

EU-UKRAINE PARTNERSHIP IN THE SECURITY SECTOR: LEGAL FRAMEWORK AND DEVELOPMENT PROSPECTS

PARCERIA UE-UCRÂNIA NO SETOR DE SEGURANÇA: QUADRO LEGAL E PERSPECTIVAS DE DESENVOLVIMENTO

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Abstract: The article examines the legal aspects of Ukraine's security policy in the context of its European integration aspirations, taking into account Russia's open armed aggression against our country. It is noted that the European Union has gained considerable experience in ensuring security in the region through interaction between the Member States and its central security agencies, as well as in cooperation with individual non-member states, including Ukraine. On the path to Ukraine's European integration, along with traditional political and economic issues, attention is increasingly being paid to security issues. There are all the reasons for this, namely the full-scale armed aggression of Russia against Ukraine, the affinity of interests in the security sphere of Ukraine and the European Union, as well as the constantly growing security potential of our state, which can be effectively used in mutual interests in the post-war period. The relevance of the chosen research topic is due to the importance of the issues considered in it for Europe as a whole and for Ukraine as its constituent part, on the one hand, and on the other as a state for which the European Union is one of the priority directions of its foreign policy course. The task of this article is to clarify the substantive characteristics of the Strategy of the EU's foreign policy and security policy, to determine the specifics of Ukraine's cooperation with the European Union in security matters, as well as to clarify the place of our state in the mechanism for ensuring security and stability in Europe. The study of issues of cooperation with the European Union in the field of security is due to the resolution of a full-scale war against Ukraine by the Russian Federation, as well as the need for our state, which claims to actively participate in the solution of security challenges in Europe, for a balanced scientific analysis of the EU's foreign policy strategy and security policy and other security issues related to Russia's armed aggression against Ukraine. This article is an attempt to contribute to the understanding of the new possibilities of the European

Union in the implementation of security policy, which are important both for Ukraine and EU member states and, as a result, for the prospects of Ukraine's foreign policy in the European direction.

Keywords: European Union. Security policy. EU foreign and security policy strategy. Eastern Partnership policy. Armed aggression.

Resumo: O artigo examina os aspectos legais da política de segurança da Ucrânia no contexto de suas aspirações de integração europeia, levando em consideração a agressão armada aberta da Rússia contra nosso país. Note-se que a União Europeia adquiriu uma experiência considerável na garantia da segurança na região através da interação entre os Estados-Membros e as suas agências centrais de segurança, bem como da cooperação com Estados não membros individuais, incluindo a Ucrânia. No caminho para a integração europeia da Ucrânia, juntamente com as tradicionais questões políticas e econômicas, a atenção está sendo dada cada vez mais às questões de segurança. Existem todas as razões para isso, nomeadamente a agressão armada em grande escala da Rússia contra a Ucrânia, a afinidade de interesses na esfera da segurança da Ucrânia e da União Europeia, bem como o potencial de segurança cada vez maior do nosso estado, que pode ser efetivamente utilizados em interesses mútuos no pós-guerra. A pertinência do tema de investigação escolhido deve-se à importância das questões nele consideradas para a Europa como um todo e para a Ucrânia como parte constitutiva, por um lado, e por outro como Estado do qual a União Europeia é um das direções prioritárias de seu curso de política externa. A tarefa deste artigo é esclarecer as características substantivas da Estratégia da política externa e de segurança da UE, determinar as especificidades da cooperação da Ucrânia com a União Europeia em questões de segurança, bem como esclarecer o lugar do nosso estado no mecanismo para garantir a segurança e a estabilidade na Europa. O estudo de questões de cooperação com a União Europeia no campo da segurança deve-se à resolução de uma guerra em grande escala contra a Ucrânia pela Federação Russa, bem como à necessidade de nosso estado, que afirma participar ativamente da solução dos desafios de segurança na Europa, para uma análise científica equilibrada da estratégia de política externa e política de segurança da UE e outras questões de segurança relacionadas à agressão armada da Rússia contra a Ucrânia. Este artigo é uma tentativa de contribuir para a compreensão das novas possibilidades da União Europeia na implementação da política de segurança, que são importantes tanto para a Ucrânia quanto para os estados membros da UE e, conseqüentemente, para as perspectivas da política externa da Ucrânia no direção europeia.

Palavras-chave: União Europeia. Política de segurança. Estratégia de política externa e de segurança da UE. Política de Parceria Oriental. Agressão armada.

