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A CONFLICT SENSITIVE UNPACKING OF
THE EU COMPREHENSIVE APPROACH
TO CONFLICT AND CRISES MECHANISM

How the EU is facing crises in its neighbourhood

Evidence from Libya and Ukraine

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EUNPACK Paper

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1 Introduction

This working paper explores how the EU has reacted to the security crises erupting in its neighbourhood. Among the analyses of the crisis response mechanisms progressively put in place by the different EU institutions, in fact, the neighbourhood area deserves special attention given the EU's ambition to build a security community – through processes of security community building – which extends to both its east and south (Rieker 2016). With a view to exploring whether such a strong commitment has been backed by adequate means and policies, the paper examines two cases in particular, i.e. the crises in Ukraine and Libya. At the time of writing, these crises are still unfolding, and their outcome is utterly uncertain. As a result, the aim of this working paper is not to assess the crisis response comprehensively, including outcomes and impacts. Instead, when dealing with a particular crisis, our aspect of analysis focuses in particular on the output level, i.e. the decisions on policy objectives and strategies leading to the adoption of such objectives in the given contexts; this inevitably includes considering those inputs and decision-making processes that inform such outputs (Batora et al. 2016). Building on an extensive literature review, desk analysis and semi-structured interviews with EU officials,² the paper seeks to provide an empirically rich and in-depth account of the crisis dynamics in Libya and Ukraine, and how they have been framed, processed and addressed by the EU through various tools of crisis management. Each case analysis is introduced by a note on the evolving interactions between the European Neighbourhood Policy (ENP) and crisis management, with comparative remarks in the conclusions.

1.1 The challenge of combining crisis response with long-term stability measures

The ENP was initially intended to create what the former President of the European Commission, Romano Prodi, called “a ring of friends surrounding the Union, from Morocco to Russia and the Black Sea” (Prodi 2002). Today the ever-worsening security situation in the region clearly shows that this aim is very far from being achieved. By contrast, with armed conflicts in Libya, Ukraine and Syria – and

² Remote interviews were carried out in January and March 2017. The sources interviewed for the present paper include two officials of the European External Action Service (EEAS) in Brussels; two officials of the European Civil Protection and Humanitarian Aid Operations (ECHO) in Brussels; one official of the Service for Foreign Policy Instruments (FPI) in Brussels; one staff member of the EU Integrated Border Assistance Mission (EUBAM) Libya in Tunis; one staff member of the Support Group for Ukraine (SGUA) in Brussels; and one seconded national expert deployed in a number of Common Security and Defence Policy missions (CSDP), including in the European neighbourhood.

acute political tensions sweeping several other countries – the Union’s neighbourhood has been aptly described as “a ring of fire” (e.g. *Economist* 2014).

While the ENP was never a policy intended for crisis response, the importance of the policy as an overall framework for the Union’s approach to this region still affects the Union’s capacity for crisis response – at least in the parts of the neighbourhood where this policy is activated – and its overall understanding of peace and stability in the region. Since the end of World War II, and of the Cold War subsequently, the main idea behind the process of European integration was the conviction that economic integration and security are closely linked, if not inextricably interwoven. In other words, economic integration was crucial for ensuring peace on the European continent. This peace project has gradually grown deeper and wider, especially when the process of enlargement towards Central and Eastern European countries as well as former Soviet republics was initiated.

Within this framework, the ENP was developed in 2004, mainly to promote stability in the eastern and southern periphery of the enlarged EU by incorporating the non-members into an EU-led economic region through new types of integration arrangements.³ The overarching idea of the ENP was to put in place a well-defined and orderly set of transformation processes that would lead other countries in the European neighbourhood towards EU-oriented standardisation of their legislative systems and governance, which would allow them to share “all but institutions” with the EU (Prodi 2002), but nevertheless beyond the association or cooperation templates then in place.

Specific tools have been developed to this end. Central to the ENP are the action plans and roadmaps that set out an agenda of political and economic reforms with short- and medium-term priorities, three to five years at a time. These documents build upon pre-existing agreements between the EU and the partner in question, such as Partnership and Cooperation Agreements or Association Agreements (AAs), but are more ambitious, offering political association and deeper economic integration, increased mobility and more people-to-people contacts. Within the ENP the EU offers its neighbours a privileged relationship, based on a mutual commitment to common values, such as democracy and human rights, the rule of law, good governance, market economy principles and sustainable development. As Štefan Füle, the former commissioner for Enlargement and European Neighbourhood Policy, put it, “[o]ur Neighbourhood Policy provides us with a coherent approach that

³ The area defined by the ENP covers a diverse group of 16 countries in total, including Algeria, Armenia, Azerbaijan, Belarus, Egypt, Georgia, Israel, Jordan, Lebanon, Libya, Moldova, Morocco, the Occupied Palestinian Territory, Syria, Tunisia and Ukraine.

ensures that the whole of the EU is committed to deeper relations with all our neighbours. At the same time, it allows us to develop tailor-made relations with each country” (Füle 2010).

How ambitious the relationship becomes will depend on the extent to which these rules and values are in fact shared. Even though the intention was to activate the ENP in all neighbouring countries, the policy is not yet in place for some countries, such as Algeria, Belarus, Libya and Syria. Of the partner countries where the ENP is active, the agreements between the EU and Ukraine, Moldova and Georgia in the east and Morocco, Tunisia and Jordan in the south are especially worth noting. The other ENP countries are still far from these countries’ level of cooperation/integration, either because they lack the political willingness or are not yet in accordance with the criteria set by the EU. Moreover, while the ENP is primarily a bilateral policy between the EU and each partner country, it is also complemented by regional and multilateral cooperation initiatives, such as the Eastern Partnership and the Union for the Mediterranean (UfM), both launched in 2008. The former has become the main instrument for achieving the objectives of the ENP; the latter is more of an initiative intended to give new impetus to the 1994 Barcelona process. This paper analyses cases from both sub-regions with a view to exploring the interactions between crisis response mechanisms and EU policies in its neighbourhood, taken in all their complexities.

