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THE EUROPEAN NEIGHBOURHOOD POLICY. AN APPROACH TO RELATIONS WITH RUSSIA AND UKRAINE.

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ABBREVIATIONS:

AA: Association Agreements
CCP: Common Commercial Policy
CDP: Cooperation and Development Policy
CFSP: Common Foreign and Security Policy
CIS: Commonwealth of Independent States
COFOE: Conference on the Future of Europe
DCFTAs: Deep and Comprehensive Free Trade Areas
EBRD: European Bank for Reconstruction and Development
ECSC: European Coal and Steel Community
EEAS: European External Action Service
EEC: European Economic Community
EIB: European Investment Bank
ENI: European Neighbourhood Instrument
ENP: European Neighbourhood Policy
ENPI: European Neighbourhood Policy Instrument
ESDP: European Security and Defence Policy
EU: European Union
EURATOM: European Atomic Energy Community
EaP: Eastern Partnership
GAERC: General Affairs and External Relations Council
IMF: International Monetary Fund
MEDA: MESures D'Accompagnement (French for accompanying measures)
MENA: Middle East and North Africa
NATO: North Atlantic Treaty Organisation
OSCE: Organisation for Security and Cooperation in Europe
PA: Partnership Agenda
PCA: Partnership and Cooperation Agreement
PCAs: Partnership and Cooperation Agreements
SWIFT: Society for Worldwide Interbank Financial Telecommunication
TACIS: Technical Assistance to the Commonwealth of Independent States
TEU: Treaty on European Union
TFEU: Treaty on the Functioning of the European Union
UK: United Kingdom
US: United States

USSR: Union of Soviet Socialist Republics

UfM: Union for the Mediterranean

WWI: World War I

ABSTRACT: The security and defence of its borders has always been of vital importance to the European Union. For this reason, since 2004, the European Neighbourhood Policy has been a vitally important instrument of EU foreign policy. This paper aims to address the evolution of the European Union's relations with Ukraine and Russia under this neighbourhood policy, the reasons for the current situation in Ukraine and how the EU has been forced to adopt a more geopolitical attitude towards the eastern region, taking on a leading role.

Keywords: European Neighbourhood Policy, Eastern Partnership, European Union, Russia, Foreign Policy.

LABURPENA: Bere mugen segurtasunak eta defentsak berebiziko garrantzia izan du beti Europar Batasunarentzat. Horregatik, 2004az geroztik, Europako Auzotasun Politika oso tresna garrantzitsua izan da bere Kanpo Politikaren barruan. Lan honen bidez, Europar Batasunak Ukrainarekin eta Errusiarekin dituen harremanen bilakaerari heldu nahi zaio, auzotasun-politika horren babesean, baita Ukrainako egungo egoeraren arazoiei eta EBk ekialdeko eskualdearekiko jarrera geopolitikoagoa hartu behar izan duen moduari ere, rol protagonista bat hartuz.

Gako hitzak: Europako Auzotasun Politika, Ekialdeko Lankidetzeta, Europar Batasuna, Errusia, Kanpo Politika.

RESUMEN: La seguridad y defensa de sus fronteras siempre ha sido de vital importancia para la Unión Europea. Por eso, desde 2004, la Política Europea de Vecindad ha sido un instrumento de vital importancia dentro de su Política Exterior. Este trabajo pretende abordar la evolución de las relaciones de la Unión Europea con Ucrania y Rusia, al amparo de esta política de vecindad, los motivos de la situación actual en Ucrania y cómo la UE se ha visto obligada a adoptar una actitud más geopolítica hacia la región del este, asumiendo un un papel protagonista.

Palabras clave: Política Europea de Vecindad, Asociación Oriental, Unión Europea, Rusia, Política Exterior.

1. The beginning: The consummation of the Soviet Union, the creation of a new Europe and the restoration of world order.

1.1 The new independent Russia

The end of bipolarity in the world order changed with the fall of the Berlin Wall in 1989, and this also brought about certain changes in the countries of Eastern and Central Europe. This period of change lasted about two years and culminated in the collapse of the Soviet Union in 1991¹. The end of communist regimes in Eastern Europe and the Soviet Union is largely due to the global democratisation that began in the 1970s, starting with southern European countries such as Greece, Spain and Portugal, and extending to Latin America and East Asia².

All these changes were the consequence of the revolution that took place in the USSR, headed by the Soviet Gorbachev, who sought to recover the technocratic modernity of that Soviet Union, which today is known as "perestroika"³. Despite this, all of Gorbachev's reforms failed. The Russians did not welcome the liberation of Poland, Hungary etc. and were even less happy with the economic reform that was carried out, which included privatisation. But it was not until Gorbachev declared his decision to implement the so-called Union Treaty that they staged the "coup" against him. In the following election, the anti-Gorbachev Boris Yeltsin was elected the first

¹ Calduch Cervera, R. (2010). *Influencia de la Nueva Rusia en el actual Sistema de Seguridad*. Ministry of Defence, Spanish Institute for Strategic Studies (Instituto Español de Estudios Estratégicos). Page. 25.

² In addition, the period of change in Eastern and Central Europe also brought with it German reunification, significant secessionist processes in Czechoslovakia, Yugoslavia and the Soviet Union itself, and the end of the Warsaw Pact, whose main objective was to mitigate the potential threat posed by NATO (founded in 1949), a pact created in the spirit of a joint military organisation following the ratification of the Paris Agreements, after having approved the incorporation of West Germany into NATO on 5 May 1955. Forner Muñoz, S. (2015). *Historia y política: Ideas, procesos y movimientos sociales*, Pág. 1. <https://doi.org/10.18042/hp>

³ The foundations that originally established the Soviet regime - the Bolshevization of society, bureaucratisation, the declaration of the communist party (also called the Bolshevik party) as the leading institution and the plebeyization of power - were overturned by the "revolution from above" in 1989, thanks to the de-peopling of society, of power and the de-institutionalisation of the party (which ceased to be the leading institution), which ended the monopoly of the party. Marc Ferro explains in his presentation "The Fall of Communism and the Dissolution of the Soviet Union" that in 1917 the "revolution from below" originated, where workers and peasants took the floor, and in 1989 the "revolution from above" was created, where educated people took power, among them Gorbachev.

democratic president in the Soviet system, and took Russia out of the Soviet Union.⁴ This triggered that as well as Russia; Ukraine, Kazakhstan, Turkmenistan and the other countries we now know as such, also left the Soviet Union, leaving Gorbachev as the president of an empty and now non-existent structure.⁵

1.2 Towards a more united Europe

On the other hand, in Western Europe, after the end of the Second World War, the process of European integration began. The victorious powers created an agreement, wishing, on the one hand, to limit the level of the German coal and steel industry and, on the other hand, to prevent its military recovery and repair the damage of the war. Thus, in 1951, the six original member states (Belgium, France, Germany, the Netherlands, Italy and Luxembourg) signed the Treaty of Paris (ECSC).⁶

Following the ECSC, there were two other proposals for the creation of European communities; the European Economic Community (EEC) and the European Atomic Energy Community (EURATOM). The main objectives of these communities were to extend the common market, establish a Customs Union, freedom of movement of both people and goods and a common agricultural policy among many other things.⁷ So, in 1957, the original states signed the Treaty of Rome, definitively ratifying the plans for the two new European Communities, the EEC and EURATOM.

The Treaties establishing the European Communities underwent various reforms and during those years, in order to promote the integration process, the Hague Conference was convened in 1969.⁸ Following the reforms of the Community treaties, in 1987 the Single European Act was adopted, which unified the legal measures of the

⁴ Ferro, M. (1994). La caída del comunismo y la disolución de la Unión Soviética. *Reflexiones*, 23. N° <https://dialnet.unirioja.es/servlet/articulo?codigo=4796570>

⁵ With the demise of the Soviet Union and the independence of all those territories that were part of it, it was not only the regime that disappeared, but also the way of life, the ideological, social, economic and cultural basis of the peoples who were part of it that also vanished. Caldach Cervera, R. (2010). *Op cita*,. nota 1, p 1.

⁶ A French proposal whose aim was to pursue the idea of solidarity and integration in the economic sphere. For the first time, supranational institutions appeared that adopted majority decisions, the acts of the institutions belonging to the member states were binding, and a Court of Justice was created to settle disputes between the ECSC institutions and the member states.

⁷ But these European communities were not without their problems, mainly because there were not enough resources to achieve the objectives set, and France was calling for a revision of the Treaties.

⁸ Three years later, in 1972, Denmark, Ireland and the United Kingdom joined.

common market and increased the powers of both the European Parliament and the Commission.⁹ But it was not until 1992 that the concept of the European Union first appeared with the Maastricht Treaty.¹⁰

Five years later, in 1997, the 15 member states signed the Treaty of Amsterdam, to combat all existing discrimination such as racism, anti-Semitism, etc., and integration was extended with the entry of Sweden, Finland and Austria.¹¹ At this point, we see how, little by little, a union is being created between the Western countries of Europe with the aim of maintaining order, moving away from any military conflict and sharing values.¹² The EU's preference was to appease its borders and facilitate the economic and political transition that its neighbours so desperately needed after the dissolution of the Soviet Union, but its main objective was to reach a political and economic agreement with its new giant neighbour, the new Russia. The only problem was that the instruments needed to carry out its CFSP lacked diplomatic and military capacity, which meant that the EU's role was not as relevant as it had wished. Nevertheless, the EU was a witness to a number of armed conflicts, in which its role was focused on conflict resolution and prevention. At the same time, the EU pursued certain strategies to consolidate its relationship with Central European and Baltic countries, envisaging a possible future enlargement, provided these countries met the Copenhagen requirements.

As for NATO, after the end of the Soviet state, it had to reorganise and plan a new strategy for what lay ahead. Europe was divided, with Eastern Europe being reconstructed into a collection of new countries on the one hand and the Maastricht Treaty in the West strengthening the integration of the EU with the enlargement of Austria, Finland and Sweden on the other.¹³

⁹ In addition, in 1986, there was another enlargement with the integration of Greece, Spain and Portugal. [Historia de la UE – 1980-89 \(europa.eu\)](https://europa.eu/history/1980-1989)

¹⁰ Among other things, this treaty brought with it the establishment of European citizenship and its associated rights, the extension of the common foreign and security policy (CFSP from now on), cooperation on justice, the creation of a single market and the project for a single currency.

¹¹ Martín, MA, & Noguera, DLJ (2021). *Instituciones Y Derecho De La Unión Europea*. Tecnos.

¹² The end of the Soviet Union in 1991 made it necessary for the European Community to adopt for the first time the criteria for the recognition of states in relation to the independence of Georgia, Ukraine, Turkmenistan and other former Soviet countries, thus laying the foundations for what would become the European Union's CFSP.

¹³ Caldach Cervera, R. (2010). *Op cita.*, nota 1, p 5.

1.3 Restoration of world order

As a result of these events that took place during the 20th century, the international system took shape and developed into poles of power in which forces were distributed in different ways. During the Cold War period, the Soviet-US bipolarity stood out, forcing other countries in a secondary position to adopt one bloc or the other, communist or socialist.

From the Cold War until the period of détente, which lasted until 1979, this bipolarity was maintained.¹⁴ But it was not until the period 1980-1989 that this period of détente came to an end, as the bipolar competition intensified. In 1991, after the demise of the Soviet Union, the international landscape changed to a unipolar system led by the capitalist bloc, with the United States at the head, the leader of NATO, supported by the countries of the EU.¹⁵ Gorbachev once dreamed of being part of the EU, but in the end Russia was left out, as membership of the European community would mean membership of NATO, and thus participation in the Western political and trade bloc.¹⁶ In addition, Western perceptions of Russia after the Cold War made any kind of interaction between Russia and the West impossible, as Russia was seen as a defeated power. In addition, the International Monetary Fund (IMF) had to help Russia economically, as the rouble devalued, causing a major financial crisis in 1998, and the monopoly on transporting Caspian oil to Europe came to an end.¹⁷

Despite the United States' predominance in the international sphere, the truth is that militarily and economically speaking, the United States has not been able to act with preponderance.¹⁸ As a result, Russia and China strengthened their political-diplomatic relationship. Russia, for its part, with the military violence of the

¹⁴ In this period of détente, there was cooperation and mild competition between the two main blocs.

¹⁵ It is worth noting that the change from a bipolar to a unipolar system meant a big change for the Russian state, as it lost almost all its power. Despite this, it continued to pursue the idea of rebuilding itself and thus regaining the power of global influence that it once had.

¹⁶ Rodríguez Hernández, DCLE (2022). Multipolar configuration of the international system in the 21st century. *Revista Política Internacional, IV Nro. 1*, 108–124.

¹⁷ Ruíz González, FJ (2010). Las relaciones Unión Europea-Rusia, la «Asociación Oriental», el futuro de la OSCE y sus consecuencias para la política común de seguridad y defensa (PCSD). *Cuadernos de estrategia (Ministerio de Defensa)*, 145, 207–248. <https://dialnet.unirioja.es/servlet/articulo?codigo=3368614>

¹⁸ A clear example of this was the military failures in Afghanistan, Iraq and Syria, and the economic competition of two other major powers, China and India.

United States, hardened its foreign policy in the face of differences with the American giant and NATO's expansionism towards Eastern Europe, especially the Ukrainian border.¹⁹

2. Three sides, three angles and three perspectives:

2.1 Conflict between Russia and Ukraine: Background and current history of a post soviet Ukraine.

Moving on to the Russian-Ukrainian conflict, despite the fact that these two territories have a different culture, language and even laws, Moscow has always wanted to unite both territories into what was once a single state.²⁰ If we go back to the historical background, Enrique Brahm²¹ points out that Moscow's fixation with Ukraine dates back to the end of WWI, after the end of the Tsarist Empire, when a multinational state was created as a result of several conquests, including Ukraine. It was in 1917, after the Russian Revolution and the signing of the Treaty of Brest-Litovsk²², that an independent Ukrainian state was formed. Unfortunately after the Russian Civil War (1917-1923), when the Bolsheviks defeated the ex-military of the Tsarist army, Ukraine

¹⁹ Rodríguez Hernández, DCLE (2022). *Op cita.*, nota 16, p 8.

<https://redint.isri.cu/wp-content/uploads/2022/02/document-30.pdf>

²⁰ For Russians, Ukraine, or rather the so-called Kievan Rus (the former federation of East Slavic tribes) is the true origin of Russia, which to this day does not belong to them (something that the Russian people do not easily accept). On the contrary, the Ukrainian version completely denies the Russian nature of this early principality. As Lucía Byllk Paraschnuk points out in her work "Origins of the Ukrainian Conflict", the direct causes of the conflict are the following: on the one hand, Ukraine's geostrategic position and the economic interests that this promotes. Firstly, because Ukraine is the largest country in Europe, situated between Russia and the European Union, which makes it a key territory, and secondly, because Ukraine is home to the gas pipelines through which half of the gas that Europe buys from Russia passes. Ukraine is also one of the world's largest grain producers, not to mention the fact that the Russian military relies heavily on Ukrainian produce. It also refers again to the fact that Moscow considers the origin of the Russian people to be in Ukraine, in Kievan Rus to be precise, and this makes Ukraine a territory that Russia does not want to lose, as its plan to bring the former Soviet republics closer together to create a union similar to the European Union is impossible without Ukraine. On the other hand, the linguistic cause is also of utmost importance in this conflict, as it cannot be ignored that within Ukraine there is a great linguistic diversity and that several areas such as Odessa or Chernivtsi, for example, have a large Russian population. Byllk Paraschnuck, L. (2018). Origins of the ukrainian conflict. *Revista Aequitas*, 12, 158–177.

