, occurred from March 7 to April 12 alone (*Wojna na Ukrainie*, 2018).

Given this turn of events, President Poroshenko proposed that UN troops be sent to the conflict regions in eastern Ukraine, which was received with some warmth in Brussels, and with reserve in Moscow. Foreign Minister of the Russian Federation Sergey Lavrov agreed for a limited contingent of Blue Helmets to protect 700 OSCE observers, but Ukraine demanded a larger mission that would be able to control border crossings with Russia, to stop the influx of heavy equipment and volunteers. Lavrov refused fearing that in this situation international forces and their command would rule in the self-proclaimed republics (*Ukraine-Konflikt*, 2018).

In line with EU arrangements for the continuation of negotiations to resolve the conflict in eastern Ukraine, the burden of the talks fell on the new German Minister of Foreign Affairs Heiko Maas. Yet Russian tenacity and Ukrainian reluctance could not be overcome and the negotiations fell through. The Russians continued to insist on a provision about the special autonomous status of Donbas in the constitution of Ukraine. This apparently would facilitate preparations for local elections in those areas of eastern Ukraine that were not controlled by the authorities in Kiev. Donbas would enjoy its special status only temporarily during the election campaign. If the elections were recognized by international institutions this status would become permanent. As the next step, Russian citizens fighting on the side of the separatists would leave Donbas, taking

their weapons and equipment with them. Such a scenario raised concerns among the Ukrainians, as it would actually lead to the recognition of the self-proclaimed people's republics and the legalization of the Russian protectorate in Donbas.

The European Council meeting in June did not address the conflict in eastern Ukraine, as these issues were raised during the next EU-Ukraine Summit in Brussels on July 9. The full implementation of the Association Agreement, the abolition of visas for Ukrainians and the increase in Ukraine-EU trade were appreciated. The new macro-financial assistance package for Ukraine of €1 billion, adopted by the Council in May, and a loan agreement with the EIB for €75 million for road safety projects were upheld. In terms of politics, the illegal annexation of Crimea and Sevastopol was condemned once again, and the support for Ukraine's independence, sovereignty and territorial integrity was confirmed. It was also decided to expand the list of people subject to the visa ban after the election of the president of Russia was held in Crimea and a bridge over the Kerch Strait was built without the consent of Ukraine (*Szczyt UE-Ukraina (July 9, 2018)*).

On November 25, 2018, the tension between Russia and Ukraine escalated again as a result of the Russians capturing three Ukrainian warships in the Kerch Strait. It seems that the incident suited both President Putin and President Poroshenko. Since oil prices were below Russian expectations, Russia had been hit by economic stagnation, arousing social dissatisfaction and translating into lower support for Putin (58–61%). Before the presidential election scheduled for March 2019, the ratings of Petro Poroshenko, who was being accused of ineffectual reforms in Ukraine, oscillated between 10–15%. Therefore, diverting attention from internal problems was beneficial for both politicians (Schünemann, 2019, p. 10).

Poroshenko's request to send NATO ships to the conflict area was rejected by the main EU leaders. At the European Council meeting on December 13, 2018, the policy of tightening sanctions against Russia fell through, having been supported by neither Merkel nor Macron, nor the leaders of Cyprus, Greece, Italy and Hungary. The only outcome was that the sanctions that had been imposed following the annexation of Crimea were extended by a further six months. In its summit conclusions, the European Council merely expressed "its utmost concern regarding the escalation at the Kerch Straits and the Azov Sea and Russia's violations of international law." It reconfirmed its commitment to international law, the sovereignty, territorial integrity and independence of Ukraine and the

EU's policy of non-recognition of the illegal annexation of Crimea. The EC requested the immediate release of all detained Ukrainian seamen, as well as the return of the seized vessels and free passage of all ships through the Kerch Strait (*Konkluzje Rady Europejskiej o wieloletnich ramach finansowych*, 2018).

Conclusions

Ukraine is painstakingly building the foundations of its statehood; barely coping with the oligarchic economy, inefficient administration and corruption; and its stability is being threatened by a powerful neighbor. All this makes Ukraine a difficult problem for the most important EU countries. Chancellor Angela Merkel, and Presidents François Hollande and Emmanuel Macron had no choice but to support Ukraine's European aspirations. Based on past experience, Germany and France could not agree to the territorial integrity of any European country being violated, because this might open Pandora's box, especially as concerns the regions of frozen conflicts. They are aware that many EU countries are simply indifferent to the fate of Ukraine. Chancellor Merkel's greatest success has been to maintain the unity of EU countries regarding sanctions against Russia. This has been achieved with the greatest effort and was a disappointment for President Putin, who had hoped that EU unity would be shattered. Seeking to destabilize Ukraine, the Russian leader is still counting that EU assistance will be insufficient, Ukraine will suffer from the hardships of the economic crisis, and Poroshenko will lose control in the country. He will have no choice but to agree to federalize the state and renounce the policy of rapprochement with the EU and NATO. The controversial Nordstream 2 gas pipeline, which may close Ukrainian transmission networks to western Europe and cause losses for the Ukrainian economy which are difficult to calculate, is an excellent tool for pressuring the authorities in Kiev.

On the other hand, leaving Ukraine on its own, or abandoning Ukraine and its pro-European sentiments would be an irreparable loss to the process of building European unity. Guided by these premises, the most important EU leaders are trying to bring Ukraine onto a European course with the help of money and advice. They are aware that the Ukrainian political class is still deeply penetrated by oligarchs, which is why EU lead-

ers insist on the establishment of regional anti-corruption courts. They argue that there is no other, better solution for decentralizing the state. The traditions and history of Galicia, Volhynia and Donbas differ, as well as their experiences of self-organization, and this should be respected without prejudice to the cohesion of the state.

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Unia Europejska i konflikt na Ukrainie (2014–2018)

Streszczenie

Autor analizuje politykę UE wobec Ukrainy i stawia tezę, że wskutek oporu Rosji, niechęci wielu państw członkowskich oraz braku efektów w reformach wewnętrznych, Ukraina nie ma perspektywy na członkostwo w UE w najbliższej perspektywie. Chociaż udzielono jej wsparcia politycznego i finansowego, zakres współpracy dwustronnej jest ograniczony do podpisania układu o stowarzyszeniu i zniesienia obowiązku wizowego dla obywateli Ukrainy. Sankcje gospodarcze przeciwko Rosji symbolizują jedność państw członkowskich UE, ale pozostają jedynym instrumentem, który może powstrzymać neoimperialne zamiary Federacji Rosyjskiej. W badaniu wykorzystano metody analizy systemowej, instytucjonalnej i prawnej oraz metodę decyzyjną.

Słowa kluczowe: Unia Europejska, Rosja, konflikt na Ukrainie