1.2 The crises in the neighbourhood and the limits of the ENP

In spite of a liberal-institutionalist rhetoric, in practice the ENP lays the main emphasis on a more conventional, realist-inspired commitment to geopolitical stability. While this was less evident in the eastern neighbourhood, where the ENP contributed to a security community-building process⁴ in the framework of a reunification between the eastern and western parts of Europe, this outcome was especially clear concerning the Union’s cooperation with its partner countries in the south. In other words, the EU did not push too hard for democratic reforms as long as these countries could ensure a certain degree of stability and agreed to cooperate with the EU and the European member states to fight illegal immigration. Yet, the events of the Arab spring challenged this unwritten rule. Since early

⁴ Central and Eastern European countries (including the former Soviet republics of Estonia, Latvia and Lithuania) joined the EU in 2004, in the framework of the so-called big bang enlargement, which led to the integration of ten new members that year. Subsequently, Romania and Bulgaria became members in 2007 and Croatia in 2013. Other former Soviet republics, including Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine, were offered a kind of looser association through the framework of the ENP in 2004 and the Eastern Partnership in 2009, which would assist these states in their process towards European integration. The intention by the EU was also to find a way of including Russia in this process. However, this was soon to be understood as a rather unrealistic ambition. Russia was not willing to accept being put in the same category as the states that until recently had been part of the Soviet Union.

2011, popular demand for democratic reforms by the people in Tunisia, Egypt and Libya have exposed the limits of the EU's approach to its southern neighbourhood by pointing to the potential trade-offs between the promotion of stability and democratic norms.

As the Arab spring revealed the flaws and the contradictions inherent in the European Neighbourhood Policy, a first round of revisions was initiated by the EU already in March 2011. This process led to a decision to shift the emphasis on reforms by implementing a 'more for more' approach, meaning that the partner country that was willing to undertake the most comprehensive reforms towards democratisation would be entitled to receive the most financial support from the EU. Moreover, the Union restated its commitment to a more bottom-up oriented approach, which would particularly support civil societies and differentiated sets of measures tailor-made to each country's needs (European Commission and High Representative 2011b).

While paying a greater attention to democracy promotion and institution building rather than security agreements with authoritarian or semi-authoritarian regimes, the renewed approach was still focusing on long-term security building. As a result, it proved to be of little help in a turbulent region characterised by growing volatility, unpredictability and urgent needs to be addressed. In the civil wars in Syria and Libya, for instance, the ENP framework was of little use. As recent research has highlighted, one can find limited interlinkages between the ENP, on the one hand, and the design and institutional setup of the European mechanisms and tools of crisis response, on the other (Batora et al. 2016). Hence, when security crises emerged in its neighbourhood, the Union proved ill prepared to cope with them.

Moreover, the ENP was designed without duly taking into account potential clashes with other neighbours' neighbourhoods, geopolitical imaginaries or spheres of interest (Rieker and Gjerde 2016). The tensions with Russia are a case in point here, as the conflict in Ukraine testifies. As this paper describes, the failure of the ENP to deliver in Ukraine became obvious when the Ukrainian crisis deteriorated due to Russia's annexation of Crimea and open support for separatists in the eastern part of the country fighting against the new government in Kyiv. The unfolding of the crisis made clear that the ideals of peace and security underpinning the ENP, at least in its initial formulation, remain quite vague and abstract unless they take into account an evolving geopolitical context. Furthermore, the decoupling of the Union's ENP and capacity for crisis response, especially in its neighbourhood, raises some critical concerns.

As a consequence of this conflict, the EU embarked on a second round of revisions to its neighbourhood policy, which resulted in a toning down of the integrative aspects of the policy and an

increased emphasis on flexibility and differentiation. While the EU still hopes to contribute to stability by assisting the country in its reform processes, the main attention is now being put on reforms and institution building rather than European integration (Batora and Rieker 2016). It remains to be seen to what extent these processes foster or hinder the capacity of the Union to respond promptly and appropriately to the security crises affecting its neighbouring regions. Although crises occurring in the Union's neighbourhood are supposed to have direct implications for the EU, the Union's capacity for crisis response can be limited not only by an incomplete or inadequate policy framework, but also by more traditional factors, such as a lack of resources, political will or perhaps sufficient knowledge about the dynamics of the conflict in different cultural contexts. The analysis of the (mis-?)matches between the ENP and the principles of conflict sensitivity has not been sufficiently addressed by existing scholarly works.

The present working paper aims to address these gaps, by focusing on two recent crises occurring in the European neighbourhood, namely one in the eastern and one in the southern neighbourhood. We study how the Union has responded to the crisis in Ukraine and the crisis in Libya: albeit very different in nature and dynamics, these crises – as well as the strategies adopted by the Union to cope with them – share some common features, in terms of institutional setup, geographical salience, referent objects and underpinning doctrines of conflict resolution (Richmond et al. 2016). The concluding section of this paper will provide some comparative remarks with a view to reinforcing one's understanding of the EU's policies of crisis response and management in the neighbourhood area.

2 The EU and the crisis in Libya

2.1 Crisis brewing in Libya

2.1.1 Pre-crisis Libya: A unique case in the European neighbourhood

Among the countries in Europe's vicinity, the trajectory of Libya has been quite unique. With a population of around 6 million in 2013, the major oil-producing country in Africa has been featuring relatively higher social and economic standards compared with its neighbouring countries, while its mineral riches were longed for by resource-poor European countries. On the other hand, diplomatic relations with Libya have been long strained by Tripoli's aggressive foreign policy and controversial involvement in major terrorist attacks throughout the 1980s and 1990s, including in Europe.

A former Italian colony, Libya was granted independence in 1951 under the leadership of King Idris al-Sanusi. The monarchy, however, was short-lived, as King Idris was overthrown in 1969 by a coup d'état organised by young military officers inspired by pan-Arabism and Nasserism. Their leader, Colonel Muammar Gaddafi, undertook to nationalise all state resources, including the oil infrastructure and banks, and expelled the Western military bases inherited from the past. In 1976 Gaddafi articulated his own political views in a *Green Book*, an obvious hint at Mao's *Little Red Book*, published ten years before. In it, the Colonel rejected both communism and democratic capitalism, and proposed Libya as a model for a third way in the wake of anti-imperialism and pan-Arab nationalism. Building on this vision, the subsequent year Gaddafi re-baptised Libya's regime as the 'Great Socialist People's Libyan Arab Jamahiriya', and made himself the 'Permanent Leader of the Revolution'. The centralisation of power, informalisation of political practices and fragmentation of all possible sources of opposition – whether political, military or ethnic – ensured Gaddafi's widespread control of all aspects of social life as well as his longstanding hold on power (Kohl 2014; Toaldo 2015a). Observers noticed that “during the Jamahiriya regime, Libyan forces appeared to be particularly segmented, if not fragmented by design. The regular army was mainly made up of recruits from the east, where it was stationed, while the elite corps predominantly integrated recruits from other regions. Libya had no defence minister, and Gaddafi was personally informed through an Interim Military Committee” (Strazzari 2014: 55).