²¹ Director del Departamento de Historia del Derecho de la Universidad de Los Andes (Chile).

²² A peace treaty signed in 1918 between the German Empire, Bulgaria, the Austro-Hungarian Empire, the Ottoman Empire and Soviet Russia.

and other lower nationalities that had already achieved some autonomy were subjected to the "Reds" and although the nationalism in those territories did not bend, Stalin punished them with famine and at least four million Ukrainians died.²³ After 70 years under Russian rule, in 1991, following the dissolution of the Soviet Union, Ukraine re-established itself as an independent nation.²⁴ After this, the three most important countries that made up the former USSR (Ukraine, Belarus and Russia) signed a treaty called the Commonwealth of Independent States (CIS) through which Moscow would try to influence Ukraine and Belarus in some way.²⁵

In addition, following independence on 24 August 1991, Russia and Ukraine bilaterally signed a series of treaties that would later be violated in an attempt to forge a friendship and which are key to understanding the conflict. The first is the Budapest Memorandum, signed in 1994, in which Russia accepted the inviolability of Ukraine's sovereignty and territorial integrity, providing some security and guarantees to Ukraine in the face of a possible Russian threat.²⁶ Three years later, in 1997, Moscow recognised Ukraine's borders (along with the Crimean peninsula) with the "Treaty of Friendship, Cooperation and Partnership between Ukraine and the Russian Federation" of 31 May. Article 2 of the Treaty stated the following:

“In accordance with the provisions of the Charter of the United Nations and the obligations of the Final Act on Security and Cooperation in Europe, the High Contracting Parties shall respect each other's territorial integrity and shall reaffirm the inviolability of the existing borders between them.”

The West, for its part, did not accept Ukraine, which lowered tensions and ensured that no war broke out. The last of the three Russian-Ukrainian pacts signed in

²³ BRAHM, E (21 de marzo 2014). A propósito de Ucrania. *El Mercurio*, p. A2

²⁴ Harvey Valdes, DH (2022). Crisis Ruso-Ucraniana. *Panorama de Seguridad y Defensa ANEPE*. <https://anepe.cl/wp-content/uploads/2022/02/Panorama-Especial-SD-Crisis-ruso-ucraniana-Comentario-Academico-HHV-.pdf>

²⁵ After the signing of this treaty, the Kremlin fostered a strong alliance with Belarus, as opposed to Ukraine, which was beginning to move closer to the West, despite constant threats regarding gas supplies from Russia. Timeline from the beginning of the Ukraine-Russia conflict. (2022, Feb 25). Semana Retrieved

from <https://ehu.idm.oclc.org/login?url=https://www.proquest.com/newspapers/linea-del-tiempo-desde-el-inicio-conflicto-entre/docview/2633357455/se-2?accountid=17248>

²⁶ Byllk Paraschnuck, L. (2018). *Op cita*, nota 20, p 9.

1997 was the "Black Sea Fleet Partition Agreement", in which Russia and Ukraine agreed on the terms of Russia's presence in the Black Sea Fleet.²⁷

Six years later, in 2003, Russian President Vladimir Putin began to implement a project in the Kerch Strait²⁸, and Kiev interpreted this approach as a redefinition of Russia's borders. Despite this, the negotiations and agreements that took place on the issue managed to defuse tensions between the two nations.²⁹ However, the most direct causes and recent precedents date back to 2004, due to the electoral fraud that took place in the Ukrainian elections of 21 November. Also known as the Orange Revolution, Viktor Yushchenko, a pro-Western politician, was victorious over the more Kremlin-friendly candidate Viktor Yanukovich. Moscow did not like this and reacted by interrupting gas supplies to Ukraine on several occasions. In addition, the US made an attempt in 2008 to integrate Ukraine into NATO, causing a furore in Russia, as this would mean that the idea of a fully independent Ukraine without being under the Kremlin's influence could become a reality.³⁰

This time Moscow's ally Viktor Yanukovich won the elections in 2010, but although Putin believed that this would give him more influence in Ukraine, things did not develop as the Kremlin thought, and relations between the two states became strained in the following years, especially between 2013 and 2014, due to Euromaidan, and the annexation of Crimea. In 2013, after Ukraine's failure to join NATO, it tried unsuccessfully to join the European Union in order to open its way to the West, because the then president Yanukovich (who consequently had to flee to Russia due to protests) had no choice but to give in to Russian pressure after Russia suspended all imports to Ukraine. Taking advantage of the flight of President Yanukovich in 2014, the first conflicts erupted when Russia invaded and seized the Crimean peninsula³¹ and seized it. People's republics' were also created in the Ukrainian territories of Donetsk and Luhansk, led by Russian forces. These "people's republics" prolonged the armed

²⁷ [Partition Treaty on the Status and Conditions of the Black Sea Fleet - Wikisource, the free online library](#)

²⁸ A sea strait connecting the Black Sea with the Sea of Azov, near the Crimean peninsula, at that time still belonged to Ukraine.

²⁹ Timeline from the beginning of the Ukraine-Russia conflict. (2022, Feb 25). *Op cita.*, nota 25, p 10.

³⁰ Harvey Valdes, DH (2022). *Op cita.*, nota 24, p 10.

³¹ Which was handed over to Ukraine in 1954 in commemoration of the Third Centenary of the Treaty of Pereskhalav, symbolising the 'undying Russian-Ukrainian friendship'. Byllk Paraschnuck, L. (2018). *Op cita.*, nota 20, p 9.

conflict until the "Normandy Quartet" (France, Germany, Ukraine and Russia), mediated by Germany and France, defused the conflict.³²

It is true that since 1991, when Ukraine gained independence from what was once the Soviet Union, it has not been easy for it to stay afloat economically, as the country has suffered from hyperinflation, high levels of state privatisation, scarcity of production and resources, and much instability, corruption and even deceit. As a consequence, the aforementioned Orange Revolution brought about a new nationalist government that preferred to move closer to the EU and NATO.³³

2.1.1 The Crimean crisis

The political crisis of 2013-2014, and consequently Yanukovich's flight to Russia, was interpreted by Moscow as a situation that was not at all in its favour and in which Yanukovich had clearly been illegally relegated. Consequently, there was a Russian military deployment that ended with the annexation of Crimea to Russia³⁴. In 1991, while still in Soviet times, a referendum was held in Ukraine to confirm the Act of Independence. Ukrainian citizens expressed their desire for independence, as did Russia, which, following the Minsk Treaty, recognised the territorial integrity and borders of Ukraine. Following the outcome of this referendum, in May 1992, Crimea declared itself unilaterally independent pending a resolution by the Russian Parliament that the 1954 transfer of the territory was illegal.³⁵ But then the Chechnya crisis came and Russia had to put the Crimean issue on the back burner. This gave Ukraine the opportunity to re-assert itself on the peninsula, oust the aforementioned president and

³² However, the fighting between the Ukrainian army and the separatists, "allegedly" supported by the Russian army, did not stop and the peace agreement remains unfulfilled to this day, with Russia demanding that the United States not allow the annexation of Ukraine into NATO while at the same time bombing different parts of Ukraine, straining relations between Russia and the West more and more. *Op cita.*, nota 25, p 10.

³³ Byllk Parasnuck, L. (2018). *Op cita.*, nota 20, p 9.

³⁴ The preceding history of the Crimean peninsula goes back many years, when it still belonged to the dynasty originated by the Tatars, a community of Muslim religion. It was in 1783 that Russia occupied and annexed Crimea, and the Tsarist empire imposed its power on the peninsula, Russifying it. Crimea belonged to Russia from 1783 to 1954, almost for two centuries, and was handed over to Ukraine by Khrushchev, then President of the USSR, in 1954 in commemoration of the Third Centenary of the Treaty of Pereskhalav (Treaty sealing the alliance of Russia and Ukraine), symbolising the "everlasting Russian-Ukrainian friendship". Byllk Parasnuck, L. (2018). *Op cita.*, nota 20, p 9.

³⁵ Even the Crimean president, Yuri Meshkov, created a movement that went beyond independence, whose goal was now annexation to Russia.

offer the peninsula limited autonomy, seeking to move the territory away from Russian control.³⁶

Thus in February 2014, pro-Russian armed groups seized Crimean airports (Sevastopol and Simferopol) and the Crimean Parliament. This was followed by a referendum on self-determination in which there was allegedly a turnout of more than 80% and a considerable majority of votes in favour of Crimea's annexation to Russia. "*Paradoxically, our independence has revealed our dependence*"³⁷, with the annexation of Crimea to the Russian Federation through a referendum (on 22 July 2014) which the United Nations Security Council declared to be in violation of the United Nations Charter and the Treaty signed between Russia and Ukraine where the reciprocal borders were accepted.³⁸ Likewise, the Security Council document defended the territorial integrity of Ukraine and its borders, showing its support for the Ukrainian nation.³⁹ This was a big change for the Kremlin, which until then had been against the right to self-determination, as one can see, for instance in the Russian refusal to recognise the sovereignty of Kosovo. Following Russia's disputed annexation of Crimea, there was no armed retaliation from the international community as expected. NATO, for its part, did not make any declaration of wanting to incorporate Ukraine into its ranks, perhaps because it did not want a military confrontation with Russia, or perhaps also because of the oil and gas commodity it had at its disposal. There were, however, a number of

³⁶ Despite all efforts on the Ukrainian side, the reality was that Crimea was a Russified territory culturally speaking (Russian-speaking population, rouble as currency etc.). Added to this, the economic condition of Crimea was even more precarious than in Ukraine. In the years that followed, the 2004 Ukrainian Orange Revolution had little impact in Crimea, and in the 2004 and 2010 presidential elections, pro-Russian candidates won majorities in Crimea. Arias, T. C. (2022). *Rusia frente a Ucrania: Imperios, pueblos, energía: 16* (1. ed.). Los Libros de la Catarata.

³⁷ Bonet, P. (1993, 14 junio). *Ucrania vive su peor crisis desde la independencia*. El País.

https://elpais.com/diario/1993/06/14/internacional/740008812_850215.html

³⁸ *Resolución aprobada por la Asamblea General el 27 de marzo de 2014*. (2014, abril).

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N13/455/20/PDF/N1345520.pdf?OpenElement>

³⁹ Although it can be argued that this referendum was illegal in origin, the rules that led to it are totally undemocratic. We refer to the facts; it was a quick referendum, with a large military presence, no public and pluralistic debate. On top of that, you could only vote in favour of annexation or in favour of a degree of autonomy that will most likely lead to annexation to Russia itself. BBC News Mundo. (2022, 26 february). *Rusia y Ucrania: qué pasó en Crimea en 2014 (y por qué importa ahora)*. <https://www.bbc.com/mundo/noticias-internacional-60500020> (last visited on 23 April 2022).

sanctions imposed on Russia.⁴⁰ At the European level, these sanctions are another foreign policy tool and their legal basis is found in articles 75 and 215 of the TFEU.⁴¹

After EU heads of state and government condemned Russia's actions, they called on Russia to withdraw its troops in the face of the possible imposition of economic sanctions if it did not comply. The EU, Ukraine and the US all declared Crimea's accession to Russia illegal and expressed support for Ukraine's territorial integrity.⁴²

The sanctions implemented against Russia are not similar to those adopted for Iran or Belarus, as Russia is on an equal footing with the EU, and therefore the sanctions were articulated primarily to make Russia backtrack and reconsider its actions: the Normandy Quartet (Russia, Ukraine, France and Germany) was used to discuss the conflict and Russia was expelled from the G8. The OSCE was also involved in mediation efforts aimed at reducing tension between the parties. Finally, Ukraine was granted greater financial autonomy so that it would not be as dependent on Russia as it

⁴⁰Although the NATO Security Council has full legitimacy to uphold international law by imposing sanctions unilaterally, these are generally omitted or imposed in conjunction with sanctions by other bodies such as the EU or the US, creating multilaterally imposed sanctions aimed at preventing conflict or responding to an active crisis or emergency, thus ensuring peace, democracy and respect for the rule of law (values of great importance, which we will see below in the European Neighbourhood Policy).

⁴¹ The treaty states that these sanctions do not have a punitive objective, but that diplomatic dialogue prevails with the aim of changing the political course of the sanctioned party (These sanctions qualify as indicative sanctions and are based on diplomatic isolation). Furthermore, in 2018, the EU produced a set of guidelines on sanctions, as a sign of transparency, and in point 9 clearly ruled that *"The introduction and implementation of restrictive measures must always be in accordance with international law. Such measures must respect human rights and fundamental freedoms, in particular due process and the right to an effective remedy. The measures imposed must always be proportionate to their objective"* (Secretaría General del Consejo. (2018). *Orientaciones sobre sanciones (actualización)*. Consejo de la Unión Europea. <https://data.consilium.europa.eu/doc/document/ST-5664-2018-INIT/es/pdf>.) Sanctions are implemented by the EU Foreign Affairs Council (through the unanimity procedure), and although they are mainly collectively imposed measures, there are others that must be imposed individually by each Member State (with the mere approval of the Council).

⁴² The EU imposed sanctions in two directions: on the one hand, it imposed strong sanctions against Russia (because of its failure to respect Ukraine's borders and its destabilisation of Donbas) and, on the other hand, it limited trade, exports and imports into Crimea. On 21 June 2021, the Council extended these measures until 23 June 2022. These sanctions, which are economic in nature, require not only a Council resolution, but also a specific regulation by the High Representative of the Union for Foreign Affairs and Security Policy and the Commission, and can only be implemented within the Union's jurisdiction.

had been.⁴³ The third stage of sanctions implementation came with the downing of the Malaysia Airlines plane⁴⁴. The European Council decided that this time the sanctions imposed would affect not only individuals and entities, but also sectors of the Russian economy. Oil prices were lowered and this caused the rouble and Russian purchasing power to fall considerably. In the end the sanctions paid off and Putin had no choice but to sign the Minsk ceasefire agreements (in February 2015). After this, the conflict came to a standstill, without coming to an end, which many authors consider to be a 'victory' since Russia's main objective was to advance in eastern Ukraine.⁴⁵ First of all, one might think that in this calculated move, Russia was a clear winner, expanding its territory, but this is not entirely true, as the economic situation in Crimea left much to be desired and there was much work to be done for Russia.⁴⁶

2.2 The European Neighborhood Policy: Background and legal approach.

In line with the relations between Europe and the CIS countries, at the end of the 20th century and the beginning of the 21st century, the EU experienced its largest enlargement to date, in 2004, called "enlargement to the East", by former communist regime countries mostly from Central and Eastern Europe. As a result, the EU's borders changed completely and relations with its new neighbours were no longer the same.⁴⁷ This is why the EU launched the European Neighbourhood Policy, in order to provide certain European countries that were not yet in the accession or pre-accession process with instruments and mechanisms for closer economic, political and security ties. The

⁴³ Later, more sanctions were added as the conflict progressed, turning them into multilateral sanctions. In this second stage, targeted sanctions targeting individuals and entities were implemented. However, both diplomatic and targeted measures failed to achieve anything, as Moscow claimed not to be involved in the Donbas crisis and, in relation to Crimea, claimed that its duty was to protect the Russian population living there. Ferrero-Turrión, R. (2020). Las sanciones de la UE hacia Rusia en el contexto del conflicto ucraniano. *CIDOB d'Afers Internacionals*, 125, 187–207. <https://dialnet.unirioja.es/servlet/articulo?codigo=7637245>

⁴⁴ RTVE.es. (2020, 26 octubre). *Un avión malasio es derribado por un misil en el este de Ucrania*. <https://www.rtve.es/noticias/20140718/avion-malasio-298-personas-bordo-derribado-misil-este-ucrania/75722.shtml> (last visited on 23 April 2022)

⁴⁵ *Medidas restrictivas de la UE contra Rusia por sus actos en Ucrania (desde 2014)*. (2022, 22 abril). European Council. <https://www.consilium.europa.eu/es/policies/sanctions/restrictive-measures-against-russia-over-ukraine/>

⁴⁶ Arias, T. C. (2022). *Op cita.*, nota 36, p 12.