1. Introduction

The increase in security threats under martial law is the most serious challenge not only for national security as such, but also for the survival of the state itself, preservation of its sovereignty, territorial integrity, guarantee of human rights and freedoms, and the irreversibility of Ukraine's constitutionally proclaimed strategic course of full integration into the European Union and NATO.

In recent decades, the dynamics of national security in different countries has increased significantly, which was determined not only by a significantly increased number of challenges and threats, but also by the growth of their cumulative essential danger to individuals, society and the state (interstate conflicts, transnationalization of terrorism, the threat of nuclear war, man-made and natural emergencies and disasters, the COVID-19 coronavirus pandemic, etc.) These challenges and threats constantly call into question national security, making it fragile, vulnerable, and unstable, and thus forcing different states to activate certain extraordinary (extreme) legal,

organizational, and political measures to ensure its proper maintenance (guarantee) and protection. However, war is still considered to be the main, permanent, most widespread and at the same time the most dangerous threat to the national security of each country - real or potential - (in particular, along with the classical "armed" equivalent, the so-called hybrid (Mikheev et al., 2016, pp. 124-130; Parakhonskyi et al., 2019, pp. 43-44) and information (Marunchenko, 2012; Belska, 2014, pp. 49-50; Kalinichenko, 2020; Tykhomyrova, 2020, pp. 98-105) wars have recently come into use). Indeed, as scholars note, "the development of society is almost permanently accompanied by internal and interstate conflicts with the use of violence, which in different cases takes the form of armed incidents, military actions, military conflicts, armed conflicts, etc." (Denysov, Kardash, 2012, p. 107; Zahumenna, 2022, p. 99).

On the way to the European integration of Ukraine, along with traditional issues in the sphere of politics and economy, more and more attention is paid to security issues. There are all the reasons for this, namely the full-scale armed aggression of Russia against Ukraine, the affinity of interests in the security sphere of Ukraine and the European Union, as well as the constantly growing security potential of our state, which can be effectively used in mutual interests in the post-war period.

Thus, the relevance of the chosen topic of the study is determined by the importance of the issues considered in it for Europe as a whole and for Ukraine as its constituent part, on the one hand, and on the other - as a state for which the European Union is one of the priority areas of its foreign policy course.

The purpose of the article is to analyze the international legal documents of the European Union on security issues, as well as to determine the tasks and priority areas of the European Union's activities in the mentioned field.

2. Results and discussion

The expansion of the European Union led to historical changes in political, geographical and economic conditions both for the European Union itself and for Ukraine. Currently, the European Union and Ukraine share a common border and as immediate neighbors should strengthen their political and economic relationship, primarily in the security sphere (Zahumenna, 2022, pp. 112-120). In the context of ensuring regional security, the European Union has accumulated considerable experience in the interaction between the EU member

states and its central security bodies, as well as in cooperation with individual partners and allies (non-EU states), including Ukraine.

Ukraine's cooperation with the European Union on regional security issues will be more effective if our country manages to preserve its sovereignty, including territorial integrity, and does not deviate from the democratic course of development and European integration. Paying attention to all the existing security risks, the main task for our country is to increase its own security potential, which is extremely necessary for both Ukraine and the European Union, as well as to maximize integration into various security programs and structures of the European Union (Badrak et al., 2011, pp. 4-5).

When considering the prospects for deepening cooperation between Ukraine and the European Union within the framework of the Common Security and Defense Policy (CSDP), it should be taken into account that the new EU Global Strategy "Shared Vision, Common Action: A Stronger Europe" of 2016 contains an important direction - "to work with key partners, states and regional associations that share the views of the European Union". As we can see, by this criterion, Ukraine is an important partner of the European Union in the East. In the Global Strategy of the EU, Ukraine is noted in the section "European security system", in the context of countering the aggression of the Russian Federation, which confirms its key role in ensuring security in the European region and determines the prospects of such cooperation (European External Action Service, 2017; Komziuk, 2023, p. 509).

Ukraine's primary contribution to ensuring security in Europe, as already noted, is strengthening its own defense capabilities, resisting and deterring Russian aggression in the east of our country. However, taking into account the geographical location of Ukraine, its understanding of the situation in Eastern Europe, the practical experience gained in resisting Russian aggression, the developed mechanisms for countering hybrid threats, in the future Ukraine has sufficient chances to become an active participant in the foreign policy and security activities of the European Union, as well as participate in missions and operations of the European Union, as, for example, Switzerland and Norway are currently doing (Aleksandrov, 2017).