Gaddafi's political ambitions greatly benefitted from the oil shocks in the 1970s, which empowered Libya's export-based economy, and made Tripoli a very dynamic actor with regional ambitions in the subsequent decades. Similarly, the environmental shocks and the ensuing famines that struck the neighbouring Sahel in the 1970s and 1980s pushed major migratory flows towards Libya, especially from the north of Mali and Niger, and provided Gaddafi with an almost inexhaustible pool of potential recruits to be co-opted into Tripoli's sponsored militias. Behind the rhetoric of anti-colonialism and pan-Arabism, Libya provided more or less direct support to different sorts of non-state armed actors, including those in Palestine, Lebanon, Chad, Sudan, Uganda, the Central African Republic, Niger, Mali, Sierra Leone, Liberia and the Democratic Republic of Congo, thereby greatly contributing to the destabilisation of the whole region. And yet, Gaddafi's generous contributions to the African Union and Libya's attractiveness to large segments of the unemployed youth of the continent conferred a solid and revered reputation on Tripoli's authoritarian leader in Africa.

In Europe, by contrast, Libya became progressively marginalised due to Gaddafi's alleged sponsorship of international terrorism. Not only did Gaddafi reportedly sponsor the Irish Republican Army and rhetorically praise the Rote Armee Fraktion, but Libyan agents were also seen as connected

to the bombings that occurred in European capitals such as Vienna, Rome and Berlin (East) during the 1980s. In 1988 Libya was accused of having orchestrated the bombing of Pan Am flight 103 over Lockerbie in Scotland, resulting in 270 casualties. Stigmatising the sponsorship of international terrorism, the UN Security Council reacted to this episode by adopting Resolution 748/92. The resolution imposed severe sanctions, including an arms embargo, assets freeze, severed diplomatic relations and a prohibition on the sale of refinery or pipeline equipment to Libya. It also requested Tripoli to hand over the individuals accused and to accept civil liability for the victims before sanctions could be lifted. The UN-sponsored sanctions led to a substantial political and economic isolation of Libya. Gaddafi's regime was ostracised by the international community for most of the 1990s, until he eventually agreed to fulfil all the conditions of the UN resolutions in 2003.

A changing geopolitical environment also contributed to re-aligning Tripoli with the international community in the 2000s. In the framework of the Global War on Terrorism, Libya's authoritarian nationalism was increasingly seen as a regional bulwark against radical political Islamism. In spite of Gaddafi's claims that sharia represented the legal cornerstone of the Jamahiriya, Tripoli's harsh repression of competing revolutionary doctrines, such as Salafism and Takfirism, attracted the sympathy of Western partners. Starting in the late 1990s, Libya developed some diplomatic relations with neighbouring European countries, most notably with Italy, and this paved the way to enhanced cooperation in the fight against terrorism, organised crime, illicit traffic of narcotics and illegal immigration (Toaldo 2015a). When in 2003 Gaddafi agreed to dismantle Libya's chemical weapons and weapons of mass destruction, the arms embargo was brought to an end.

In 2003 the end of the sanctions regime coincided with the inauguration of the ENP, and marked the beginning of a process leading towards Libya's reintegration into the international community. Libya was invited to join the Euro-Mediterranean Partnership launched by the Barcelona process, and subsequently the UfM. Yet Tripoli repeatedly declined this invitation – the only exception in the whole Mediterranean region – and only joined the UfM with an ambiguous 'observer' status. In practice, while the opportunities of investment and technological advances drove Tripoli's rapprochement, Gaddafi showed very little appetite for structural reforms that could have undermined his authoritarian rule by shrinking the room for informal arrangements and case-by-case deals. Observers noticed that Tripoli tolerated widespread extralegal economies and sponsored protection rackets on smuggled goods, to ensure the stability of the regime and the loyalty of marginalised communities (Kohl 2014; Shaw and Mangan 2014). This did not prevent Libya from reinforcing its bilateral relations with key individual states: in 2004 Tripoli resumed diplomatic relations with the US. And in 2008, after long negotiations Gaddafi signed a historic Treaty of Friendship and Cooperation with Italian Prime

Minister Silvio Berlusconi, in which Libya crucially agreed to contribute to fighting irregular migration towards Italy and Europe in exchange for the recognition of major material and symbolic compensations for the colonial domination.

However, in late 2007 the External Relations Council of the European Union recalled the need to reframe the EU's relations with Libya within a clear and comprehensive legal framework. It therefore urged negotiations on a framework agreement with Tripoli, modelled on those in place with other countries of Europe's southern neighbourhood. Negotiations on the EU–Libya framework agreement were eventually launched in November 2008. In 2009, the Commission issued a Libya Strategy Paper and National Indicative Programme 2011–13. The country strategy paper envisaged a few priority areas “of common interest” to be covered in the framework agreement: “fighting illegal immigration in the Mediterranean or terrorism, developing Libya's energy resources in hydrocarbons and renewable energies, creating the bases for successful investment in new sectors, improving fundamental freedoms and human rights” (EEAS 2009: 6). At that time, Libya was seen as a promising market and a relatively reliable partner: its natural riches and political stability made Libya a valuable alternative to Russia and the Gulf countries for the supply of hydrocarbons. In the meantime, Tripoli's huge reserves of foreign currency and the relative well-being of its population made Libya an attractive market for European manufactured goods, not least for weapons (Strazzari 2014). Yet, in the forthcoming months the negotiations towards closer cooperation with the EU stalled, and were eventually interrupted when political turmoil flared up in early 2011.