⁴⁷ García Andrés, C. (2020). La influencia de la unión europea en el espacio postsoviético: La asociación oriental. *Historia Actual Online*, 53, 31–42. <https://dialnet.unirioja.es/servlet/articulo?codigo=7768442>

EU wanted to create a circle of partner states to ensure joint cooperation and common values such as human rights, the rule of law and good governance.⁴⁸

The ENP has been the main instrument used by the EU to engage with neighbouring countries, including Ukraine, following the 2004 enlargement. This is because after accession to the East, Europe was surrounded by countries with which only cooperation programmes had been carried out. Until then, issues such as the rule of law, security or trade had not been discussed with the likes of Belarus, Ukraine or Moldova. However, the ENP had nothing to do with the future accession process, but rather was designed as a strategic instrument for this "post-enlargement" situation, offering certain advantages to the new neighbouring states with the aim of creating a secure space around the EU. Romano Prodi, President of the European Commission, stated in his December 2002 speech that the enlargement of the Balkans brought enlargement and the neighbourhood policy closer together by bringing new neighbours into the European landscape. However, although many of these neighbours became member states, European enlargement cannot be open-ended. It cannot become a "continent-wide" free trade area.⁴⁹

The ENP has elements of the CCP, the CFSP and also the CDP, as well as matters relating to the new EU Security and Defence Strategy of 2003. This means that it can be placed within the EU's External Action. Its legal basis is found in Article 8 of the TEU, which states that "*The Union shall develop preferential relations with neighbouring countries, aiming to establish an area of prosperity and good neighbourliness, founded on the values of the Union and characterised by close and peaceful relations based on cooperation*", following the completion of the reorganisation of the External Action carried out with the Lisbon Treaty in 2007.

Prior to this neighbourhood policy, which the European Commission introduced in 2003-2004, there was already a programme in the 1990s called TACIS, which aimed to provide assistance to the countries of Eastern Europe and Central Asia, including Ukraine and the new Russia, in order to achieve a market economy and consolidate

⁴⁸ The European Neighbourhood Policy : Factsheets on the European Union : European Parliament. (2021, 1 October). European Parliament.

<https://www.europarl.europa.eu/factsheets/es/sheet/170/la-politica-europea-de-vecindad>

⁴⁹ PRODI, R., A wider Europe – A proximity Policy as the Key to Stability. Discurso en la Sixth ECSAWorld Conference que tuvo lugar en Bruselas el 5 y 6 de diciembre de 2002. <fileDownload.do> (<europa.eu>)

democracy, as well as to establish the rule of law.⁵⁰ These early PCAs had democracy and economic development as their main pillars.⁵¹ The TACIS programme was born in response to the major political change following the collapse of the Soviet Union, which Europe saw as a potential threat to its stability and security.⁵² In addition, alongside this TACIS programme, which mainly provided economic and financial aid, numerous cooperation and partnership agreements were also concluded with neighbouring countries, in order to create an even closer link.⁵³ But the TACIS programme was not the only programme preceding what is now known as the European Neighbourhood Policy. In 1996, the MEDA programme was created, based on Council Regulation 1488/96 of 23 July 1996 on financial and technical measures to accompany the reforms of economic and social structures in the framework of the Euro-Mediterranean partnership. The main objectives of this new programme would be to.⁵⁴ *“facilitate the economic transition of Mediterranean countries and the realisation of a Euro-Mediterranean free trade area, promote sustainable socio-economic development and facilitate regional, sub-regional and cross-border cooperation initiatives.”*⁵⁵

The origins of the ENP thus go back to 2002; to the conclusions of the Copenhagen European Council in a section addressing the enlarged Union and its neighbours. Both Heads of State and Heads of Government agreed that the ENP would provide the EU with a great opportunity to further strengthen relations with its Eastern European neighbours on the basis of shared political and economic values. All this with the aim of creating a more united Europe and prioritising stability and prosperity, within these new borders of the Union and beyond.⁵⁶

In the Commission's 2003 communiqué, the scope of the ENP was emphasised, making the Russian Federation, Ukraine, Belarus and Moldova clear candidates, as they were all neighbouring countries of the Union and already had previous partnership and

⁵⁰ Janer Torrens, JD (2006). La nueva política de vecindad de la Unión Europea. *Revista de Derecho Comunitario Europeo*, 24, 519–540. <https://dialnet.unirioja.es/servlet/articulo?codigo=2125221>

⁵¹ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

⁵² Sutela, P., & Lainela, S. (2004). *European Union, Russia, and TACIS* (N.º 2). BOFIT Online. <https://helda.helsinki.fi/bof/bitstream/handle/123456789/12609/111621.pdf?sequence=1&isAllowed=y>

⁵³ Acuerdo con la Federación de Rusia (en vigor desde el 1 de diciembre de 1997) y acuerdo con Ucrania (en vigor desde el 1 de marzo de 1998).

⁵⁴ Janer Torrens, JD (2006). *Op cita.*, nota 50, p 17.

⁵⁵ Consejo Europeo. (nineteen ninety six). *EUR-Lex - r15006 - EN - EUR-Lex*. EUR-Lex. <https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=LEGISSUM:r15006>

⁵⁶ Janer Torrens, JD (2006). *Op cita.*, nota 50, p 17.

cooperation agreements in place. Once this new policy was accepted, the Commission proposed a list of heterogeneous countries⁵⁷. In the end, three of them were excluded.⁵⁸ After all, it was impossible for the GAERC to accept any member that did not respect the values of the Union, since the essence of this policy is bilateral commitment to ENP values.⁵⁹

In 2015, the Commission, together with the EEAS, reviewed the ENP in place to date, prompting Parliament to adopt a resolution stressing the need for a more strategic, flexible and coherent ENP. The outcome was favourable, as in 2017, the EEAS and the Commission produced a report on the proper implementation of the reformed policy by the EU. Two years later, in 2019, the European Parliament adopted a resolution calling for further economic, social and democratic reforms in the field of ENP partners from the MENA region and a recommendation to its various institutions calling for closer cooperation with the EaP. Recently, in 2021, the objective of strengthening the partnership between the EU and its southern neighbours has been highlighted, and a summit between the EU and all its southern neighbours has been proposed to work together to improve and define this Agenda.

This policy is for the most part applied equally to all partner states, but the EU customises each action plan to the state with which it is negotiating, based on the needs, interests and capacities of both the EU and the partner state. The action plans are not the only instruments used by the EU to implement this policy; the various agreements (partnership, cooperation or association agreements) are linked to the action plans and association priorities.⁶⁰ The first step is the drafting of the report by the European Commission, which analyses the situation of the state in relation to issues such as political and economic reforms, trade, immigration and free movement of people or more everyday aspects such as education, research, culture or civil society. The second

⁵⁷ The Russian Federation, Belarus, Ukraine, Moldova, Armenia, Azerbaijan, Georgia, Morocco, Algeria, Egypt, Tunisia, Libya, Syria, Israel, Lebanon, the Palestinian Authority and Jordan.

⁵⁸ Sesión nº2590 del Consejo de 14 de junio de 2004, Doc. 10189/04: The Russian Federation, because the EU considered it appropriate to create a separate strategic partnership, Libya, because of cooperation problems, and Belarus, because of differences over fundamental values such as democracy or human rights.

⁵⁹ The rule of law, good governance, human and minority rights, good neighbourly relations with other states, market economy principles and sustainable development. Not only that, but the common fight against international terrorism, especially in recent years, or the fight against the proliferation of weapons of mass destruction are also very present when assessing candidates for this policy.

⁶⁰ Janer Torrens, JD (2006). *Op cita.*, nota 50, p 17.

step consists of drawing up an Action Plan. The Commission, together with the High Representative for the Union's Foreign Policy, negotiates bilaterally with each candidate state an "Action Plan", through which an attempt is made to reach an agreement on the differences that arise on the issues presented in the Commission's previous report. Finally, these plans must be approved by the respective Cooperation or Association Councils. As progress is made, the Commission will make periodic reports and report on any shortcomings in achieving the objectives set out in the Action Plan. The General Affairs and External Relations Council of the EU stresses that these action plans should have a minimum duration of three years and should be renewed in case of mutual agreement.⁶¹The three years are indicative, as depending on the conditions in the particular country, the period may be increased to five years.

The objectives of this ENP are implemented with financial funding, which between 2014-2020 was the European Neighbourhood Instrument. The budget was 15.4 billion euros. Today the economic instrument supporting this policy is the so-called "Global Europe", and is planned for the years 2022-2027, with a budget of €79.5 billion. This new instrument covers the EU's cooperation with its southern neighbours, as well as with other countries in Asia, Africa, the Americas, the Caribbean or the Pacific. The programme will not only promote key aspects of the EU's external relations, but will also promote human rights, democracy, civil society, climate change, migration, peace and so on⁶², depending on the specific characteristics of each partner.⁶³

Taking up the problem of the ENP and due to the aforementioned heterogeneity of the countries that made it up, the EU realised that each area where this Neighbourhood Policy was applied required specific needs. Therefore, different regional dimensions were created: the Union for the Mediterranean (UfM) and the EaP. Although there are different opinions on the creation of these regional dimensions and whether they have been a success or not. While some argue that these regional dimensions were created to deepen existing trade agreements without even asking the participating states, others highlight the advantages they offer citizens from non-EU countries in relation to EU policies.⁶⁴

⁶¹ Janer Torrens, JD (2006). *Op cita.*, nota 30, p 10.

⁶² Objectives set out in Article 3 of the current Treaty on European Union.

⁶³ Byllk Paraschnuck, L. (2018). *Op cita.*, nota 20, p 9.

⁶⁴ García Andrés, C. (2020). *Op cita.*, nota 27, p 9.

2.2.1 Eastern Partnership (EaP)

Therefore, as a consequence of the failed attempt of the first version of the EaP, which tried to impose itself equally on countries that had nothing to do with each other, this EaP emerged in 2008, which did take into account the heterogeneity of these neighbouring states. At the Prague conference in 2009, this EaP was consolidated, also known as the "Partnership" between the EU and the Eastern European partner countries (Ukraine, Belarus, Moldova, Georgia, Armenia and Azerbaijan) which is the region that concerns us. Both Sweden and Poland introduced the new partners to this initiative as a mechanism that would bring security between the EU and Russia and where human rights and the rule of law would prevail.⁶⁵ Moreover, following the crises in Eastern Europe, the South Caucasus and the war between Georgia and Russia, the EU felt it was more necessary than ever to support its Eastern neighbours. Thus, in December 2008, the European Commission issued a Communication to the European Parliament and the Council entitled 'Eastern Partnership', which aimed at cooperation with Eastern European countries on issues such as good governance, human rights, protection of minorities, rule of law, market economy and sustainable development.⁶⁶

On the basis of these themes, various mechanisms were created to give continuity to this EaP, including AA, free trade areas and pacts on mobility and security along with the use of visas. Thus, instead of generalising, as the first version of the ENP did, the EaP allowed for the requirements of each country to be addressed and adapted to their needs. Examples include Belarus, Azerbaijan and Armenia, which only wanted to sign favourable economic or trade agreements with the EU on a one-off basis, while Georgia and Ukraine were aiming for future EU membership. Joint negotiations were therefore out of the question, as the multiple and diverse demands made things difficult.⁶⁷ The AAs served to increase the relationship of these countries to EU legislation and standards. Alongside the AAs, the DCFTAs strengthened trade relations between the two sides. Finally, in relation to the liberalisation of visa policy, citizens of these countries can travel to any EU Member State for a period of 90 days without visas, through Action Plans. In the case of Ukraine, this liberalisation came when it

⁶⁵ FERRERO-TURRIÓN, R., "El Partenariado Oriental de la UE a la deriva", Comentarios Elcano, Real Instituto Elcano, Madrid, 2015.

⁶⁶ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

⁶⁷ Ferrero-Turrión, R. (2020). *Op cita.*, nota 43, p 15.

reached the targets required in the Commission's 2015 report to the Council and the European Parliament.⁶⁸

In relation to the financing of the EaP, like the first version of the ENP, it is funded through the same instrument; between 2007-2013, the ENPI⁶⁹ made €600 million available, together with support from the EIB and the EBRD. From 2013, the ENPI was replaced by the ENI⁷⁰ until 2020 with a budget of over €15 million. The EaP is organised through meetings and assemblies.⁷¹ In addition to these meetings, assemblies of EU and EaP foreign ministers are held once a year. Only five summits have taken place to date:⁷² Prague, 7 May 2009: The EaP is finally established, Warsaw, 29-30 September 2011: European claims, the election of some partners and their agreement to democracy were accepted, Vilnius, 28-29 November 2013: Although the Ukrainian government suspended the signing of the AA, at this summit the grants for the AA with Moldova and Georgia were fixed, Riga, 21-22 May 2015: Implementation of new objectives and challenges for Eastern partners and Brussels, 24 November 2017: Targets for Eastern partners to achieve by 2020 were set with the publication of "20 targets for 2020: tangible results for citizens".⁷³

The last meeting of the EaP took place on 13 May 2019 on the occasion of the tenth anniversary of the initiative itself. At this meeting, the achievements to date were reviewed, the challenges facing the initiative were listed and the future of the initiative was discussed. Although the new Treaty on EU, which entered into force on 1st December 2009, legally reshaped the institutions in relation to the EU's external action,

⁶⁸ *Sixth progress report on the implementation by Ukraine of the action plan for visa-free travel.* (2016).

© European Union, 2016 - Source: European Parliament.

https://www.europarl.europa.eu/doceo/document/E-8-2016-003039_EN.html

⁶⁹ *EUR-Lex - r17101 - EN - EUR-Lex.* (2007). EUR-Lex.

<https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=LEGISSUM%3Ar17101>

⁷⁰ *BOE.es - DOUE-L-2014-80481 Reglamento (UE) n° 232/2014 del Parlamento Europeo y del Consejo, de 11 de marzo de 2014, por el que se establece un Instrumento Europeo de Vecindad.* (2014). Agencia Estatal Boletín Oficial del Estado. <https://www.boe.es/buscar/doc.php?id=DOUE-L-2014-80481>

⁷¹ Meetings are held between the representatives and Heads of State or Government of the EU Member States, the Presidents of the European Council and the Commission, and the Presidents of the partner countries, and take place twice a year.

⁷² *Asociación Oriental.* (2022, 11 enero). European Council.

<https://www.consilium.europa.eu/es/policies/eastern-partnership/>

⁷³ *20 Deliverables for 2020.* (2022, 30 marzo). European Council.

<https://www.consilium.europa.eu/en/policies/eastern-partnership/20-deliverables-for-2020/>

the Commissioner for Enlargement and European Neighbourhood Policy remains in charge of the ENP.⁷⁴ The Lisbon Treaty also introduced the concept of neighbourhood and the power to create agreements that promote relations with neighbouring countries, as the current Article 8 of the Treaty states.