The war in Ukraine is the third asymmetric shock, as economists call it, that the European Union has experienced in the last two decades, after the 2008 financial and economic crisis, the subsequent Eurozone crisis, and the COVID-19 pandemic. An asymmetric shock is a sudden change in economic conditions that affects some EU member states more than others.

The war in Ukraine has indeed had a much greater impact on neighboring countries due to the influx of refugees and their heavy dependence on Russian energy.

In order to prevent the European Union from being weakened by asymmetric shocks, EU politicians have been saying that it is necessary to build capacity to show solidarity with the countries that have suffered the most. This is what the EU did after the 2008-2009 crisis, as well as when faced with the economic consequences of the COVID-19 pandemic.

At the mentioned Summit in Versailles in March 2022, the heads of state and government of the EU member states agreed on the need to reduce dependence on imports of Russian gas, oil and coal as soon as possible. The European Union no longer wants to "feed" the Kremlin's war machine at the expense of importing Russian energy carriers. Thus, already at the end of March 2022, the European Commission presented a plan to ensure supplies for EU member states in the upcoming winter season, and at the end of May 2022, it determined the details of the EU REPowerEU plan to end dependence on fossil fuel imports from Russia (Blog, 2021). At the same time, it should be recognized that the plan to reduce energy dependence on Russia has many important internal consequences for the European Union as a whole and for its foreign security policy. The three ways to reduce European dependence on Russia are diversification of supplies (increased purchases of liquefied natural gas from suppliers such as the United States, Qatar, Norway, African producers, etc.), energy efficiency and accelerated use of renewable energy sources.

In addition, the European Union decided to reduce consumption not only of Russian gas, but also of oil and coal, for which Russia is also the main supplier. In order to avoid a shortage of electricity, the EU member states decided to accelerate the implementation of renewable energy sources. The resolution of the war against Ukraine by the Russian Federation forced EU member states to increase defense spending. The EU member states decided to spend more, but above all to spend better, that is, jointly. Some EU member states, such as Germany, have already adopted important new measures in this area with additional defense spending of €100 billion in 2022, increasing the defense budget to more than 2% of GDP from 2024. Such spending should be wherever defense spending is still too low. Again, these are always painful decisions in the conditions of high public debt and lack of public resources, but Russia did not leave the European Union with a choice (Blog, 2021). With the return of war to European land, all EU member states must participate more actively in accepting responsibility for their own security. A new strategic course in this direction was prepared by the High Representative of the European Union for Foreign Affairs and Security Policy, Josep Borrell, and was adopted by the

Foreign Affairs Council on March 21, 2022. This allows to provide a basis for the effective and coordinated use of additional funds within the EU, ensuring full complementarity with NATO.

The aggravation of the European security problem caused a massive influx of refugees from Ukraine to the European Union. According to the Office of the United Nations High Commissioner for Refugees (UNHCR), last year alone, about 4.2 million Ukrainians crossed the European border (Finbalance, 2022). EU member states bordering Ukraine have shown great mobilization and solidarity by welcoming refugees. The European Union is helping the most directly affected EU member states cope with this influx. But the problem of refugees, in addition to security issues, also raises the broader issue of restoring the common EU policy in the field of asylum and migration to strengthen solidarity.

The European Union is fully aware that the war in Ukraine will have dire consequences for emerging market economies and energy-importing developing countries. They will suffer even more than EU member states from rising fossil fuel prices. And it's not just about energy. The impact on the market of grain, wheat, as well as corn, sunflower and fertilizers, the main exporters of which were Russia and Ukraine, will also be significant. Prices for basic agricultural products were already high. They are likely to increase further, which could lead to serious suffering and political instability in the middle of the European Union (Blog, 2021).

Investigating the issue of Ukraine's security in the aspect of European integration, one cannot ignore the situation that our country has faced since the beginning of Russia's armed aggression on February 24, 2022. Then Ukraine again faced the question of what alliance (union of states) does Ukraine belong to? Where is its future? The answer was obvious. On February 28, 2022, President Volodymyr Zelenskyy, together with the Speaker of the Verkhovna Rada Ruslan Stefanchuk and Prime Minister Denys Shmyhal, signed a joint application for Ukraine's membership in the European Union (Pasova, 2022). A number of EU member states called for Ukraine to be allowed to join the European Union under a special simplified procedure, which was proposed by Slovak Prime Minister Eduard Heger in the context of Russian aggression.