2.1.2 The Libyan revolution: EU member states break ranks

Among the popular insurrections that led to the unexpected overthrow of long-lasting authoritarian regimes in North Africa in 2011, the Libyan revolution was the last to start and the last to finish. While largely inspired by the events in neighbouring Tunisia and Egypt, it occurred in a radically different context and led to distinct outcomes. Popular demonstrations started in mid-February, especially in the eastern region of Cyrenaica, when activists took to the streets of Derna, Al-Bayda and Benghazi inciting people to “do like in Egypt”.⁵ Demonstrators protested against the abuses of the regime, arbitrary arrests and the inhumane treatment suffered by political opponents in Gaddafi's prisons. They initially attracted and moulded a differentiated crowd, including liberally-inspired human rights activists, regional autonomists and Islamist militants of various sorts. Following an initial crackdown by the regime, the protests amplified and rioters forced Gaddafi's security apparatuses to retreat from

⁵ Interview with a Libyan refugee in Italy, May 2012.

eastern cities, while some military units defected and sided with the insurgents. Dispatched by Gaddafi to negotiate with the rebels, also the eastern-born Libyan judge Mustafa Abdul Jalil turned his back on the colonel and joined the revolutionary forces. Soon thereafter, he was identified as one of their leaders, and eventually became the head of the National Transitional Council (NTC).

On 24 February 2011, the Libyan ambassador to the UN in Washington, Ibrahim Dabbashi, also defected, and declared his support for the rebels. According to Adler-Nissen and Pouliot (2014), this was the result of strong lobbying carried out by the French and the British delegations to the UN. This move, they argue, forced key players, such as Russia, China and the Arab League,⁶ to reluctantly endorse the diplomatic marginalisation of Gaddafi. Two days later, on 26 February 2011, the UN Security Council (UNSC) unanimously passed Resolution 1970 (2011) on Libya. The resolution adopted very strong wording and “set the moral bar so high” (Adler-Nissen and Pouliot 2014: 900): under the authority of Chapter VII of the UN Charter, it demanded the immediate end of hostilities by formally invoking, in an unprecedented move, the principle of the “responsibility to protect”. It also imposed an armed embargo on Libya, along with a regime of asset freezes and a travel ban on Gaddafi and his inner circle, by referring the matter to the International Criminal Court for investigation. Two days later, on 28 February 2011, the Council of the European Union adopted a decision to implement UNSC Resolution 1970, and further broadened its scope to include a larger list of individuals and institutions than initially envisaged by the UNSC (Council of the European Union 2011). Other decisions and regulations of the Council of the European Union throughout 2011 further clarified the list of targets the restrictive measures encompassed in the EU’s sanctions vis-à-vis the Libyan authorities. Moreover, from late February 2011, the European Commission, through the European Civil Protection and Humanitarian Aid Operations (ECHO), provided humanitarian assistance to the victims of the conflict.

Still, the EU’s display of unity and promptness soon evaporated. By early March, facing the military push of Gaddafi’s forces towards the east, the NTC requested international assistance: France was the first country in the world eager to recognise the NTC as the sole legitimate government of Libya, from 10 March 2011. Italy came second in Europe in taking this step approximately one month later, on 4 April. Amid a major military and humanitarian crisis, it took more than six months for EU member states to reach an overall consensus on the matter, until Sweden (last in Europe) eventually recognised the NTC, on 24 September 2011. Divisions among EU member states on the Libyan crisis were further magnified when Gaddafi’s inflammatory rhetoric and uncompromising attitude pushed

⁶ Interestingly, the African Union did not align. Gaddafi had been a major sponsor of the African Union, as well as its chairperson until a year before.

the UN to adopt even more radical measures. Following a request from the NTC, the UNSC voted on a Resolution (1973) demanding the immediate establishment of a ceasefire and a complete end to violence against, and abuses of, civilians. It authorised, under Chapter VII and in the name of the responsibility to protect, all necessary measures to protect civilians and to this end imposed a no-fly zone over Libya and a strengthened regime of arms embargoes and sanctions. While the UK and France strongly supported the resolution, and the US aligned with them, Germany (which was then a non-permanent member of the UNSC) abstained along with Russia, China, India and Brazil.

Two days after the adoption of UNSC Resolution 1973, NATO started bombing Gaddafi's army as the latter was heading to Cyrenaica. While the legal ground for such an operation stirred major controversies, the leadership of the attack highlighted the existence of a further cleavage among EU member states, with France pushing for an EU mission, and Italy arguing in favour of a "broader regional consensus" under a NATO flag to dilute Paris's influence (Adler-Nissen and Pouliot 2014). Eventually NATO took the lead of military operations on 31 March 2011 by launching Operation Unified Protector. On the day after, however, the EU launched a mission under the Common Foreign and Security Policy with a more humanitarian than military focus: EUFOR Libya. In place since late February, the mission was built on the insights of the EU Civil Protection Mechanism and the European External Action Service (EEAS) Situation Room (European Commission and High Representative 2011a). It was headquartered in Rome, and tasked with assisting the rescue operations undertaken in response to the crisis in Libya. Nonetheless, in the subsequent weeks "humanitarian actors never requested the intervention of EUFOR, and the mission was discontinued a few months later".⁷ The short-lived and somewhat enigmatic parabola of EUFOR Libya further stresses the initial lack of coordination and preparation that characterised the EU's response to the quick unfolding of the crisis in Libya.

NATO planners seemed to expect that the air campaign would contribute to overthrowing Ghaddafi in a matter of weeks, which would lead to the installation of a liberal Western-friendly government in Tripoli, thereby turning Libya into a beacon of light for the Arab spring.⁸ Instead, armed confrontation between loyalists and rebels went on for months, with the rebels backed by NATO and Gulf countries, and the loyalists allegedly resorting to African mercenaries, among whose ranks labour migrants and marginalised communities from southern Libya were recruited. While a piecemeal stabilisation seemed to progressively curtail the revolutionary uprisings in neighbouring countries, the outcome of the Libyan civil war remained long undecided, until Tripoli was eventually conquered by

⁷ Phone interview with an EEAS official, January 2017.

⁸ Report of an informal exchange with a high-level NATO official involved in Unified Protector, February 2017.

the NTC in late August 2011. When, a couple of weeks later, Bani Walid, the last stronghold of Gaddafi's loyalists, also fell to the hands of the insurgents, the UNSC launched the United Nations Support Mission in Libya (UNSMIL) to support the NTC in the restoration of the rule of law and public order, de facto recognising the latter as the legitimate government of Libya. On 20 October 2011 Gaddafi was captured and lynched, and on 23 October the NTC declared the end of the revolution and the liberation of the entire country: the new Libya – it was announced – would take Islamic law as its foundation. Subsequent events proved that instability in Libya had only just started.