However, as Iván Martín explains⁷⁵, the weak point of this initiative has always been the conflicts he calls "frozen conflicts", such as South Ossetia, Transdniestria, Abkhazia or Nagorno-Karabakh. But especially in recent years and especially now, the Crimea crisis or the secessionist movements in Donetsk and Lugansk, and now with the war in Ukraine, provoked by Russia and its need for the countries that once belonged to the Soviet Union to remain dependent on it and as a consequence of the rapprochement of EU policies towards these countries.⁷⁶ In view of the above, the ENP can do very little against the threats in which Europe may be involved, due to its bilateral nature, with the EU having to act on its own. By contrast, the colour revolutions in countries such as Georgia and Ukraine were a glimmer of hope for this ENP (and all the values it entails), as citizens had no choice but to demonstrate because of the dire political and economic situation, among other reasons.⁷⁷

The new perspective of this initiative is that those countries that make the most progress on the reforms and values highlighted by the ENP will receive the most support from the EU.⁷⁸ This increased EU support is redirected away from those countries that do not make progress and are paralysed in the implementation of these reforms.⁷⁹

⁷⁴ Esta nueva configuración que deriva en la descongestión institucional puede provocar cierta inestabilidad en la organización de la Acción Exterior europea, así como en la PEV y la cooperación económica de la UE en los países vecinos.

⁷⁵ Martín, Iván, "¿Qué finalidad política para la Política Europea de Vecindad? Sobre los objetivos e instrumentos de la cooperación de la UE con sus países vecinos", *Anuario Jurídico y Económico Escorialense*, XLV (2012), pp. 359-387.

⁷⁶ In the Ukrainian case, these existing territorial conflicts are compounded by the problem of gas distribution, especially in 2007-2008, when Russia cut off the gas supply passing through Ukraine, directly affecting some EU member states.

⁷⁷ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

⁷⁸ FERRERO-TURRIÓN, R. *Op cita.*, nota 65, p 20.

⁷⁹ At the same time, membership of the Partnership is strengthened by a focus on democratic and supervised elections and three key fundamentals: the creation of democratic institutions (fundamental freedoms, constitutional reforms to conform to the rule of law and a judicial system that fights corruption), citizen engagement (support for civil society and young people in particular) and sustainable economic development and growth (improved education, support for small businesses, etc.).

As for the results of the EaP, since its launch in 2009, not all of the mutual commitments that the initiative aimed to achieve have been fulfilled, so there is still a long way to go and more work to be done. The Commission produces annual reports and reviews the progress achieved through the ENP Action Plans in each area. Despite this, the reports are often too generic, one to two pages in length, and do not allow us to see whether or not there is real progress. Another document in which the evolution of the ENP can be seen is the EU Court of Auditors' report on the European Neighbourhood and Partnership Instrument.⁸⁰ Many of the ENP countries are no better off than when they started working with the EU, which leads one to reflect on the extent to which Europeanisation is benefiting these countries, most of which have been highly unstable.⁸¹ In relation to democracy, one of the main objectives, the score of most EaP countries has been decreasing significantly since 2008 and even since 2019, to a relatively low score in 2022.⁸² Despite this, we have also seen significant progress in areas such as the AA, DCFTAs and visa policies. In the case of Ukraine, the AA and DCFTA came into force in 2017, although the former had been provisionally applied since 2014 and the DCFTA since 2016. Visa liberalisation, however, has been in place since 2008.⁸³

The EU's EaP strategy consists of adopting a series of measures in a short period of time, between three and five years, but the results are not visible until decades later. Moreover, on the one hand, some participating neighbouring countries are keen to join the EU, knowing that they have little chance of doing so, and on the other hand, for those who do not wish to join the EU, the ENP may be seen as irrelevant. In addition, the economic distribution is not equitable in terms of population, size and per capita income of each neighbouring country.⁸⁴

⁸⁰ *EEAS | EEAS Website*. (2022, 21 april). European Union External Action.

<https://www.eeas.europa.eu/en?s=232>

⁸¹ Ferrero-Turrión, R. (2020). *Op cita.*, nota 43, p 15.

⁸² The Economist. (2022, 10 february). *A new low for global democracy*.

<https://www.economist.com/graphic-detail/2022/02/09/a-new-low-for-global-democracy>

⁸³ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

⁸⁴ ETRAKOS, G., TSIAPA, M., y KALLIORAS, D., “Regional inequalities in the European Neighborhood Policy Countries: The effects of growth and integration”, *Environmental and Planning C: Government and Policy* 2016, vol. 34. [Regional inequalities in the European Neighborhood Policy countries: The effects of growth and integration - George Petrakos, Maria Tsiapa, Dimitris Kallioras, 2016 \(sagepub.com\)](#)

2.2.2 Implementation of the ENP in Ukraine; a legal perspective and the evolving relationship with Europe.

As we know, Ukraine gained independence after the dissolution of the Soviet Union, and although Ukrainian leaders have always been committed to a rapprochement towards the EU, relations between the two have not been persistent. Nevertheless, they have resulted in the ENP. When the new Eastern European countries emerged in 1991, the EU drew up guidelines for recognising these countries at an extraordinary ministerial meeting in Brussels on 16 December, which was published the following day in The Hague. Thus, all the new states were recognised (with the exception of Tajikistan and Kyrgyzstan, which did not meet the required guidelines) on 31 December 1991. These guidelines did not consist of implementing EU law as such, but rather public international law (the UN Charter, the Helsinki Final Act and the Charter of Paris), along with the two fundamental pillars of the ENP; the concern for regional balance and the establishment of stable democracy along with human rights.

After the EU recognised Ukraine as an independent country, relations between the two began. The first rapprochement was thanks to the TACIS programme, which we have already mentioned. This programme was created in 1991 and functioned as a financing and aid instrument for the Union's new neighbouring states. Today, after undergoing certain reforms, the programme has become the ENI.⁸⁵ Of these grants, Ukraine was the second largest recipient after Russia between 1991 and 2005, which indicates how important it was for the EU to engage with Ukraine.⁸⁶

The relationship between the two sides continued through agreements starting in 1992 when Leonid Kravchuk, Ukrainian President, and Jacques Delors, President of the European Commission, met for the first time. Following this meeting, in March 1994, the PCA between Ukraine and the EU was signed, making Ukraine the first former Soviet country to conclude such an agreement. It was not until 1998, however, that the Agreement entered into force, as the RADA (Ukrainian parliament), the European Parliament and the national parliaments of each Member State had to approve the

⁸⁵ *L_2014244ES.01001201.xml*. (2014). Eur-Lex.

<https://eur-lex.europa.eu/legal-content/ES/TXT/HTML/?uri=CELEX:32014R0897>

⁸⁶ BORZEL T., y LEBANIDZE, B., "European Neighborhood Policy at the Crossroads. Evaluating the Past to Shape the Future", MAXCAP Working Paper Series, n. 12, Julio 2015, p. 15

PCA.⁸⁷ The European Parliament made this agreement with the aim of establishing a political, economic and legal dialogue, achieving the security that the Union so desperately needs at its borders, and showing support for Ukraine's new independence and sovereignty. This agreement is based on the Maastricht Treaty, and the capacity that this treaty gives the Union to make such agreements.⁸⁸ The PCA is of a mixed nature, since on the one hand, it is an agreement between the European Communities and the Member States, and on the other hand, it is also an agreement between the European Communities and Ukraine (at the same time a protocol was also drawn up concerning assistance between administrative authorities in customs matters). It is mainly based on Articles 133, 300 and 308 TEU. With regard to trade, it is based on the most-favoured-nation clause, i.e. a non-preferential relationship, which may lead one to think that it could evolve into a free trade agreement in the future. In turn, it has ten titles relating to issues such as trade in goods, economic cooperation, and cultural and financial cooperation.⁸⁹

The next step in the Ukraine-EU relationship was the presentation of an Action Plan by the European Commission, approved by the Council.⁹⁰ The Action Plan for Ukraine was part of the TACIS programme, where financial assistance was divided by sector.⁹¹ Between 1991 and 1993, 36% of the assistance was directed to nuclear safety and regional co-operation was also given much importance (14%), but from 1994 to 1998, priorities evolved and although nuclear safety remained the top priority, other issues such as donor co-ordination or the social consequences of transition received more funding compared to the first period (1991-1993). A year after the Action Plan

⁸⁷ García Andrés, C. (2018). Ucrania: El largo proceso hacia la integración europea. *Revista de estudios europeos*, 71, 396–413. <https://dialnet.unirioja.es/servlet/articulo?codigo=6347891>

⁸⁸ BOE.es - BOE-A-1994-626 Instrumento de Ratificación del Tratado de la Unión Europea, firmado en Maastricht el 7 de febrero de 1992. (1991). BOE - Agencia Estatal Boletín Oficial del Estado. <https://boe.es/buscar/doc.php?id=BOE-A-1994-626>

⁸⁹ HERRANZ, A. Relaciones UE-Ucrania 1991-2003: una política de reacción, Institut Universitari d'Estudis Europeus, Barcelona, 2003, pp. 6. [Relaciones UE-Ucrania 1991-2003: una política de reacción - Dialnet \(unirioja.es\)](#)

⁹⁰ *Informe sobre la comunicación de la Comisión al Consejo relativa al plan de acción relativo a Ucrania - Comisión de Asuntos Exteriores, Seguridad y Política de Defensa*. (1998). © Unión Europea, 1998 - Fuente: Parlamento Europeo. https://www.europarl.europa.eu/doceo/document/A-4-1998-0059_ES.html

⁹¹ Administrative, Legal and Institutional Reform, Private Sector and Economic Development, Social Consequences of Transition, Infrastructure Networks, Environmental Protection, Rural Economies, Counselling, Small Projects Programme, Bistrot and Reserves, Tempus, Regional Cooperation (Regional and other programmes), Nuclear Safety, Fuel Gap, Donor Coordination and Programme Support.

was launched and as a consequence of it, in 1997, annual EU-Ukraine summits began to take place (although they were not to be persevered with due to the delicate relationship between the two sides). The first summit took place on 15 September of the same year with the aim of refining the priority issues within the Action Plan.⁹²

Gradually, Ukraine's relations with the EU became stronger, and in 1998 the then Ukrainian president, Leonid Kuchma, even approved a decree that consisted of drawing up a plan for Ukraine's accession to the EU. However, in the period 1991-1998, the EU continued to perceive Ukraine (despite bilateral agreements) as a country belonging to the Eurasian space, and there were circumstances in which Ukraine was pushed aside by the European community. For example, it was not invited to the European Conference on 12 May 1998, where the EU was to hold talks with the candidate countries. At the third summit in 1999, the Union responded to Kuchma's plan by supporting Ukraine's interest in moving closer to the Union and continuing to assert that the priority in Ukraine was the establishment of the rule of law and free democracy, along with European security and stability (the main objectives of the subsequent ENP). Despite this, the Union continues to refer to mere cooperation with Ukraine and not accession.⁹³ At the same summit, Turkey was accepted as a candidate country for accession and the relationship with Ukraine was reconsidered because of the rapid eastward enlargement that was taking place. Ukraine took advantage of the rapprochement with Europe and put forward its claims to membership, but in the end, the EU took a stricter stance on Ukraine's case and considered that it did not meet democratic and market economy standards.⁹⁴ Since 1999, when President Kuchma was re-elected president, Europe observed a democratic regression in Ukraine, and they were right as several reforms took place in the following years, including some constitutional reforms that were interpreted as a distancing from Ukraine. The Ukrainian president's powers over the Verkhovna Rada were increased and he could dissolve the Rada if the general state budget was not approved within a month. In addition, the number of MPs was reduced and they lost their parliamentary immunity.⁹⁵

After reconsidering the relationship with Ukraine, there were some changes, especially in relation to the TACIS programme. After analysing the periods 1991-1993

⁹² HERRANZ, A. *Op cita.*, nota 89, p 25.

⁹³ García Andrés, C. (2018). *Op cita.*, nota 87, p 25.

⁹⁴ HERRANZ, A. *Op cita.*, nota 89, p 25.

⁹⁵ García Andrés, C. (2014). *Las relaciones entre la Unión Europea y Ucrania (1991–2014)*.

<http://uvadoc.uva.es/handle/10324/7370>

and 1994-1998, we see that in the period 1999-2003, EU assistance is mainly directed towards administrative, legal and institutional reform, private sector and economic development or regional cooperation.⁹⁶ These data show us how, little by little, concerns about military matters and nuclear security are being left behind, and a new era is opening up, one that puts the main focus on the evolution of the country itself, democracy and the values that prevail in a state governed by the rule of law, leaving behind the Cold War period and showing that the purpose of the TACIS programme did generate progress (although not notable progress in the short term).

Thus, we arrived at the fourth summit, in 2000, where a Justice and Home Affairs Action Plan with Ukraine was approved. Later, in 2004, the Union's major eastward enlargement took place. The Union reviewed its policies on relations with its future border neighbours and created the European Neighbourhood Policy. In light of this, the EU-Ukraine summit that same year discussed the need to create a new Action Plan for Ukraine, and this was done. This Action Plan set out a series of priorities within the scope of the PCA. 2004 was also an important year for Ukraine internally, as Yanukovich was elected president at the end of the year, ending Kuchma's presidency. Prior to the elections that year, the European Parliament adopted a resolution regarding Ukraine's internal circumstances with the aim of working together, reaffirming the security of its borders and promoting democracy in Ukraine.⁹⁷ However, after the elections, opposition leaders claimed electoral fraud and subsequent demonstrations led to the 'Orange Revolution'. After new elections, the pro-European Viktor Yushchenko became Ukraine's president, bringing the country closer to the European stage. At the end of 2005, the first EU-Ukraine summit took place with Yushchenko as the new president, and at the summit leaders stressed the importance of prospering relations between the two sides. Emphasis was also placed on establishing a free trade area and, most importantly, the idea of a new agreement to replace the previous PCA was considered.⁹⁸

⁹⁶ HERRANZ, A. *Op cita.*, nota 89, p 25.

⁹⁷ *TEXTOS APROBADOS POR EL PARLAMENTO* (P6_TA-PROV(2004)0046 Próximas elecciones en Ucrania). (2004). Parlamento Europeo.
https://www.europarl.europa.eu/RegData/seance_pleniere/textes_adoptes/provisoire/2004/10-28/P6_TA-PROV%282004%2910-28_ES.pdf

⁹⁸ *Press corner*. (2005). European Commission - European Commission.
https://ec.europa.eu/commission/presscorner/detail/en/PRES_05_337

Two years later, in January 2007, the Regulation replacing the TACIS programme with the current ENPI entered into force to financially assist ENP countries, including Ukraine, to comply with the Action Plans. In parallel, the EU and Ukraine had resumed negotiations for the new agreement with strengthened objectives, including the creation of a free trade area.⁹⁹ At the 2008 summit, the EU positively highlighted all the reforms that Ukraine had planned in order to continue its rapprochement with Europe. After Ukraine joined the World Trade Organisation in May 2008¹⁰⁰ negotiations for a free trade area between the EU and Ukraine began, advancing the draft of the new Association Agenda agreement. However, the EU wanted to further strengthen relations and wanted to replace the Action Plan established to date with a new Association Agenda, with the aim of preparing for the new AA.

