CHAPTER 15

Some Legal Issues of the EU-Russia Relations in the Post-Crimea Era: From Good Neighbourliness to Crisis and Back?

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1 Introduction

In 2014 the EU and Russia celebrated the 20th anniversary of the conclusion of their Partnership and Cooperation Agreement (PCA). However, current conditions, even legally, are not as bright and full of hope as twenty years ago. The PCA has become obsolete: most of its provisions have expired. However, despite the deterioration of the legal basis for EU-Russia relations, the negotiations on a New Basic Agreement have stagnated. In the best of cases this has led to increasing numbers of soft law instruments.

After the Ukrainian crisis of 2014, the EU and Russia entered a new era. The Russian Ministry of Foreign Affairs stressed in its official Statement regarding the anniversary of the PCA that the strategic nature of the EU-Russia partnership has been called into question. Federica Mogherini, a newly appointed EU foreign affairs chief, made it abundantly clear in her address to the European Parliament of 1 September 2014 that Russia was no longer considered the EU’s ‘strategic partner’. Unfortunately, the new era of EU-Russia relations is an era of confrontation, an era of brinkmanship. It is likely that this conflict could

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1 Agreement on partnership and cooperation establishing a partnership between the European Communities and their Member States, on one part, and the Russian Federation, on the other part [1997] OJ L 327, 1.


breed even more brinkmanship further down the road – after twenty years of partnership and good neighbourliness this sounds illogical, but it is a reality.

This brinkmanship is marked by three key points in EU-Russia relations. First, there are the mutual sanctions between the EU and Russia, which are the background of the Ukrainian crisis. Second are the various trade disputes between the two within the scope of the WTO. The third key point is the ongoing competition between the European Neighbourhood Policy (ENP) and Eurasian integration projects.

The good neighbourliness principle remains in force in the relations between the parties. The Ukrainian crisis in 2014 is more a question of competition among the parties than a question of conflict. It is difficult to accuse any party of an individual act contrary to the good neighbourliness principle. The bilateral EU-Russia sanctions have led to mutual disbenefits but they have failed to collapse EU-Russia relations in the main economically relevant sectors, such as energy, finance and the trade in manufactured goods. After Russia’s accession to the WTO the parties have gained the ability actively to settle their trade disputes at WTO level, which is absolutely in accordance with the good neighbourliness principle. The WTO dispute settlement mechanism has become a real tool in avoiding existing or potential trade conflicts between the EU and Russia. Finally, the ENP and the Eurasian integration projects are creative in nature. Both concern convergence and are mutually compatible. This new era of EU-Russia relations will naturally not be smooth and simple. However, it is down but not out.

This chapter concerns the modern legal aspects and modern legal circumstances surrounding EU-Russia relations in the light of recent events and the deterioration of relations between Russia and the EU in general. In this framework the author pays a special attention to the legal foundations of EU-Russia engagement, the mutual sanctions between the parties, their trade disputes within the WTO and the retrograde steps they have taken in the post-Soviet area.

2 The Good Neighbourliness Principle in the Legal Foundations of the EU-Russia Relations

The years of the EU-Russia strategic partnership brought a number of positive results, especially in creating a comprehensive legal basis between the parties. Modern EU-Russia relations are essentially based on three legal layers. The first layer is the EU-Russia PCA and other EU-Russia bilateral agreements. The second layer consists of ‘roadmaps’ for the establishment of four EU-Russia Common Spaces, which should be considered soft law instruments. The third