On March 1, 2022, the European Union registered Ukraine's application for membership, and in the evening of the same day, the European Parliament recommended granting Ukraine the status of a candidate for EU membership. On June 17, 2022, the European Commission recommended granting Ukraine the status of a candidate for EU membership, and on June 23, 2022, it adopted a corresponding resolution. This document is advisory, and the final decision was to be made by the European Council. The decision of the European Council, which was adopted on June 23, 2022, is different from the recommendation given by the European

Commission, because Ukraine received candidate status unconditionally. The decision states that the great leaders of the 27 EU member states gave Ukraine a European perspective and decided to grant Ukraine candidate status (Eismunt, 2022).

Ukraine's acquisition of the status of a candidate for EU membership was, without exaggeration, an unprecedented decision for the European Union. With this decision, the European Union confirmed that the most important thing for the European community is the democratic values and political aspirations of the state and its people, and not the simple fulfillment of formal requirements, which until now were of decisive importance. By adopting such a decision, the EU has tested its viability and resistance to geopolitical security challenges that can either split or strengthen European states. The status of a candidate for Ukraine significantly increases the level of responsibility of the European Union for processes in the political, economic, social, humanitarian and security spheres of Ukraine, as well as for its achievement of victory in the war that was unleashed by Russia on February 24, 2022.

The prospect of EU membership is recognized by many experts as an important driver of reforms in Ukraine, including in the security and defense sectors, which is supported by solid funding from the EU, which is provided to countries with candidate status.

Since the beginning of the full-scale Russian aggression, Ukraine has been working on launching an arms lend-lease not only with the United States, but also with European partners. Assistance to Ukraine was the first time in history that the European Union provided lethal equipment to a third country. The EU provides Ukraine with lethal weapons through its European Peace Facility (EPF).

Since February 24, 2022, seven military assistance packages have been announced for Ukraine, bringing the total amount of funds provided to us through the European Peace Facility (EPF) for both lethal and non-lethal weapons to €3 billion. In total, with the seventh aid package, the EU's total contribution under the EPF will amount to €3.6 billion. However, it should be noted that since the end of April 2022, European commitments to military assistance to Ukraine have been on a downward trend. Despite the fact that the war has entered a critical phase, new bilateral assistance initiatives in EU member states have dried up. However, in recent months, there have been some shifts in the pan-European approach to military assistance to Ukraine (Borrell, 2023). At the same time, a new European defense policy and agenda is being developed in key capitals of EU member states and the European Commission. To ensure efficiency, much of the weapons currently supplied by the European Union come from member states' own stockpiles rather than being specially manufactured. In early September 2022, in this

regard, the High Representative of the European Union for Foreign Affairs and Security Policy, Josep Borrell, criticized member states for making a decision too late to train the Ukrainian armed forces (training mission), and drew attention to the need for greater coordination of efforts between EU member states in the production of ammunition and weapons.

During a debate with lawmakers in the European Parliament, Josep Borrell stated that "the military stockpiles of most EU member states were not exhausted, but they were largely depleted because we provided a large amount of them to the Ukrainians. These stocks need to be replenished. The best way is to do it together. It will be cheaper" (Kalinichenko, 2022).

During many political discussions in the EU bodies and institutions, the initiative to adopt a special legislative act on assistance to Ukraine has been repeatedly voiced. Such a document would solve several issues at once: first, it would provide EU member states with financial support to ensure the supply of military equipment to Ukraine; second, such a program would launch the European military and industrial complex in the medium and long term.

The EU member states should consider the war in Ukraine as a global security challenge, similar in scale to the global financial crisis or pandemic. Given that the EU Pandemic Recovery Fund accumulates about 800 billion euros in loans and grants, all the European military aid provided to Ukraine so far is only an insignificant part of this amount. The EU member states are incurring huge economic costs by limiting their economic interaction with the Russian Federation. Therefore, for the European Union, perceiving such a huge economic stress, it is necessary to allocate an adequate number of resources to support Ukraine's defense potential (Kalinichenko, 2022).

During a press conference following the work of the EU Foreign Affairs Council, High Representative of the European Union for Foreign Affairs and Security Policy Josep Borrell said that the total military assistance received by Ukraine from the European Union and its member states has now reached 8 billion euros, including military equipment, or about 45% of the amount of assistance Kyiv receives from the United States (Ukrinform, 2023).