One of the next steps was the creation of the Eastern Partnership in 2009, through which they wanted to accelerate economic and political integration between the EU and the countries of the East, and in the same year the Action Plan was replaced by an interim Partnership Agenda (PA) with the aim of accelerating priorities in certain sectors. The main objective of easing these relations is the establishment of DCFTAs between the EU and Ukraine.¹⁰¹

Following the 2010 elections in Ukraine, the government underwent a change when Viktor Yanukovich was elected as the new president.¹⁰² Despite these changes, the EU continued with its plan to support Ukraine, as the 14th Ukraine-EU Summit voted in favour of Ukraine's participation in various EU programmes. Moreover, the European Parliament, in one of its resolutions, expressed the possibility of Ukraine's possible accession to the EU, provided that it complied with the requirements and values imposed¹⁰³, and a report produced that same year by the European Commission praised all the favourable measures taken by Ukraine in an effort to meet European

⁹⁹ *Textos aprobados - Mandato de negociación relativo a un nuevo acuerdo reforzado CE-Ucrania - Jueves 12 de julio de 2007.* (2007). © Unión Europea, 2007 - Fuente: Parlamento Europeo.

https://www.europarl.europa.eu/doceo/document/TA-6-2007-0355_ES.html

¹⁰⁰ *OMC | Ucrania - Información por Miembro.* (2008). Organización Mundial del Comercio.

https://www.wto.org/spanish/thewto_s/countries_s/ukraine_s.htm

¹⁰¹ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

¹⁰² The same man who years ago, in 2004, was the winner of the fraudulent elections that led to the Orange Revolution.

¹⁰³ *Textos aprobados - Ucrania - Jueves 25 de noviembre de 2010.* (2010). © Unión Europea, 2010 - Fuente: Parlamento Europeo. https://www.europarl.europa.eu/doceo/document/TA-7-2010-0444_ES.html

expectations, despite the fact that the country had suffered a certain democratic regression that worried the European upper echelons.¹⁰⁴

Everything was going well, until the end of 2011, when former prime minister Yulia Tomshenko was imprisoned for alleged corruption during her years in the Ukrainian government. Imprisonment that Europe considered illegal and disagreed with.

In the following year, Ukraine and the EU continued their bilateral summits in order to pursue their AA, focusing mainly on the trade part and the elimination of customs tariffs along with a compromise on trade laws and rules, but of course, all of this depended on Ukraine doing its part and sticking to the democratic principles of the Union (primarily in the area of the judiciary, the electoral law and the punishment of the aforementioned former minister).¹⁰⁵ Thus, in September 2013, Ukraine implemented several of the changes required for the final signing of the AA. Favourable changes that the Council acknowledged in one of its recommendations¹⁰⁶ and implied that the agreement in question could be affirmed and ratified.

We reached the end of 2013, and it is here that the relationship between the two parties began to become unsustainable due to the entry into play of the Russian Federation. On the verge of ratifying the AA, Ukraine decided at the last moment to back out because Russia did not see the agreement in a favourable light and this endangered trade relations between Russia and Ukraine. However, the signing of the AA was scheduled for the third EaP Summit, and although Ukraine ultimately decided not to sign the agreement, Georgia and Moldova did. This decision on the Ukrainian side led to many conflicts in the country's major cities, which became known as Euromaidan. Seeing that the people disagreed with the Ukrainian government's decision, the government proposed talks between Russia, the EU and Ukraine, but the EU unsurprisingly rejected the proposal. However, the EU was still contemplating signing the AA together with Ukraine, clinging to the Ukrainian choice to move closer to Europe that we saw earlier with the Orange Revolution. The Euromaidan led to the resignation of President Yanukovich (as well as his flight to Russia) and the

¹⁰⁴ *Implementation of the European Neighbourhood Policy in 2010 Country Report : Ukraine*. (2011, mayo). EUROPEAN COMMISSION. <http://aei.pitt.edu/39637/>

¹⁰⁵ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

¹⁰⁶ *Register of Commission Documents*. (2013). Comisión Europea. [https://ec.europa.eu/transparency/documents-register/detail?ref=COM\(2013\)653&lang=es](https://ec.europa.eu/transparency/documents-register/detail?ref=COM(2013)653&lang=es)

establishment of an interim government along with the release of the imprisoned former minister.¹⁰⁷

The situation in Ukraine did not prosper, as after the end of Euromaidan the situation worsened with the annexation of Crimea to the Russian Federation (comprising the city of Sevastopol and the headquarters of the Russian Black Sea Fleet), the result of an illegal and controversial referendum on 16 March 2014 (Russia claimed to have a duty to protect the Russian population living in Crimea)¹⁰⁸. This operation was allegedly promoted by the Russian Federation.¹⁰⁹ It is worth noting that since becoming Russian president, Vladimir Putin has always maintained a position based on restoring the former Soviet Union, as he has stated countless times.¹¹⁰ In response to this, the EU drafted regulations and decisions to help Ukraine both administratively and economically. The annexation of Crimea was decisive for the subsequent relationship between Russia and Ukraine and brought Ukraine closer to the EU and NATO (North Atlantic Organisation).¹¹¹

In March of the same year another summit took place where the EU and the acting Ukrainian president, Yatsenyuk, signed an AA whose main points were to continue with Ukraine's integration into the EU market and to advance political and economic relations between the two.¹¹²

On 1 April 2014 the European Commission issued a declaration to offer assistance to Georgia, Moldova and Ukraine, but especially to the latter.¹¹³ However, the reality in Ukraine was not improving; on the contrary, following in the footsteps of Crimea, armed conflict began in eastern Ukraine, also allegedly supported by Russia, in

¹⁰⁷ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

¹⁰⁸ *General Assembly Adopts Resolution Calling upon States Not to Recognize Changes in Status of Crimea Region | Meetings Coverage and Press Releases.* (2014). United Nations. <https://www.un.org/press/en/2014/ga11493.doc.htm>

¹⁰⁹ Cúneo, M. Á. (2018). El futuro de Ucrania: entre el conflicto de Donbas, la pérdida de Crimea y los Acuerdos de Minsk (Parte II). *Dialnet*. <https://dialnet.unirioja.es/servlet/articulo?codigo=6918860>

¹¹⁰ La Nación. (2021, 21 julio). 'La catástrofe geopolítica más grande del siglo'. *La Nación*. <https://www.nacion.com/opinion/foros/la-catastrofe-geopolitica-mas-grande-del-siglo/E66DXI5B7BG5BAYYG6B5ITOQME/story/>

¹¹¹ Cúneo, M. Á. (2018). *Op cita.*, nota 109, p 30.

¹¹² García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

¹¹³ Press corner. (2014). European Commission - European Commission. https://ec.europa.eu/commission/presscorner/detail/en/STATEMENT_14_90

the quest for autonomy. Despite the signing of the Minsk I and II Agreements, in the interests of improving the situation, the conflict remained alive in the background and Ukraine's territorial integrity continued to be at risk. It should also be noted that Russia and Ukraine had signed a previous agreement in 1990 and reaffirmed it in 1997, mutually recognising each other's borders.¹¹⁴

Nevertheless, the interim Ukrainian government called elections and Petro Poroshenko and his policy of rapprochement with the EU and a dialogue with Russia were victorious. This victory meant that the EU and Ukraine were finally able to sign the remaining titles of the AA, but the trade part did not enter into force until the EU agreed to meet with Russia and Ukraine to reach an agreement. However, although the AA was finally ratified, its entry into force was postponed until January 2016 (due to the upcoming legislative elections).¹¹⁵

Following Poroshenko's re-election, he planned a series of strategies, in line with his policy of rapprochement with the EU, for Ukraine to be considered as a potential EU member. At the fourth EaP summit, those present supported a rapid solution to the crisis in Ukraine and defended its independence and territorial integrity. In parallel, the Minsk Agreements (agreements between Germany, France, Ukraine and Russia to solve the problems in eastern Ukraine) were also implemented.¹¹⁶

In relation to the AA, in January 2016 the implementation of the free trade area started and thanks to this the Ukrainian economy was on its way to a more modern economy more in line with EU standards and principles. At the 18th Ukraine-EU Summit, Brussels corroborated further economic assistance to help preserve Ukraine's independence and sovereignty.¹¹⁷

2.3 The relationship between Europe and Russia's foreign policy in the aftermath of the current Ukrainian conflict.

There is no denying that the new Russia had little in common with the old Soviet Union in terms of international relations. Before 1991, the last Soviet President Mikhail Gorbachev was embroiled in a series of confrontations that after Russia's independence

¹¹⁴ Cúneo, M. Á. (2018). *Op cita.*, nota 109, p 30.

¹¹⁵ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

¹¹⁶ *Ukraine: The Minsk agreements five years on.* (2020).

[https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS_ATAG\(2020\)646203_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2020/646203/EPRS_ATAG(2020)646203_EN.pdf)

¹¹⁷ García Andrés, C. (2020). *Op cita.*, nota 47, p 15.

almost faded away; the situation in Afghanistan, the complicated relations with Japan, Korea and China, the "Euromissile crisis", but above all the tense situation with the US that generated the years of the Cold War. Moreover, after the Second World War, the USSR witnessed how the countries it had allied with against the Germans in the 1941 invasion no longer needed the Soviet independence that had led them to victory.

It should be added that after the dissolution of the Warsaw Pact (Treaty of Friendship, Cooperation and Mutual Assistance between the countries of the East during the Cold War) and the Council for Mutual Economic Assistance, some of the participating countries drifted away and tried to find their own way, which eventually led to the creation of the EU and NATO. The US created the Marshall Plan with the aim of economically assisting Western European countries and left out Russia and Eastern European countries, missing the opportunity to plant the seeds of democratic and capitalist foundations in these regions, which later had great consequences. Not to mention that the dissolution of the USSR quantitatively reduced both the number of inhabitants and territory.¹¹⁸ Not only that, but the ideological project along with its ambition on the international scene also failed.¹¹⁹ All this gives us an idea of where Russia's foreign policy is heading with its dependence on international aid.

With this in mind, it stands to reason that one of the main points of the newly independent Russia would be the CIS. Independent states would also gradually go their own way and have their own ideas, making it difficult for the whole community to come together, even in political or economic matters.¹²⁰ Therefore, everything points to the fact that the CIS has failed to achieve peace, welfare and democracy for its members (several wars in Transdniestra, Moldova, in South Ossetia or Abkhazia, in Georgia, etc.).¹²¹

Even within Russia itself there were disagreements over the CIS. With Russia being the most powerful, largest and therefore strongest country in the CIS, some saw the community as an opportunity (after the dissolution of the USSR) to influence the

¹¹⁸ The USSR was 22 million km², the Russian Federation 17 km². The USSR had 250 million inhabitants, the Russian Federation 150 million.

¹¹⁹ Serra I Massansalvador, F. (2004). Rusia y la Política Exterior y de Seguridad europea. *Cuadernos constitucionales de la Cátedra Fadrique Furió Ceriol*, 49, 195–210. Page 197.

¹²⁰ One of the common points that some of these states had in common was the possession of nuclear weapons and their subsequent custody and organisation, but even in this matter many of the states wanted to destroy the nuclear weapons or transfer them to the Russian federation.

¹²¹ Arias, T. C. (2022). *Op cita.*, nota 36, p 12.

other states, including Ukraine, the second most important country in the community, which was largely dependent on Russia. Others, however, believed that the Community would cause Russia to err on the side of generosity towards the other states, leaving Moscow without resources of any kind.

In the early years, Russian foreign policy was in tune with the Western world. Although Russia is an important part of European history, it was never accepted by the West and was even separated from Europe for a long time, creating a division between those who preferred a rapprochement with Europe and those who preferred it towards Asia (the "pro-Westerners" and "Slavophiles").¹²² Between 1991 and 1995, Moscow wanted to please the Western world and even actively participated in decisions such as supporting international sanctions against Serbia, the peace agreement with Moldova, signed a strategic arms limitation agreement with the US (START-II) and joined the Monetary Fund, the World Bank and the NATO-promoted Partnership for Peace.

In the early 1990s, the US and Russia reached an agreement whereby Russia would allow, and even guarantee, German reunification as long as NATO did not expand. This promise not to expand NATO, once made by the Republican Bush administration, was soon broken with the arrival of Bill Clinton and his Democratic administration to the US presidency. This new administration, not forgetting the Cold War in 1992, took advantage of Russia's weakness during those years and claimed that the promise not to expand NATO was made to the then dissolved Soviet Union, not to the new Russia.

However, as early as 1996, Russia began to disengage from the West, aiming to create a more independent foreign policy of its own after being rejected. The new foreign minister decided to do so and ruled that the West's decisions were unfavourable to Russia. Moreover, Russia could already see that American troops were arriving on its borders (Caucasus, Caspian or Central Asia). But the straw that broke the camel's back was undoubtedly NATO's intervention on the former Yugoslavia (Serbia and Montenegro) in 1999 in an attempt to rein in Serbian forces and defend the Kosovar population.¹²³ That same year, however, the relationship cooled down because the

¹²² de la Cámara Hermoso, M. (2008). Las relaciones entre la Unión Europea y Rusia. *UNISCI Discussion Papers*, 16. <https://dialnet.unirioja.es/servlet/articulo?codigo=2522525>

¹²³ Deutsche Welle (www.dw.com). (2021). *Presidente checo pide perdón a Serbia por bombardeo de 1999*. DW.COM. <https://www.dw.com/es/presidente-checo-pide-perd%C3%B3n-a-serbia-por-bombardeo-de-1999/a-57573>

Monetary Fund, of which Russia was a member, took a decision beneficial to Russia, as Russia's foreign policy at the time was dedicated to obstructing Western decisions as long as they were not economically beneficial to the country, leaving the impression that it lacked funding.

Russia's foreign policy during the Yeltsin years in the 1990s struggled between peaceful rapprochement with democracy and the West on the one hand, and a sense of international hostility on the other, playing the role of victim in the latter. President Yeltsin failed, however, as he was unable to dig Russia out of that great economic crisis, generating discontent among citizens, who ended up blaming the West for the source of their ills. From then on Russian foreign policy became selective (according to its interests); the Kremlin maintained good relations with the EU (as there were numerous investors in Russia, and this benefited its economy), but hostile relations with NATO continued along with dissatisfaction with its expansion into Central Europe and the Balkans (in the security sphere). This differentiation in relations with these two organisations seems contradictory, as the common interests of both are similar.

Following this differentiation in Russian foreign policy, in 1999 the Helsinki Council established a ESDP and for the first time the EU had its own security policy, which until then had been reflected through NATO. Until then, Moscow had been reassured by this security vacuum, but now it was totally distrustful, as was NATO.¹²⁴

During Yeltsin's tenure, the legal framework of Russia's relations with the EU consisted of the following:

- Financial assistance through the TACIS programme: created in 1990 with the purpose of assisting the CIS countries and Mongolia after the dissolution of the USSR. By 2001 the EU had allocated no less than 2.4 billion euros to Russia through this programme. However, this financial assistance was sometimes criticised as it was speculated that it was merely a way of implementing EU priority policies (e.g. funding for administrative structures that favour European

[468#:~:text=La%20OTAN%20bombarde%C3%B3%20en%201999%20la%20entonces%20Yugoslavi a%20guerrilla%20albano-kosovar%20a%20la%20poblaci%C3%B3n%20civil%20koso var](#)

¹²⁴ In which the Union was involved, but for economic reasons had never lumped it in with NATO). Now he was not only unhappy with NATO enlargement, but later, especially after 20014, he would also be unhappy with the Union's eastward enlargement and the rapprochement of its borders that diminished Russia's potential influence in those territories. Serra I Massansalvador, F. *Op cita.*, nota 119, p 32.

trade). However, in 1994, with the crisis in Chechnya, Moscow's relationship with Brussels became strained and political and trade agreements were postponed.