2.2 The initial response of the EU to the crisis in Libya

2.2.1 Southern Mediterranean Partnership: A liberal blueprint for peacebuilding in Libya

The unexpected turmoil in the southern neighbourhood triggered widespread debates in Brussels and forced EU leaders to question the assumptions upon which the ENP was constructed. On 8 March 2011, when the democratic transition was achieved in Tunisia, in progress in Egypt and in its early infancy in Libya, the EU's High Representative/Vice-President (HR/VP) issued a joint Communication entitled "Partnership for Democracy and Shared Prosperity with the Southern Mediterranean" (European Commission and High Representative, 2011a). The Communication acknowledged the failure of then-existing approaches to the EU's policy in the southern neighbourhood ("the Union for the Mediterranean was a positive idea However, we have to recognise that its implementation did not deliver the results we expected. The UfM needs to reform to fully realise its potential", (ibid.: 11)) and was purported to represent "a fundamental step change" (ibid.: 5) in the relations of the EU with its southern neighbourhood. The Communication envisaged a different, incentive-based approach ('more for more') meant to accompany the democratic transition of neighbouring countries willing to "commit themselves to specific, measurable reforms" (ibid.: 5).

An overview of the reforms foreseen in the Communication is revelatory, to the extent that it seemed to sketch a template for a liberal conflict transformation and democratic peace doctrine (Richmond et al. 2016). This largely informed the EU's approach to its southern neighbourhood for the subsequent years, at least on paper. The encompassing philosophy of the reforms stemmed from the view that

trade and investment are engines for growth and help to reduce poverty. They bring people together, securing ties between nations and contributing to political stability. However, for trade and foreign direct investment to deliver their potential, they must be embedded in a sound business climate, which, in turn, requires a strengthening of the rule of law and the

judiciary, tackling corruption and overhauling administrative procedures. (European Commission and High Representative 2011a: 8)

Hence, the main goals pursued in the partnership included “democratic transformation and institution building, with a particular focus on fundamental freedoms, constitutional reforms, reform of the judiciary; ... support to civil society; ... inclusive growth and economic development” (ibid.: 3). Association Agreements, however, were still seen as the favourite avenue to these ends, thereby testifying to quite a modest change of pace vis-à-vis previous approaches: “Partner countries carrying out the necessary reforms can expect to resume negotiations for Association Agreements” (ibid.: 5); “in the medium to long term, the common objective which has been agreed in both regional and bilateral discussions with southern Mediterranean partners is the establishment of Deep and Comprehensive Free Trade Areas, building on the current Euro-Mediterranean Association Agreements and on the European Neighbourhood Policy Action Plans” (ibid.: 9).

The strategy set out in the Communication framed the EU’s approach to its southern neighbourhood in the subsequent years, including through the ENP revision process launched in May 2011, and the appointment of Bernardino León as the EU’s special representative for the southern Mediterranean in July 2011, and was not discontinued until the review of the ENP in 2015 (Tocci 2014).

The Communication announced the allocation of another €4 billion to assist actions undertaken in the framework of the partnership, thereby boosting the ENP budget to an overall amount of about €12 billion for the period 2007–13.⁹ Nevertheless, in spite of these bombastic commitments, only a very small fraction of this sum eventually hit the ground in Libya. The opening of an EU delegation in Tripoli in November 2011 did little to change this trend. In 2012 and 2013 the EU’s assistance to Libya was aimed at supporting employment opportunities for youth, re-establishing the public administration and state institutions, and developing civil society, including by allocating small grants to Libyan non-governmental organisations, and by setting up four civil society resource centres in Benghazi, Tripoli, Misrata and Sabha.

Within these measures, the EU crucially supported the democratic transition in Libya: as a result of the popular vote of July 2012, the NTC ceded the legislative authority, including the mandate to draft a new constitution, to a democratically appointed General National Congress (GNC). Despite these developments, Libya remained a junior partner of the EU when compared with its neighbouring countries; in 2012, for instance, the EU allocations for small and medium-sized enterprise development

⁹ Phone interview with an EU official, January 2017.

programmes funded under the ENP amounted to €142 million in Egypt, €88 million in Tunisia and only €6.5 million in Libya. In 2013, Libya received €5 million to support the media and the constitutional process, out of a regional envelope of €150 million (European Commission and High Representative 2015a). As a result, over the period 2007–13 the ENP funded projects in Libya for an overall amount of €83 million,¹⁰ i.e. less than 1% of its regional budget.¹¹

Given the limits of ENP funds, other instruments were resorted to with a view to supporting the EU's strategy in Libya. The Instrument contributing to Stability and Peace (IcSP, previously called the Instrument for Stability) features prominently among them, given that more than €13 million was mobilised in this way between 2012 and 2014. IcSP-funded projects particularly addressed the fields of demining (battle area clearance, improvised explosive devices disposal and risk education), and strengthening the criminal investigation and detection capabilities of Libyan police forces.¹²

2.2.2 *EU Border Assistance Mission in Libya: A kludge?*

Building on the blueprint of the Communication on a southern Mediterranean partnership, the Common Security and Defence Policy (CSDP) civilian mission EUBAM (EU Border Assistance Mission) in Libya represents one of the most concrete steps taken by the EU vis-à-vis the crisis in Libya in its early phases. With a view to pursuing its strategy of institution building, the Communication had already foreseen the “use of Common Security and Defence Policy ... instruments for strengthening the short-term action” (European Commission and High Representative 2011a: 4). Launched in May 2013, EUBAM Libya was the result of long preparatory work, which had started at least a year earlier, when the Instrument for Stability funded a border management needs-assessment mission for Libya in April–May 2012. The mission observed that the overall management of the public sector in Libya, including most notably the security sector, was not sustainable.

During Gaddafi's time, an estimated 28% of the population worked more or less directly for the public sector, and many of them were co-opted in tribal mechanisms of regional and border security. However, Libya was facing a severe shortage of money. This system was

¹⁰ Ibid.

¹¹ Data from the subsequent budgetary period (2014–20) seem to confirm this trend. While European policies vis-à-vis Libya have radically changed since mid-2014, as the next sections highlight, it is worth emphasising that the allocations to Libya funded under the European Neighbourhood Instrument (ENI) remained very marginal until 2016. Out of a global ENI budget of about €15 billion for the period 2014–20, the sums allocated to Libya were planned to amount to €40 and 26 million throughout the respective programming periods 2014–15 and 2015–16. Yet the sums that actually hit the ground were considerably below these figures, according to the EU officials dealing with Libya interviewed for the present paper.