The introduction of an effective pan-European military assistance initiative for Ukraine is a test of whether the European Union is able to achieve greater self-sufficiency in defense and whether its member states can support each other in the event of a security and defense threat. The level of cooperation with the European Union on security issues depends on Ukraine's own capacity and perseverance. However, it is worth noting the significant challenges that Ukraine faces today on its way to European integration: 1) the existence of military conflict in the region, the economic crisis and instability have created an extremely dangerous security situation that

adversely affects the independent development of Ukrainian statehood; 2) there is social conflict within the country due to political, economic and social problems, high levels of corruption, non-compliance with human rights and freedoms, etc.; 3) inefficient public administration and insufficient funding of the security and defense sector, low level of democratic civilian control, low level of public trust in law enforcement agencies have led to low efficiency of the national security and defense sector. These factors significantly slow down the effectiveness and limit the possibilities of Ukraine's cooperation with the European Union in the Common Security and Defence Policy (CSDP), as well as hinder the development of this cooperation in the political, economic, social, security and military spheres.

Starting in 2014, the European security system was put at risk by the Russian Federation's gross violation of the norms and principles of international law, destabilization of the situation in Ukraine (Donbas and Crimea), protracted conflicts in the Azov and Black Sea regions, and culminating in Russia's full-scale armed invasion of Ukraine. As a result, the European Union recognizes that relations with the Russian Federation have now become a key strategic challenge and that there is an urgent need to develop a consistent and unified approach to it. Significant changes in the European Union's relations with the Russian Federation are based on respect for modern international law, so the European Union in no way recognizes the illegal annexation of the Ukrainian peninsula of Crimea by the Russian Federation and condemns with all its might the destabilization in eastern Ukraine since 2014 (Civil society forum, 2020) and Russia's full-scale armed aggression against Ukraine in 2022, and will continue to strengthen the resilience of its eastern neighbors and support their right to freely determine their approach to the European Union .

For Ukraine, it is important to have the EU's continued support in its efforts to peacefully resolve the conflict in Donbas and to put the return of Crimea on the international agenda, and now to achieve a military victory over the Russian aggressor. As part of its security cooperation with Ukraine, the European Union provides substantial assistance to small and medium-sized businesses, humanitarian aid to residents of the affected areas, investments in critical infrastructure, and support to law enforcement and armed forces. As a result, Ukraine counts on further comprehensive support for its European integration aspirations and further deepening of cooperation with the European Union within the framework of the Common Security and Defence Policy (CSDP).

There is no doubt that the security of EU member states is directly linked to the military and political situation in Ukraine. The Ukrainian side was pleased to join the cooperation within

the framework of the European Union's initiative to declare 2022 the year of European defense. In addition, Ukraine has begun to implement the Strategy for the De-occupation and Reintegration of Crimea, creating the Crimean Platform as a powerful international platform for dialogue, which has become an important tool for consolidating international support and achieving this goal, as well as strengthening European and global security and defense (Crimean platform, 2023). A significant role in the creation of the Crimean Platform is assigned to the EU member states, which took a direct active part in the inaugural summit of the platform and support for the final declaration. This is convincing evidence that the European Union will stand by our side until the full restoration of Ukraine's territorial integrity (President of Ukraine).

3. Conclusions

To summarize, the European Union has come a long way from some proposals on how to intensify cooperation between EU member states and non-member states in the field of security and defense to specific approved plans that look quite ambitious. At the same time, the European security policy is a key issue that helps to understand the dynamics of the EU's relations with Eastern European countries, including Ukraine. The potential and scope of the European Neighborhood Policy/Eastern Partnership Policy, despite its main goal of maintaining development in the direction of democratization and European values, have recently been questioned. The inability of the European Union to formulate a quick and effective solution was evidenced by the outbreak of war in Georgia, Ukraine, etc.

However, the European Union was able to restore its defense capabilities and significantly advance in security policy thanks to a holistic vision of this process, the presence of a large number of relevant structures, programs and tools. The analysis of documents regarding the Eastern Partnership shows that the European Union has kept all the previously adopted priorities for the security of the states of the Eastern Partnership region, logically supplementing them with cyber security, countering hybrid threats, chemical and biological threats and emergency situations, military aid, etc. Of course, the list of these areas of security is extremely important for Ukraine in the context of Russia's military aggression.

Ukraine, which has previously held a leading position in the development of cooperation with the European Union in the field of security and defense, and which has been resisting the hybrid aggression of the Russian Federation for the ninth year, has already fulfilled part of the tasks defined by the European Union and will probably be able to fulfill all obligations provided

by the EU documents on the European Neighborhood Policy/Eastern Partnership Policy and the acquisition of full membership in the European Union. Further regional cooperation of Ukraine with the European Union will be based on comprehensive support of our state in matters related to sovereignty, territorial integrity, protection of national interests, state and human security. For its part, Ukraine must continue to support the policy of the European Union, adhere to European values and become their reliable leader in the regional security and defense dimension.

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