- PCA:¹²⁵ Although this agreement was created in 1994, it was not until 1997 that it came into force when Moscow entered into an economic crisis and Brussels sent financial aid. Through this PCA, trade relations increased, as did trust between the two sides. Political contact between the institutions of the two sides was sought, with two annual summits and cooperation in certain areas such as education, transport, the environment and so on. This period of confidence-building ceased with Putin's accession to power in 2002.
- Common Strategy on Russia, adopted by the European Council:¹²⁶ Born in 1999 as a political instrument of the CFSP in the wake of the Amsterdam Treaty, this was the first strategy adopted by the Council, followed by the strategy for Ukraine. However, this strategy had little room for manoeuvre (which the PCA allowed) and was not renewed after five years.

It was the year 2000, with Putin in power, when the picture changed again. International oil prices soared and the Russian economy benefited. Thanks to this and his skilful negotiating skills, he was able to pay off all the debts he had accumulated in the previous years and freed himself to move closer to the independence he had longed for and which would allow him to pursue his plan to create an independent foreign policy of his own, without even entering into diplomatic friendships.¹²⁷

Despite the terrorist attacks of 9/11 in 2001, Russia supported the US, and this was to be key to the course of the years that followed. Russia offered its support to the American giant with the aim of profiting, and there was even speculation about Russia's early entry into the World Trade Organisation (something that cost China a lot of time). Moreover, Putin concluded that Russia had no clear advantage over the US and, as they say, "Keep your friends close and your enemies closer", especially when the US was the clear winner and most powerful power.

¹²⁵ *CORDIS | European Commission*. (1997). EUROPEAN COMMISSION.

<https://cordis.europa.eu/article/id/9433-eurussia-partnership-and-cooperation-agreement>

¹²⁶ *BOE.es - DOUE-L-1999-81126 Estrategia común de la Unión Europea, de 4 de junio de 1999, sobre Rusia*. (1999). BOE Agencia Estatal Bolet. <https://www.boe.es/buscar/doc.php?id=DOUE-L-1999-81126>

¹²⁷ de la Cámara Hermoso, M. *Op cita.*, nota 122, p 33.

Thus, since 2001 Russia accepted US leadership and the US focused on strengthening ties with Moscow, with the aim of distancing it from the European Union and discarding the idea of a possible Eurasian micro-power. The EU, for its part, did not make it difficult for the US, as during this period some of the former Soviet countries, which do not have good relations with Moscow, joined the Union (straining EU-Russia relations).

One might think that Russia was being naïve, acquiescing to the US wherever it went; the American giant acted as it pleased in countries such as Afghanistan, Iraq and China and intervened as it pleased. But the Russian leadership was aware of this and certainly expected something in return. However, Russia got absolutely nothing out of its support for the US, but rather the opposite; NATO enlarged its borders (which made Russia even more uneasy). In addition, the US administration under George Bush Jr. supported the colour revolutions in Georgia, Ukraine and Kyrgyzstan between 2003 and 2005 and never conducted any trade dealings with Moscow.¹²⁸ Since the 1990s, Russia has been banned from NATO and the EU, even twice, although certain countries, former members of the Warsaw Pact, were allowed to join. This made Russia feel alienated and distanced itself, with Putin at the helm, from any democratic reform. Despite having acquired a measured attitude in the early years (even fighting alongside the US against terrorism as mentioned above), hostility towards Russia was still present even after 9/11.

Within the legal framework of relations between Russia and the EU, it is worth noting the creation of the ENP by the EU in 2004, following its major eastward enlargement. Although technically it is not a policy that applies to Russia, it is aimed at countries bordering Russia and former members of the USSR, so the EU treats these relations with great care. It does not raise the possibility of further enlargement and does not consider them as candidate countries, which is why Moscow, while distrustful, does not object to this policy of securing Europe's borders.

Throughout this relationship of instability, often generated by Brussels' ambition to expand into former USSR territories, which are also the object of Russian enlargement, it cannot be denied that there is a mutual dependence between the two sides. This relationship is mainly a commercial one, with more than half of Russia's exports going to Europe, and this obliges it to have no enmity towards the latter. The

¹²⁸ Arias, T. C. (2022). *Op cita.*, nota 36, p 12.

EU also buys a great deal of Russian gas and oil.¹²⁹ Moreover, Russia is the EU's largest trading partner after the US and China.¹³⁰

2.3.1 Russian invasion of Ukraine, February 2022, and the EU's response.

We now turn to the current conflict between two of our actors and the reaction of the European community. After Donetsk and Luhansk proclaimed themselves independent republics and Putin recognised them in February 2022, the situation between Ukraine and Russia began to tense again.¹³¹ On 7 April 2014, Russian militia and people in both Lugansk and Donetsk who claimed to be Russian carried out an occupation of different buildings in these two Ukrainian territories. The separatists' demand was mainly that Ukraine should not join NATO and it is believed that they were aiming for an outcome similar to Crimea. On 17 April, Ukraine, the EU, the United States and Russia met to agree on a solution to the separatist uprisings. The conclusions of that meeting were that the Russian military should lay down its arms and Ukraine should reform its constitution so that these territories (where the majority of Russians reside) could govern themselves. In May of the same year, referendums were held in Lugansk and Donetsk, proclaiming themselves "people's republics". Despite the elaboration of the "peace" agreement, after the Ukrainian elections that year and Poroshenko's victory, the newly proclaimed People's Republics escaped from the control of the Ukrainian authorities with Moscow's help, and this led to the current war.¹³²

On 23 February 2022, Ukraine declared a state of emergency and a day later the bombing of Ukraine by Russian forces began.¹³³ From that moment on, new sanctions against Russia by the West and the United States (and even direct sanctions against

¹²⁹ RTVE.es. (2022, 26 febrero). *La dependencia del gas ruso de Europa y España*.

<https://www.rtve.es/noticias/20220225/dependencia-gas-ruso-europa-espana/2297085.shtml> (last visited on 23 April 2022)

¹³⁰ de la Cámara Hermoso, M. *Op cita.*, nota 122, p 33.

¹³¹ Jimenez, A. Z. (2022, 21 febrero). *Putin reconoce la independencia de Donetsk y Lugansk en el Donbás bajo condenas de la UE*. euronews. (last visited on 26 April 2022)

<https://es.euronews.com/2022/02/21/putin-comunica-a-macron-y-scholz-intencion-de-reconocer-donetsk-y-lugansk>

¹³² Arias, T. C. (2022). *Op cita.*, nota 36, p 12.

¹³³ Lister, T. I. K. (2022, 23 febrero). *Ukraine declares state of emergency amid Russia tensions*. CNN. (last visited on 26 April 2022)

<https://edition.cnn.com/2022/02/23/europe/russia-ukraine-tensions-wednesday-intl/index.html>

Putin) began, as well as numerous demonstrations around the world, calling for Russia's withdrawal from Ukrainian territory. On the same day, the European Council met in Brussels for an extraordinary summit. ¹³⁴The results of the summit were as follows: the Russian attack was condemned, support for Ukraine's sovereignty and territorial integrity was reiterated, and the European Council adopted restrictive measures (together with its partners and allies) additional to those already imposed in 2014 following the illegal annexation of Crimea to Russia. These new restrictive measures were adopted in the following areas: ¹³⁵ The financial sector, the energy and transport sectors, dual-use goods, export control and financing, visa policy, additional sanctions against Russian nationals, and new listing criteria. In addition, the European Council stated that it would continue to maintain relations with its international partners in the framework of the UN, OSCE, NATO and G7.

The Council of the EU, meanwhile, also agreed on the first package of sanctions against Russia after it recognised the territories of Donetsk and Luhansk as independent and sent troops to the area. Sanctions ranged from restrictive measures against 351 members of the Russian State Duma who voted in favour of the independence of the self-proclaimed Donetsk and Lugansk 'republics', to financial constraints for Russia and for the newly self-proclaimed republics that were not controlled by the Ukrainian government. ¹³⁶

"These decisions are illegal and unacceptable, as they violate international law, the territorial integrity and sovereignty of Ukraine and Russia's own international commitments, and further aggravate the crisis". (Josep Borrell, High Representative of the Union for Foreign Affairs and Security Policy).

The second round of sanctions imposed on Russia by the EU Council came on 25 February: Putin's assets and foreign minister were frozen and measures were tightened in the areas of finance, energy, transport and technology, as well as visa

¹³⁴ *European Council conclusions, 24 February 2022.* (2022, 24 february). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/02/24/european-council-conclusions-24-february-2022/>

¹³⁵ *EU sanctions in response to Russia's invasion of Ukraine.* (2022, 26 april). European Council.

<https://www.consilium.europa.eu/es/infographics/eu-sanctions-ukraine-invasion/>

¹³⁶ *EU adopts package of sanctions in response to Russian recognition of the non-government controlled areas of the Donetsk and Luhansk oblasts of Ukraine and sending of troops into the region.* (2022, 23 february). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/02/23/russian-recognition-of-the-non-government-controlled-areas-of-the-donetsk-and-luhansk-oblasts-of-ukraine-as-independent-entities-eu-adopts-package-of-sanctions/>

policy.¹³⁷ On 28 February the first talks between Moscow and Kiev took place at the same time as thousands of people began to flee the country.¹³⁸ On 1 March of the same year Joe Biden publicly condemned the Russian attack and the US sent 60 million barrels of oil to show that there was no shortage.

On 2 March the consequences of the sanctions imposed on Russia became visible for the first time among the Russian population.¹³⁹ Along with new measures, the Council decided to freeze for another year the funds of those responsible for embezzlement of Ukrainian public funds, or those responsible for the loss of Ukrainian public funds.¹⁴⁰ At the same time, the second round of talks between Moscow and Kiev is also taking place¹⁴¹, in which Russia asked Ukraine to surrender and to completely rule out the idea of joining NATO.¹⁴² The consequences of the current war have caused the prices of foodstuffs such as grain and wheat to soar, as the US Department of

¹³⁷ *Russia's military aggression against Ukraine: EU imposes sanctions against President Putin and Foreign Minister Lavrov and adopts wide ranging individual and economic sanctions.* (2022, 25 february). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/02/25/russia-s-military-aggression-against-ukraine-eu-imposes-sanctions-against-president-putin-and-foreign-minister-lavrov-and-adopts-wide-ranging-individual-and-economic-sanctions/>

¹³⁸ Arciniegas, Y., Cabrera, N., & Hurel, L. (2022, 28 febrero). *Moscú y Kiev culminan primer día de diálogos, la ONU no logra consenso en condena a Rusia.* France 24. (last visited on 26 April 2022)

<https://www.france24.com/es/europa/20220228-rusia-ucrania-guerra-dialogos-belarus>

¹³⁹ In addition, the third package of sanctions by the EU Council is also being implemented, which includes a ban on access to the SWIFT system for seven Russian banks, weakening Russia's ability to carry out global financial transactions: *Russia's military aggression against Ukraine: EU bans certain Russian banks from SWIFT system and introduces further restrictions.* (2022, 2 March). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/03/02/russia-s-military-aggression-against-ukraine-eu-bans-certain-russian-banks-from-swift-system-and-introduces-further-restrictions/>

¹⁴⁰ *EUR-Lex - 32022D0376 - EN - EUR-Lex.* (2022). Eur-Lex.

<https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32022D0376>

¹⁴¹ Подоляк, М. (2022, 3 marzo). *Comienza segunda ronda de conversaciones entre Ucrania y Rusia.* Bloomberg Línea. (last visited on 26 April 2022)

<https://www.bloomberglinea.com/2022/03/03/comienza-segunda-ronda-de-conversaciones-entre-ucrania-y-rusia/>

¹⁴² Подоляк, М. (2022, 3 marzo). *Comienza segunda ronda de conversaciones entre Ucrania y Rusia.* Bloomberg Línea. (last visited on 26 April 2022)

<https://www.bloomberglinea.com/2022/03/03/comienza-segunda-ronda-de-conversaciones-entre-ucrania-y-rusia/>

Agriculture reports that Ukraine exports 12% of the world's wheat.¹⁴³ The number of refugees is estimated by the UN at one million.

On 5 March, Ukrainian President Zelensky and Biden discussed economic, health, military and financial assistance as well as the idea of further sanctions against Russia. Two days later Russia and Ukraine resumed talks after attempting to evacuate Ukrainian civilians through humanitarian corridors.¹⁴⁴ On 8 March, Biden banned oil imports to Russia¹⁴⁵ and in addition the Council imposed new measures not only on Russia, but this time also on Belarus (in particular to address its economy) due to military involvement against Ukraine. This time the Council added to the measures adopted for Russia, restrictive measures concerning the export of maritime navigation products and communication technology.¹⁴⁶ At this point, there was no progress in the bilateral talks. On the contrary, a day later Russia intensified attacks in eastern and western Ukraine and in response the West increased economic pressure on Russia.

On 15 March the fourth package of sanctions on Russia arrived from the EU Council, relating to trade restrictions and transactions with certain state-owned companies, among others.¹⁴⁷ In the days that followed, Russia continued its attacks while demanding the disarmament of Ukraine, which was determined to defend itself.

¹⁴³ *How the Ukraine war is driving up food and energy prices.* (2022, 31 march). World Economic Forum. (last visited on 26 April 2022)

<https://www.weforum.org/agenda/2022/03/ukraine-energy-and-food-radio-davos/>

¹⁴⁴ McDade, A. (2022, 3 march). *Russia, Ukraine Agree to Humanitarian Corridors, Possible Cease-Fire.* Newsweek. (last visited on 26 April 2022)

<https://www.newsweek.com/russia-ukraine-agree-humanitarian-corridors-possible-cease-fire-1684668>

¹⁴⁵ Diario El Dia de La Plata www.eldia.com. (2022, 9 marzo). *Fuerte golpe de Biden a Putin: EEUU prohibió las importaciones de petróleo y gas ruso.* El Dia. (last visited on 26 April 2022)

<https://www.eldia.com/nota/2022-3-8-11-18-0-fuerte-golpe-de-biden-a-putin-ee-uu-prohibira-las-importaciones-de-petroleo-ruso-el-mundo>

¹⁴⁶ *Russia's military aggression against Ukraine: EU agrees new sectoral measures targeting Belarus and Russia.* (2022, 9 march). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/03/09/russia-s-military-aggression-against-ukraine-eu-agrees-new-sectoral-measures-targeting-belarus-and-russia/>

¹⁴⁷ *Russia's military aggression against Ukraine: fourth EU package of sectoral and individual measures.* (2022, 15 marzo). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/03/15/russia-s-military-aggression-against-ukraine-fourth-eu-package-of-sectoral-and-individual-measures/>

Fighting for the port of Mariupol intensified on 21 March following Ukraine's refusal to disarm. The UN announced that almost 3.4 million people had so far fled Ukraine.¹⁴⁸

We come on 24 March, a month after the outbreak of war in Ukraine. Zelensky appealed to NATO leaders meeting in Brussels for help, arguing that Ukraine upholds values shared by all member states.¹⁴⁹ As a result, Biden and Western leaders pledged to increase sanctions on Russia and send more humanitarian aid to Ukraine (but not on a large scale, as they fear the conflict will spill over the Ukrainian border). Meanwhile, the UN General Assembly overwhelmingly passed a resolution blaming Russia for the humanitarian crisis in Ukraine.¹⁵⁰

Gradually, Moscow decided to focus all its attention on the eastern regions of Ukraine, while Zelensky tried to negotiate an end to the war, as he was unwilling to cede territory. At the end of March, talks between the two sides resumed again and Russia announced that it would reduce attacks in order to reach an agreement.¹⁵¹ For its part, Ukraine was clear that its priority was to maintain its sovereignty and territorial integrity, and at these talks it declared itself neutral, causing a positive reaction from Moscow. Despite promising to reduce attacks, Russia attacked the area around Kiev at the end of March, which was a clear setback.¹⁵²

¹⁴⁸ A. (2022b, marzo 15). *Más de tres millones de personas han abandonado Ucrania, según la ONU*. abc.

https://www.abc.es/internacional/abci-mas-tres-millones-personas-abandonado-ucrania-segun-202203151319_noticia.html

¹⁴⁹ RTVE.es / AGENCIAS. (2022, 24 marzo). *Guerra en Ucrania: Zelenski solicita ayuda «sin límites» a la OTAN*. RTVE.es.