¹² Phone interview with an FPI official, January 2017.

incoherent, uncoordinated, redundant and excessive. So many gaps existed as compared to existing models, that it had to be globally reviewed.¹³

And in July 2012, soon after the needs-assessment mission, the Council of the European Union reiterated the readiness of the Union to provide assistance in the areas of security and border management, including through the CSDP, in close partnership with the Libyan authorities.

At this stage, EU authorities, and the Council especially, were intent on adopting a predominantly technical, rather than political, approach to border management and security. Building on the insights of recent scholarship on state building, one would be tempted to argue that the very notion of ‘needs assessment’, taken as the cornerstone upon which the EU’s intervention was constructed, implicitly refers to a normative standard, and aims at measuring the adherence to or deviance from such an abstract model, which is assumed to be universal and necessary (Bøas and Jennings 2005; Debiel and Rinck 2017). “The Council’s priority was to set up state structures in Libya.”¹⁴ However, the security perceptions and needs of a panoply of local stakeholders were not adequately taken into account. A greater degree of conflict sensitivity would have been necessary to better appreciate the extent to which border (mis-)management in Libya was actually the cornerstone of a broader and complex political economy: “Historically speaking, no Libyan government has ever been in complete control of its borders, especially in the south. The regime sought to manipulate the illicit economy, selectively turning a blind eye on the cross-border activities of those groups it favoured” (Strazzari 2014: 59). According to Toaldo (2015a: 6), the porosity of Libyan borders

met several needs of the regime: it allowed for the flow of low-pay, illegal immigrants from Africa, which was one of the cornerstones of the national economy; it was a crucial component of Gaddafi’s alliance with the periphery and with those groups in the periphery that controlled human smuggling; and it legitimised the existence of a network of detention facilities within Libya, managed by the regime security apparatus that derived from them international legitimacy.

In other words, the assumptions upon which EUBAM was subsequently constructed failed to realise that, during 40 years of Gaddafi’s regime, border control in Libya had been fragmented by design, not by accident, since it was ensured through patronage networks (see Utas 2012): local tribes traded loyalty and the guarantee to maintain some security for indulgence on smuggling activities and key positions in the regime’s apparatuses. Reforming such a deep-seated structure thus amounted to

¹³ Phone interview with an EEAS official, February 2017.

¹⁴ Phone interview with an EEAS officer, January 2017.

an eminently political challenge, not to a mere technical exercise to be addressed with emergency instruments.

Following a CSDP-led fact-finding mission in Libya in November 2012, Libyan authorities agreed to send a formal request for a CSDP mission to the EU in January 2013. By the end of that month, a Crisis Management Concept (CMC) was drafted by the Department for Crisis Response and Operational Coordination, and approved by the Council. The quick pace of the process reveals the key contribution of the preparatory work carried out in the previous months, thereby questioning whose needs and whose ownership was the mission aimed to comply with. According to a senior EEAS official, “the mission was mandated to help Libyan authorities, and alongside with UNSMIL, to develop a concept for integrated border management in Libya. This was quite an unrealistic task, one that can normally be fulfilled only 15 years after stabilisation has been achieved. It was, in other words, a mission impossible, with no chance of taking off”.¹⁵ Reportedly, doubts were raised within the Department for Crisis Response and Operational Coordination, which was tasked with drafting the CMC. However,

MSs [member states] could not reach a consensus, and yet they wanted a mission to say that at least they were doing something. Hence, they compromised on a relatively empty mandate, which presented limited risks. And yet, it was a kludge [*une usine à gaz*], and it did not address at all Libya’s real problems. The mission was a complete failure because its assumptions were based on naivety and wishful thinking”.¹⁶

Negotiations ensued in the subsequent months, and led to the launch of EUBAM Libya in May 2013. Endowed with an initial budget of €30 million and a two-year mandate, it sought to “support the Libyan authorities to develop capacity for enhancing the security of Libya’s land, sea and air borders in the short term and to develop a broader IBM [Integrated Border Management] strategy in the longer term” (Council of the European Union 2013: 1), and especially through training, mentoring and advice. In particular, EUBAM “helped the Libyan authorities to set up a cross-ministerial body, Border Management Working Group, to coordinate the response among naval, police, border guards, customs, and all the other agencies involved” (EEAS 2015a: 1). The emphasis on institutional capacity building reveals EUBAM’s continuity with the template sketched in the Commission’s Communication on a southern Mediterranean partnership (European Commission and High Representative 2011a). And yet, the mission’s end state declared in the CMC is also revelatory of the universalistic and non-context-sensitive assumptions of EUBAM, just like many state-building attempts more generally. The

¹⁵ Ibid.

¹⁶ Ibid.

mission actually foresees an end state in which “a Libya-led concept compliant with EU and international standards for IBM is in place and being delivered by Libyan authorities” (EEAS 2015b: 14). Such a horizon, however, has failed to materialise because, since early 2014, continual clashes among Libyan factions have abruptly put an end to the consolidation of democratic state institutions, and forced international actors, including the EU, to thoroughly reconsider their approach to the Libyan crisis overall.

2.3 2014: Libya, a new crisis, a new approach

2.3.1 Political developments and growing insecurity

The EU’s approach to the crisis in Libya changed dramatically from mid-2014. Indeed, most EU institutions (including ECHO, e.g. see ECHO 2017a)¹⁷ consider this moment the real beginning of the Libyan crisis. Between 2011 and 2014, EU policies towards Libya seemed to imply that the ‘real’ crisis was over, and that the role of the international community was to accompany legitimate Libyan authorities in post-crisis recovery and institution building. International assistance, in other words, was meant to consolidate the still fragile *acquis* of the regime change, with a view to preventing a further collapse. And yet, one needs to point out that even before 2014 Libya’s stability was far from taken from granted, and instead seemed to amount more to wishful thinking.¹⁸ A lack of strategic clarity as to whether post-2011 Libya was in a post-crisis, pre-crisis or crisis-*tout-court* phase contributed to limiting the impact of EU policies in the country.

