CHAPTER 2

The Position of the Good Neighbourliness Principle in International and EU Law

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1 Introduction

Good neighbourliness is one of the most important principles of international law relating to harmonious interstate relations, if not ‘the oldest principle of international law’¹ and one without which ‘there can be no orderly world community’.² It is the first purpose of the fundamental document of international law – the Charter of the United Nations (UN Charter), which refers to the determination of the UN peoples ‘to practice tolerance and live together in peace with one another as good neighbours’³ and a ‘general principle’⁴ accepted by all UN member states.

Developing out of the ideas of territorial sovereignty and equality of states in international law, good neighbourliness is the key principle underpinning the peaceful coexistence between states. Sovereign states are equal before the law, enjoying the same rights and having equal legal capacity in their exercise.⁵ The exercise of the state rights inherent in full sovereignty is only possible where the good neighbourliness principle is respected in governing interstate relations. In contrast, the violation of the principle, particularly between contiguous states, can lead to serious confrontations or military conflicts.⁶ Nevertheless, respect for the principle of good neighbourliness requires the

² Clarence Wilfred Jenks, Law in the World Community (David McKay, NY 1967) 92.
⁴ Article 74 UN Charter.
⁵ Article 4 Montevideo Convention on Rights and Duties of States (signed 26 December 1933, in force 26 December 1934).
precise definition of its legal framework to avoid its application being ‘at the mercy of those disposing of force and not under the rule of justice’. The main claim put forward in this chapter is that the good neighbourliness principle has a clear legal value.

This chapter is in two parts. The first part establishes good neighbourliness as a legal principle, dismissing the doubts voiced in the past ‘whether the notion of good-neighbourliness correspond[s] to any separate principle of international law’. Contrary to the allegations made by the then European Economic Community (EEC) that good neighbourliness lacks specific content, the text clarifies the legal framework of the principle, i.e. its legal basis and the corresponding rights and duties of states in international law.

The second part of this chapter analyses good neighbourliness within the EU context. The core point for such analysis must be the acknowledgment of the new legal order of the Union, which exists autonomously from international law. EU law displays some properties stemming from the supranational