<https://www.rtve.es/noticias/20220324/guerra-ucrania-invasion-rusia-avances/2321660.shtml>

¹⁵⁰ UN. General Assembly (11th emergency special sess. : 2022). (2022, 28 march). *Humanitarian consequences of the aggression against Ukraine* : United Nations Digital Library System.

<https://digitallibrary.un.org/record/3966630?ln=es>

¹⁵¹ Ortiz, A. P. M. V. (2022, 27 marzo). *Ucrania y Rusia retoman este lunes las negociaciones en Turquía*. ElDiario.es.

https://www.eldiario.es/internacional/ultima-hora-invasion-rusa-ucrania-directo-27-de-marzo_6_8865669_1087448.html

¹⁵² *Rusia declara un alto el fuego en Mariúpol para evacuar civiles*. (2022, 31 marzo).

www.ecuavisa.com.

<https://www.ecuavisa.com/noticias/internacional/rusia-declara-un-alto-el-fuego-en-mariupol-para-evacuar-civiles-BY1526322>

In April 2022, the first attack on Russian territory took place.¹⁵³ Russia declared that it was withdrawing troops from Ukraine, while Ukraine was convinced that the withdrawal meant moving them to other Ukrainian territories such as the Donbas. On 2 April, photographs emerged of the northwestern Ukrainian town of Bucha, where dozens of dead bodies could be seen after a heavy siege, but the town was eventually liberated by Ukrainian resistance.¹⁵⁴ As a result, the Ukrainian government condemned the Russian military's actions as "war crimes". The UN voted to suspend Russia from the Human Rights Council with 93 votes in favour, 24 against and 54 abstentions. The US and Western allies stepped up sanctions against Russia in early April¹⁵⁵ in order to drain Russia's resources.¹⁵⁶ For his part, Zelensky called on the UN to condemn war crimes in a tribunal similar to the Nuremberg tribunal after World War II.¹⁵⁷ On the Russian side, the defence minister condemned alleged torture of Russian prisoners and soldiers.¹⁵⁸

On 8 April, the EU Council took further measures as Russia's actions continued unabated. The EU measures are progressive and are not implemented all at once. This

¹⁵³ Reuters, de Oliveira, A., Kwan, R., & Austin, H. (2022, 1 april). *Russia blames Ukrainian airstrike for gas depot blast*. NBC News.

<https://www.nbcnews.com/news/world/russia-blames-ukrainian-air-strike-gas-depot-blast-rcna22526>

¹⁵⁴ CBS News. (2022, 6 April). *Bucha massacre: CBS News finds evidence of atrocities near Ukraine's capital as Russia is accused of war crimes*.

<https://www.cbsnews.com/news/bucha-massacre-ukraine-russia-atrocities-evidence/>

¹⁵⁵ Introducing more economic sanctions such as a ban on investments in the country, sanctions targeting financial institutions, Russian government officials etc. *Press corner*. (2022). European Commission - European Commission. https://ec.europa.eu/commission/presscorner/detail/en/statement_22_2281

¹⁵⁶ *EU adopts fifth round of sanctions against Russia over its military aggression against Ukraine*. (2022b, abril 8). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/04/08/eu-adopts-fifth-round-of-sanctions-against-russia-over-its-military-aggression-against-ukraine/>

¹⁵⁷ McDonnell, P. J., King, L., & Jarvie, J. (2022, 6 april). *Zelensky asks U.N. Security Council to hold Russia to account*. Los Angeles Times.

<https://www.latimes.com/world-nation/story/2022-04-05/renewed-russian-offensive-east-ukraine-zelensky-un-security-council>

¹⁵⁸ Hodge, N. E. M. A. N. K. (2022, 8 april). *Video appears to show execution of Russian prisoner by Ukrainian forces*. CNN.

<https://edition.cnn.com/2022/04/07/europe/ukraine-execution-russian-prisoner-intl/index.html>

time it banned the import of coal, entry to EU ports, any road access to EU territory by Russian or Belarusian hauliers, export of jet fuel and other goods to Russia.¹⁵⁹

We are on 13 April 2022, in one of the events that could have been a turning point in this war. Ukraine arrested Viktor Medvedchuk, a pro-Russian Ukrainian oligarch who is very close to Putin, as a prisoner. This gave Ukraine hope and was seen as key to agreeing an end to the war.¹⁶⁰ In turn, Putin redirected Russian exports to the Asian continent in order to sustain the Russian economy. On 16 April, Russia, which until then had been focused on the east of the country, resumed its attacks on the capital Kiev, although it failed to achieve its objective, while increasing pressure in the Donbas area. Despite not advancing as quickly as expected, due to Ukrainian resistance, gaining control of eastern Ukraine alone would be a major victory, according to Moscow.¹⁶¹

The current war in Ukraine has been raging since February 2022 without an agreement between the parties. The UN estimates more than 5,000 civilian and military deaths on the Ukrainian side, and another 1,351 on the Russian side. More than five million people have already fled Ukraine, taken in by bordering and European countries. Russia is still aiming to take over the Donetsk and Lugansk regions, and a senior military commander claims that Russia has added southern Ukraine to its list and could go as far as Moldova.¹⁶² On 25 April 2022, Putin described the sanctions imposed on Russia as '*unprecedented Western sanctions*'. It is hard to make out exactly what is in Putin's mind, what might be a possible final target of his strategy or where he would stop.

¹⁵⁹ *EU adopts fifth round of sanctions against Russia over its military aggression against Ukraine.* (2022, 8 april). European Council.

<https://www.consilium.europa.eu/en/press/press-releases/2022/04/08/eu-adopts-fifth-round-of-sanctions-against-russia-over-its-military-aggression-against-ukraine/>

¹⁶⁰ Breuninger, K. (2022, 13 april). *Zelenskyy says Ukraine captured pro-Putin politician Viktor Medvedchuk who escaped house arrest.* CNBC.

<https://www.cnbc.com/2022/04/12/zelenskyy-ukraine-arrested-viktor-medvedchuk-pro-putin-politician.html>

¹⁶¹ Watling, J. (2022, 10 april). *Why the battle for Donbas will be very different from the assault on Kyiv.* The Guardian.

<https://www.theguardian.com/world/2022/apr/09/donbas-ukraine-russia-battle-very-different-from-kyiv->

¹⁶² B. (2022c, april 25). *Day 61 of war in Ukraine: Two months into war, US offers USD 332 mln military aid, video from Azovstal civil bunker.* Baltic News Network - News from Latvia, Lithuania, Estonia.

<https://bnn-news.com/day-61-of-war-in-ukraine-two-months-into-war-us-offers-usd-332-mln-military-aid-video-from-azovstal-civil-bunker-234167>

Recently, on 26 April 2022, Vladimir Putin met in Moscow with the Secretary General of the United Nations and in his speech he spoke about the situation in Ukraine. He began by saying that the situation in 2022 stems from the unconstitutional coup d'état that took place in Ukraine in 2014. At the same time also the residents of Crimea and Sevastopol expressed their desire to belong to the Russian Federation and he likened this situation to the situation in Kosovo, explaining that the only difference between the two situations is that while in Kosovo the decision on sovereignty was taken by the Parliament, in Crimea and Sevastopol it was taken by national referendum. Putin went on to discuss the situation in the Donbas in eastern Ukraine and its efforts to join Russia, saying that the Ukrainian authorities failed to resolve the situation and that this led to the creation of the Minsk agreements. He said that Russia was forced to intervene in this territory to protect the people living there, after the Ukrainian government expressed that it had no intention of complying with the Minsk agreements and continued its military siege of the area. Thus, after recognising these territories as independent, they had to intervene militarily, in accordance with Article 51 of the UN Charter, Chapter VII

He also revealed that regardless of the military attack, they are still trying to resolve matters diplomatically and that bilateral talks have not ceased. In response to the comparison of the Ukrainian territories with the case of Kosovo, UN Secretary-General Antonio Guterres pointed out that the UN does not recognise Kosovo. Putin reminded him that Russia has every right to recognise Donetsk and Luhansk as independent territories as many other Western countries did with Kosovo, following the precedent. In response to the situation in Mariupol, Putin assured him that the fighting in the area had ceased, as Turkish President Erdogan assured him in a conversation between the two men.¹⁶³ That said, he assured that a large number of Ukrainian soldiers in the area had surrendered and that the humanitarian corridors established for civilians are functioning perfectly well.¹⁶⁴

On 28 April, the UN Secretary General visited Kiev and apologised for failing to prevent and end the war. The main purpose of this visit was to ensure the evacuation of civilians trapped in the city of Mariupol. In early May Russia declared that unfriendly

¹⁶³ *Telephone conversation with President of Turkey Recep Tayyip Erdogan.* (2022, 26 april). President of Russia. <http://en.kremlin.ru/events/president/news/68283>

¹⁶⁴ *Meeting with UN Secretary-General Antonio Guterres.* (2022, 26 april). President of Russia. <http://en.kremlin.ru/events/president/news/68287>

countries buying Russian gas and oil should start paying in roubles. When these countries refused, Russia cut off their gas and oil supplies. In response, Poland called on all its European partners to impose more sanctions on Russia. However, not all European countries support the imposition of sanctions on Russia, such as Hungary and Slovakia, as they are largely dependent on Russian gas and oil.

On 3 May, a telephone conversation took place between Putin and French President Macron. According to the Kremlin, Putin briefed Macron on the progress made in the liberation of the Donbas and Mariupol republics. Reference was also made to the evacuation of civilians at the Azovstal site, as agreed with UN Secretary General Antonio Guterres on 26 April 2022. Putin stressed that EU member states were ignoring war crimes committed by the Ukrainian resistance and that the West could end such atrocities by influencing the government in Kiev and ceasing to deliver weapons to Ukraine.

Recently and in relation to the future of this war, a Russian general hinted that Transnistria would be the Kremlin's next target. This separatist region in Moldova, which borders Ukraine, declared independence in 1992 after a war with Moldova, although it has not been recognised by the international community. Experts say that Putin's Transnistria ambitions include the following options: the creation of a land corridor from the Donbas to Crimea, including Transnistria, in order to revive the once existing "New Russia" project. It may also be that the Kremlin wants to use Transnistria to be able to attack Ukraine from there. In any case, there is some concern that this expansion of the war might go further.¹⁶⁵ In any case, the EU has already declared that it will increase its support to Moldova in terms of military equipment, as Charles Michel, the current chairman of the European Council, indicated in an appearance with the Moldovan president.

3. The future of Ukraine in the European arena. European integration.

Due to the recent war in Ukraine, in recent months a large number of countries have publicly expressed their desire to join the EU.¹⁶⁶ Enlargements of the EU have

¹⁶⁵ RNE - RTVE Play Radio, & Blanco, S. (2022, 3 mayo). *Diario de Ucrania* [Podcast]. Día 72: Transnistria, por qué le interesa a Putin., Madrid, España.

¹⁶⁶ P., & A. (2022d, marzo 4). Las exsoviéticas Georgia y Moldavia solicitan su ingreso en la UE. Público.

<https://www.publico.es/internacional/exsovieticas-georgia-y-moldavia-solicitan-formalmente-ingreso-ue.htm>

been taking place since 1973, until the last one with the accession of Croatia in 2013. In recent years in particular, the issue of EU accessions has been brought back to the table by the Brexit with the UK's exit in January 2020¹⁶⁷ and Ukraine's recent request to join the EU in the midst of a war with Russia.

In relation to which countries can join the EU, according to Article 49 TEU¹⁶⁸, any country that complies with, respects and promotes the values of Article 2 TEU¹⁶⁹ may join the Union. These values are respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities.

To be considered as a candidate country for membership of the Union, a country must fulfill the accession criteria, the so-called "Copenhagen Criteria". These are criteria adopted at the Copenhagen European Council in 1993:¹⁷⁰ creation of stable institutions with the aim of preserving the values of former Article 2 TEU, establishment of a functioning market economy to be able to cope with competitive pressure and market forces in the EU and the capacity to be able to take on and fulfill the obligations of EU membership (in addition to adhering to the objects of political, economic and monetary union). For its part, the Union must necessarily be able to integrate new members if it meets these criteria (the so-called absorption capacity).¹⁷¹

The accession process consists of a hundred steps.¹⁷² First, a country wishing to join the Union must send an application to the Council, which is composed of ministers from the different member states. The Council asks the Commission for its opinion and also notifies the European Parliament as a mere formality, as it is not binding. If the

¹⁶⁷ *Brexit: EU-UK relationship - EUR-Lex.* (2022). EUR-Lex.

<https://eur-lex.europa.eu/content/news/Brexit-UK-withdrawal-from-the-eu.html?locale=en>

¹⁶⁸ *EUR-Lex - 12016M049 - EN - EUR-Lex.* (2022). EUR-Lex.

<https://eur-lex.europa.eu/legal-content/ES/TXT/?uri=celex%3A12016M049>

¹⁶⁹ *EUR-Lex - 12012M002 - EN - EUR-Lex.* (2022b). EUR-Lex.

https://eur-lex.europa.eu/eli/treaty/teu_2012/art_2/oj?locale=en

¹⁷⁰ *Steps towards joining.* (2012, 10 julio). European Neighbourhood Policy and Enlargement Negotiations.

https://ec.europa.eu/neighbourhood-enlargement/enlargement-policy/steps-towards-joining_es

¹⁷¹ *EUR-Lex - accession_criteria_copenhagen - EN - EUR-Lex.* (2022). EUR-Lex.

https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM%3Aaccession_criteria_copenhagen

¹⁷² European Commission. (2021). *EU accession process step by step, Clusters of negotiating chapters.*

https://ec.europa.eu/neighbourhood-enlargement/system/files/2021-10/eu_accession_process_clusters.pdf

Commission's opinion is favourable, then the Council decides whether to grant the country the status of "candidate country", and unanimity is required for this. Once the country obtains candidate country status, the Council again votes unanimously to decide whether or not to start negotiations (this is when the potential candidate country must work to meet the aforementioned Copenhagen criteria).

In order to meet all the requirements, the Union works together with the potential candidate country to analyse its situation and if necessary adapt its situation to the necessary criteria. To this end, the Union divides the work into six thematic blocks,¹⁷³ and within each block there are different chapters, totalling 35 in total. It is the Council that decides whether to open a particular chapter for work and, just as it opens it, it also decides whether to close the chapter because it considers that the negotiations have been completed. This is always done unanimously. When all the blocs are finally closed, everything negotiated between the EU and the candidate country will be embodied in an accession treaty. Once the treaty has been drawn up, the Council, the European Parliament and the Commission must give their approval.¹⁷⁴ The accession treaty must be ratified by each member state of the Union, as well as by the candidate country, by referendum or parliamentary vote. Finally, the candidate country becomes a member state.