Crisis had been brewing within the GNC since early that year. The very legality of the GNC rested on shaky grounds: its mandate, in fact, was set to expire by the end of 2013, but it was unilaterally extended for one year in a parliamentary vote in December 2013. In February 2014, then Lieutenant General Khalifa Haftar, one of the most senior officers of the Libyan armed forces since Gaddafi’s era, appeared in a televised announcement to call for the dissolution of the GNC, which was nonetheless dismissed with some scepticism by the incumbent authorities. Yet, in March 2014, Prime Minister Ali Zeidan was forcibly removed from office, and forced to seek refuge abroad. The straw that broke the

¹⁷ The same information was confirmed in the framework of phone interviews with EEAS officials in Brussels, in January 2017.

¹⁸ In May 2013, in particular, the GNC adopted a law banning officials who had served under Gaddafi from holding any political position. The law was passed under pressure from armed groups that had besieged government buildings in Tripoli the days before. The removal of experienced civil servants, seen as compromised by the former regime, had the potential to seriously undermine the EU’s effort of institution building in Libya, and, at worst, foreshadowed an Iraq-like scenario of radicalisation and civil war. And yet, in this phase one notes no significant reaction to these developments from the EU side.

camel's back was Zeidan's incapacity to prevent the illegal sale of oil protected by the Petroleum Facilities Guard, the militia led by Ibrahim al-Jadran. Still, the liberal Zeidan had long been despised by the members of the GNC affiliated with the Muslim Brotherhood, especially since he had authorised, in October 2013, the extraordinary rendition of the jihadist Abu Anas al-Libi, one of the most wanted terrorists in the US who had taken refuge in Libya. In May 2014, Khalifa Haftar took the leadership of some army units that had been trained by NATO, and launched Operation Karama ('dignity' in Arabic). Initially focused on Cyrenaica, the operation was officially aimed at restoring order in Benghazi, stopping targeted killings and eradicating Islamist militias indiscriminately labelled as 'terrorists', which obviously spurred further polarisation among the militias.

Amid such a political turmoil, parliamentary elections were held in late June, with a view to appointing new delegates to the Council of Deputies, commonly known as the House of Representatives (HoR). In the framework of a very low turnout (18%), Islamist-leaning parties were defeated, including both Salafists and the Justice and Construction Party, generally seen as the Libyan branch of the Muslim Brotherhood. Some prominent Islamist leaders rejected the result of the vote, and accused the newly appointed body of being dominated by individuals connected to the former regime of Gaddafi. In July 2014 conflict escalated in Tripoli, when Islamist militias, such as the Libya Revolutionary Operation Room, Misrata's Libya Central Shield and others, formed an alliance – Libya Fijr ('dawn' in Arabic) – to capture Tripoli's airport from Zintan's militias, seen as aligned with Haftar, and ousted from the capital the newly elected HoR and the militias supporting them. The HoR was forced to relocate to Tobruk, in the east of the country, where it enjoyed the protection of Haftar's militia and his Egyptian sponsors.

In November 2014, a controversial ruling of the Tripoli-based Libyan Supreme Court invalidated the whole electoral process that had led to the establishment of the HoR, thereby sanctioning the de facto partition of the country into at least two opposing camps (themselves far from being coherent and united internally). Later that month, the situation was further aggravated when Islamic State leader Abu Bakr al-Baghdadi recognised the presence of Islamic State in Libya, declaring three *wilayats* or provinces centred in Sirte, Derna and Sebha. During the same days, the UNSC added Ansar al-Sharia in Libya to its list of terrorist organisations supporting al-Qaeda.

Given the widespread insecurity prevailing across the country, the largest majority of international actors and stakeholders quit Libya during the summer of 2014, including the EU

delegation and EUBAM, and were temporarily relocated in Tunis.¹⁹ The EU's engagement in the country was premised on the assumptions of a sustained political transition and a stable security situation, as the EUBAM mid-term strategic review had highlighted no later than in May 2014 (EEAS 2014a), but the radical changes occurring in the region imposed the need for a profound reconsideration of the EU's overall strategic approach to Libya. The process was launched by late August 2014, under the Italian presidency of the Council of the European Union, and it was continually updated through the Council conclusions on Libya put forward every four to six months since then. From this point onwards, one may identify at least three key subsequent steps and related documents that contributed to framing the European initiatives vis-à-vis Libya: the Political Framework for a Crisis Approach (PFCA) to Libya, the Interim Strategic Review (ISR) of EUBAM Libya and the launch of the CSDP mission EUNAVFOR MED (EU Naval Force in the Mediterranean) Operation Sophia. These three steps should not be considered discontinuous, since each of them was explicitly aimed at adapting to changing circumstances on the ground while striving to integrate some of the lessons learned from the previous one(s). However, for the sake of analytical clarity, they are herein treated separately.

2.3.2 Political Framework for a Crisis Approach to Libya

The PFCA to Libya was drafted largely by the EEAS, with key contributions by both the desk responsible for Libya specifically, and by the department responsible for the crisis response in general (whose name and functions have changed amid the process).²⁰ The drafting process namely “benefitted from a crisis assessment workshop organised on 26 August by the GEO [geographic-based] desks, in cooperation with colleagues from the Conflict Prevention Peace Building Mediation Instrument Division, bringing together experts from concerned EEAS, Commission and CTC services” (EEAS 2014b: 3). The Commission was also involved in the discussion through the Directorates-General for International Cooperation and Development (DG DEVCO) and the Service for Foreign Policy Instruments (FPI).²¹ The PFCA provided a critical overview of EU strategy in Libya since 2011; it singled out ongoing threats and it identified strategic objectives for handling the crisis. EU officials today consider the PFCA a sort of “theoretical blueprint” for the subsequent engagement of the EU in Libya, thereby reflecting both its founding role and its perceived abstractness.²²

¹⁹ A handful of embassies, including those of EU member states, remained longer despite the volatile context. The last foreign embassy to quit Tripoli was reportedly the Italian one, in February 2015.

²⁰ Phone interview with an EEAS official, January 2017.

²¹ Phone interview with an FPI official, January 2017.

²² Phone interview with an EEAS official, January 2017.