With all this in mind and in line with recent events, on 28 February, after five days of Russian invasion, Ukrainian President Zelensky called for Ukraine's urgent accession to the Union. Previously, Commission President Ursula Von der Leyen had declared that Europe wanted Ukraine to be one of them and that after years of close ties and joint work they wanted Ukraine to join the Union: *"There are many topics where we work very closely together (with Ukraine). And indeed, over time, they belong to us, they are one of us and we want them in (EU)"*. However, no date was set for negotiations. This could be due to the fact that at the moment, there is no unanimity in the Council, and as we have seen above, unanimity of all EU member states is essential for Ukraine to be considered as a candidate country.¹⁷⁵ On Tuesday, 4 March, the

¹⁷³ Internal market, fundamentals, external relations, agriculture, green and sustainable agenda and competences in related issues such as education, taxation and so on.

¹⁷⁴ The Council votes unanimously, as it does throughout the process.

¹⁷⁵ RTVE.es / AGENCIAS. (2022a, marzo 1). *Von der Leyen quiere a Ucrania en la UE: «Son de los nuestros»*. RTVE.es.

<https://www.rtve.es/noticias/20220228/von-der-leyen-ue-union-ucrania-uno-nuestros/2298360.shtml>

European Parliament adopted a resolution on the Russian invasion of Ukraine. It called on the EU institutions to grant Ukraine candidate country status for EU membership.¹⁷⁶

In more international terms, and in relation to Russia's advance in Ukraine and threats of the invasion spreading to other parts of Europe, at a meeting in Riga on 29 March, the foreign ministers of Latvia, Lithuania, Estonia and Poland called on NATO to expand its presence on the eastern flank of the European Union due to the rapprochement between Russia and Belarus. At a conference scheduled for June in Madrid, the four countries intend to formalise this request, which may be interpreted by Russia as a potential threat to its security. The requested permanent NATO presence in Eastern Europe by the Baltic states and Poland comes at a time of enormous tension between the EU and Russia, and Russia has even threatened the possibility of using nuclear weapons in the Baltic area if Sweden or Finland join NATO.¹⁷⁷

As we stand on 4 May 2022, Josep Borrell spoke about Ukraine's possible accession to the EU and argued that it is a long process that is not intended for a country at war. The solution would be a change in the European treaties regarding the accession process. On the same day, the European Parliament called for a reform of the treaties to implement the proposals coming out of the COFOE. The next step would have to be a political convention, under article 48 TEU.

Ursula Von der Leyen, president of the European Commission, declared on the same day, 4 May, that the next steps in relation to Ukraine should be aid, reconstruction, rapprochement, partnership and ultimately accession. She also made public the possible sixth package of sanctions on Russia consisting of a gradual oil ban, the elimination of Russian imports by the end of the year and the expulsion of the Russian bank Sberbank from SWIFT. Nevertheless, Josep Borrell has made it clear that the EU is not fighting against Russia, but is only concerned with the defence of Ukraine.¹⁷⁸

The war brings back to the table the extraordinary emergency procedure for the accession of a state that some countries have been calling for. With the exception of

¹⁷⁶ *Proyecto de orden del día - Miércoles 4 de mayo de 2022*. (2022, 4 mayo). © Unión Europea, 2022 - Fuente: Parlamento Europeo.

https://www.europarl.europa.eu/doceo/document/OJQ-9-2022-05-04_ES.html#top

¹⁷⁷ Rodríguez-Pina, G. (2022, 30 abril). Los bálticos y Polonia piden presencia permanente de la OTAN. *El País*, 5.

¹⁷⁸ *EC AV PORTAL*. (2022). EUROPEAN COMMISSION. <https://audiovisual.ec.europa.eu/en/video/I-224509>

East Germany in the 1980s and late 1990s, no one has joined the EU overnight. Although Hungary, Bulgaria, the Czech Republic, Estonia, Lithuania, Latvia, Poland, Slovakia and Slovenia support Ukraine's accession to the Union, unanimity is necessary and other member states do not want the issue of Ukraine's accession to be discussed in the middle of a war or even ask that the existing war situation be omitted in order to deal with the issue of Ukrainian accession.¹⁷⁹ Other member states believe that Ukraine's accession in the midst of war would not be favourable for the Union, as it would require the application of article 42.7 TEU, concerning mutual defense.

Thus, although Ukraine does not currently meet all of the Copenhagen requirements mentioned above, and its accession is not unanimously supported by all member states, the EU has sought ways to support Ukraine, for example, by including it in the European electricity grid so that it does not have to rely on Russia. At his speech to the EP on Europe Day, 9 May 2022, with the closing of the CoFoE, the French president, proposed the creation of a "European political community" in which countries such as Ukraine and others that share EU values (possibly the UK or Turkey) could join, although he said this would not directly imply future membership.¹⁸⁰

All this, bearing in mind that the "Ukraine effect" could be repeated in countries with similar conditions, also under Russian threat, such as Georgia or Moldova, which, in the face of the possible Russian threat, have wanted to strengthen their ties with Europe. The EU's priority at the moment is not the accession of these countries, which is a long and costly process, but aid and cooperation, especially with Ukraine. As a consequence, the opposite effect could also occur if candidate countries wait too long for accession, as they might become disenchanted and explore alternative alliances with world powers such as China, Turkey or Russia itself.¹⁸¹

¹⁷⁹ García, J. (2022, 12 marzo). *Europa rechaza la entrada de Ucrania en el bloque comunitario por la vía urgente amparándose en varios motivos*. COPE.

https://www.cope.es/actualidad/internacional/noticias/europa-rechaza-entrada-ucrania-bloque-comunitario-por-via-urgente-amparandose-varios-motivos-20220312_1964544?msclkid=81779117d03711ec8f83b53dc7514240

¹⁸⁰ J. (2022d, mayo 10). *Macron dice que el ingreso de Ucrania a la Unión Europea podría llevar «décadas» - 22 años con su*. Radio América.

<https://radioamerica907.net/2022/05/09/macron-dice-que-el-ingreso-de-ucrania-a-la-union-europea-podria-a-llevar-decadas/>

¹⁸¹ Caubilla, R. (2022, 6 marzo). *¿Ucrania en la UE?: el proceso de adhesión, paso a paso*. ElHuffPost.

https://www.huffingtonpost.es/entry/proceso-ampliacion-ue-ucrania_es_6220b4d6e4b030a2f53974e9?msclkid=477d8cb0cf7511ec96a241677d9c5167

As for the concept of European integration, whose goal is a union of European states without armed conflict where peace, welfare and the values of Article 2 TEU prevail, it is undeniable that without having reached the end of the Russian-Ukrainian conflict to date, European identity and sovereignty, in relation to its integration, will be continually put to the test. Internally, with secessionist movements and acclaimed changes of sovereignty for which there is a legal vacuum that the union has yet to address. Externally as well, as in the case at hand, where Russia challenges the Union on possible future European territory, which is also its concern. In the face of this, the EU lacks answers to these questions and challenges, which will be more present than ever.¹⁸²

4. Conclusions.

FIRST. As we have seen throughout this paper, the EU is very concerned about the security of its borders, especially after further enlargements. The creation of the ENP as part of the Union's external action has served as an instrument for developing the EU's relations with its neighbouring countries.

However, the Union's desire to encompass the same policy for all these neighbours failed and the heterogeneity of the countries prevented a common implementation of such a policy, thus forcing the Union to create dimensions and redirect its plan, sharpening its work. But in this case, the creation of the Eastern Partnership was a success. Thanks to the EaP, it was possible to implement this more personalised policy in countries that were experiencing major crises, such as Ukraine (gas problems since 2005) or Georgia (in South Ossetia or Abkhazia). The EaP was able to create the clear and concise policy that these territories needed. This shows that the EaP's challenge was far from easy. As to whether or not it has achieved its purpose, it is difficult to say, since as we have seen, the effects of this policy are not visible in the short term. Although the EaP has been in place for 10 years, the effects have not been as visible as in other areas, due to the fact that there are numerous existing conflicts that have slowed down the agreements and negotiations created so far.

However, it is questionable whether the EU has really put all its efforts into this neighbourhood policy, given that it makes agreements with states that are still heavily

¹⁸² Bengoetxea, J. (2022, mayo). Conferencia sobre el Futuro de Europa (CoFoE) y Conflictos Territoriales. Intervención en Bilbao, SAF.

influenced by Russia due to its history. Until now, we have seen how the EU has shown no signs of wanting to fully engage in these relations, only if these states want to move closer on their own initiative, and it is to these states that all EU support should be directed (not to states that only see the ENP as an opportunity to benefit themselves unilaterally). The ENP should be a win-win policy, although it is possible that if the EU were to tighten the ENP, we could see a second Cold War between Europe and Russia or something of greater magnitude, given Russia's reaction to recent events.

Currently, Russia's and Europe's foreign policies have been influenced by each other, depending on their actions in the East. The closer the EU moved towards the East, the more its relationship with Russia faded. We have seen the EU take a more geopolitical stance in these countries. I believe the EU has adopted this posture of responding beyond its borders with coercive instruments in response to Russian interventions, after NATO broke George Bush's promise of 'Not One Inch Eastward'. But just as the EU has formed an alliance with NATO in response to Russian interventions, Russia has not stood idly by and increased its hostility towards policies such as the ENP or ESA.

SECOND. As for Ukraine's accession, realistically it is far from imminent. Ukraine is now a punished country caught between a rock and a hard place, between two powers: Russia and the EU. Although the European Parliament warmly applauded the Ukrainian president's speech in which he presented his application to join the EU, the European Parliament has no competence to do so, it could only give him mere political support and can do little about it.

At present, European laws only hinder the immediate accession of a state, let alone a state like Ukraine in an extreme and critical situation. The only viable solution may be treaty reform, and although the Commission President has said she is in favour of any change that would make Europe a better Europe, the fact is that until recently the possibility of treaty reform was unfeasible, so it may take time for such changes to be implemented in practice.

Not only that, but the EU would be giving privileged treatment to Ukraine, when there are other countries such as Turkey, North Macedonia or Montenegro, which have been waiting for years to join Europe, as well as Finland and Sweden, which after recent negotiations will soon become part of NATO. Furthermore, accession in the midst of war would mean that the EU would immediately enter a military conflict as the

aggrieved party, and would involve it in something it has been trying to avoid since its creation, which was the reason for its creation in the first place, the prevention of war.

THIRD: Regarding the current war in Ukraine and the EU's role in the conflict, it has been clear that the UN has been behind Europe at all times. Due to Russia's veto action (one of the five permanent members of the Council), the United Nations has taken a step backwards and it has been the EU that has been the clear defender of democratic values, human rights, security and peace. Even more so than NATO, which has been very cautious to avoid direct involvement

Sanctions, which have not been on the international agenda since the 1990s, when 16 countries, including Iraq, Yugoslavia and Afghanistan, were sanctioned, are back on the table. The use of these sanctions is a strong statement that the military instrument should be the last option for conflict resolution (*ultima ratio*), despite the fact that the instrument in question has been the cause of the imposition of these sanctions. The use of military instruments leads to the imposition of sanctions, which in many cases increases the military action that results in more consistent sanctions in response, creating a cycle that one never knows when it will end.

This crisis has forced the EU to act and wake up from its "labour slump". The EU clings to multilateralism, wanting to avoid confrontations between several existing poles. It is precisely this existence of organisations and powers of different natures and objectives that has given rise to the multilateral sanctions we have already referred to, where the EU has been the organisation with the greatest role in the revolutionary world in which we live, especially in the area of sanctions.

It is clear that economic sanctions are the most effective, and those imposed multilaterally are even more so. In the course of the last few months we have paid attention to the sanctions that the EU has imposed on Russia and what Europe intended to achieve with these sanctions. After all, it seems that although the main objective is to put an end to the Russian invasion on Ukrainian soil, the truth is that if we analyse the sanctions imposed, the reasons for them, their amount and so on, we can see that there are also secondary effects of such European action.

Firstly, they have positioned the EU as a primary supporter of the United Nations in terms of guaranteeing international peace and security by acting quickly and dynamically, as the adoption of these measures usually entails a lengthy

decision-making process. The EU has been the clear representative of democracy, rule of law, human rights and peace on the international scene in relation to respect for international norms, as stated in Article 21 TEU.

Secondly, the current situation has led to the EU and NATO complementing each other as never before. At the military level for example (which is something the EU lacks, as it has never been among its main pretensions), but above all it has proven to be up to the task with its civilian instruments, where it has been more decisive as an organisation than NATO. And as a third effect, stemming from the imposition of sanctions, we see how the EU has grown as an organisation in the three fundamental pillars that every international actor needs: military, economic and political. We can say that this is a before and after in EU foreign policy.

Although another effect of the imposition of these sanctions has been the clear European unity in the face of the same purpose: to protect Ukraine, not to attack Russia (one need only look at how Sergei Lavrov, the Russian foreign minister, sent 27 letters, one to each European capital, separately and ignoring the EU as an actor with the aim of receiving divided responses, and what he found was a single response issued by the High Representative of the Union for Foreign Affairs, on behalf of the entire European community and with a joint response), it is inevitable to see how this last month of April and the beginning of May 2022, the European community is already beginning to suffer the enormous consequences of a looming crisis.

One of the criticisms that can be made of the European Union's approach to Russia is that at first the Commission President, the High Representative of the Union or any other entity within the EU claimed that Russia's economy would collapse and that Russia would be plunged into a major crisis. However, we have seen a Russia that seems unaffected by the sanctions and, according to President Putin, is in no hurry to end the war. Russia, who has managed to get ahead despite the sanctions imposed, creating its own alternatives to payment systems such as VISA or MASTERCARD or creating its own internet connection with an alternative system called "Runet". It only remains to be seen how long Russia will be able to cope with the creation of these alternative schemes. Perhaps, in the end, it will be Russia's military losses rather than the sanctions imposed that lead Moscow to withdraw its troops. Although Russia will probably get some of its unknown demands in return.

With this, Russia is moving away from the diplomatic track and reacting aggressively to the sanctions imposed. This strengthening of Russia's position means more sanctions from the EU, and the EU is now entering the swampy terrain of oil and gas sanctions, which only leads to a rift at the European level, as countries such as Germany, Hungary and the Netherlands do not accept such sanctions at present, as they depend to a large extent on Russian supplies. Perhaps the EU should have measured the consequences of the sanctions beforehand and more concisely, or should have put more emphasis on diplomacy in order to prevent this bomb from exploding. Not only the EU, but also NATO and especially its US leader, could have prevented this war years ago, when Russia reached out and the US looked the other way, perhaps because the US saw Russia as an intimidation and a threat to its then global "dominance". However, once exploded, unity is paramount and there are several existing sanctions.

Finally, after the UK's exit with Brexit, many Europeans had lost hope in the productive and profitable activity of the EU as an actor in the international arena and whether its actions had any real influence. The EU's reaction to the current crisis and its great capacity to act has given hope back to Europeans and to this community project that envisions a more promising future, more united and ready to protect and protect its values, as well as to help those countries with which it shares values. The birth of this new EU, which we hope will be long-lasting.

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