While discussing the stumbling points of the EU's approach to Libya, the PFCA implicitly acknowledged the inner tensions of the liberal peace agenda endorsed by the EU in the southern Mediterranean region since 2011. The overall objective to “build a deep and sustainable democracy” (European Commission and High Representative 2011a) seemed to mirror a non-context-sensitive “general template for the entire region”,²³ and did not adequately consider the “lack of democratic culture and practices due to 42 years of dictatorship, coupled with the erosion of traditional conflict prevention and resolution mechanisms” (EEAS 2014b: 6). On the other hand, the PFCA attributed the very partial implementation of the DDR (disarmament, demobilisation and reintegration) process to excessive reliance and “scrupulous respect for principles of ownership [which] led the international community to support approaches and strategies that had little potential to succeed (e.g. reintegration first, then disarmament)” (EEAS 2014b: 1). While lack of assertiveness on the part of the international community might be interpreted as a form of compliance with the liberal peacebuilding framework (Richmond et al. 2016), the PFCA claimed that this resulted most notably from the divisions and competing interests of the individual members of the international community²⁴ in this case, including among EU member states.

Stemming from the outbreak of violence among competing factions, the PFCA pointed out four dynamics directly threatening the interests and values of the EU (yet without further discussion about what these values were or how they risked being threatened): i) the observed increase in irregular migration flows; ii) the proliferation of foreign fighters; iii) the regional smuggling of weapons; and iv) the menace to the EU's economic interests in the oil and gas sector. One may speculate about the fact that these four threats combine interests and priorities that reflect the national agendas of those member states that are particularly concerned by and involved in the Libyan crisis. From this perspective, Italy and Malta seemed to be highly attentive to migration, France and (to a lesser extent) Germany to foreign fighters and weapons smuggling, and Spain and Italy to energy security.²⁵ In view of the subsequent developments in the formulation of the EU's overall approach to the crisis, it is worth noticing that the PFCA built on figures from the International Organization of Migration, which illustrated that irregular migration towards the EU's southern shores had been soaring since 2014 “due to the lack of border control” (EEAS 2014b: 1), yet subsequent studies have disputed the validity of such a causal claim (Reitano and Tinti 2015; Toaldo 2015b). Moreover, it should be underlined that the

²³ Ibid.

²⁴ In particular, the PFCA acknowledges that Turkey, Qatar and probably Sudan seem to be supporting the Tripoli-based government, while Egypt and the United Arab Emirates are backing the House of Representatives in Tobruk.

²⁵ Phone interviews with various EEAS officials, January and February 2017.

PFCA framed the whole issue in terms of humanitarian and human rights concerns, while no mention was made of a possible nexus between the smuggling of migrants and terrorism.

Trying to strike a balance between threats and interests, risks and resources, the potential and limits of available tools under the Common Foreign and Security Policy and the CSDP, the PFCA aimed to sketch a way ahead, and stated that the EU should have first and most importantly supported a political solution to the crisis.²⁶ With a view to ultimately ensuring the protection of strategic infrastructure and the resumption of the DDR process, an enhanced diplomatic effort (including assistance for UN mediation and some coordination of pressure on all stakeholders) was seen as the most promising avenue to lead to a cessation of hostilities, and to a subsequent power-sharing deal.

The framework delineated by the PFCA has successfully informed the initiatives of the EU vis-à-vis the crisis in Libya. Subsequent documents (EEAS 2015b) confirmed that the EU Delegation to Libya (provisionally settled in Tunis) became an important player in the UN-led mediation effort, especially from late summer 2014. To this end, member states (Italy most notably) seconded to the delegation three security advisers specialised in defence, security sector reform and policing to provide specialist assistance. At the same time, the former EU Special Representative for the Southern Mediterranean Bernardino León was appointed as the special representative and head of UNSMIL, and took office in September 2014. The EU's delegation to Libya contributed substantially to sustaining UNSMIL's functioning budget. The delegation mobilised the resources of the Crisis Response Component and – to a lesser extent – the Crisis Preparedness Component within FPI,²⁷ and entrusted the UNDP (United Nations Development Programme) as well as other partners (most notably the Centre for Humanitarian Dialogue) to implement the required confidence building measures, at both the high and

²⁶ While EU documents (the PFCA and the subsequent Council conclusions) insist that there is no possible military solution to the crisis in Libya, some EU officials observe that such an assessment results also from member states' unwillingness to commit and/or share significant resources in terms of military power and intelligence, which would allow consideration of a broader set of options. Notably, the reference to targeted sanctions against individual spoilers of the peace process – which UN Resolution 2174 authorised in August 2014 – triggered an interesting debate: while these are seen as legitimate and affordable tools, diplomats observe that the threat of sanctions is usually more effective than their actual adoption. The latter, in fact, risk limiting the EU's leverage and the possibility of engagement with important actors on the ground. (Phone interviews with an EEAS official, January 2017.)

²⁷ Due to its not being fully integrated within the Commission, the EEAS does not have the capacity to allocate and manage funds directly. From this perspective, phone interviews with different officials within the EU testified that the FPI is often seen as “the armed wing of EEAS”. Within the FPI, the Crisis Response Component is more flexible, and has the capacity to mobilise funds within a few months. By contrast, the Crisis Preparedness Component deals more with conflict prevention and peacebuilding, and it requires a longer planning, which undermines its flexibility. Its involvement in the crisis in Libya was therefore limited, since the latter is considered “an ongoing crisis” (phone interview with an FPI official, January 2017).

community levels.²⁸ Similar initiatives were funded under the European Neighbourhood Instrument, aimed principally at supporting the policy dialogue among national authorities, local actors and civil society. While a lack of transparency and undisclosed evidence have limited the capacity of the present paper to trace the totality of the projects funded in this framework, its overall budget was likely to approximate €20 million for 2014–15. As a result, the EU has become the main donor of the UNDP stabilisation fund, which included commendable initiatives such as the ‘municipal track’ negotiations with a high number of mayors and representatives from local councils (“probably the only successful part of the UN-led Libyan dialogue”, according to Toaldo 2015b: 7).

Brussels-based officials tend to see the EU diplomatic effort in Libya as generally successful. The UN-led (and EU-backed) mediation helped to secure a coherent (albeit far from smooth) process accompanied by the UNSC and formally endorsed – or at least not opposed – by all the regional actors, which eventually led to the signature of the Libyan Political Agreement between Tripoli and Tobruk’s authorities in Skhirat (Morocco) in December 2015. In line with the blueprint set out in the PFCA, the Skhirat Agreement foresees the creation of a Government of National Accord (GNA) as the sole legitimate and recognised authority in Libya, which is tasked with gradually undertaking the fundamental processes of DDR and security sector reform with the assistance of the international community. Fayeze al-Serraj was appointed chairman of a nine-member Presidential Council of the GNA, comprising leading representatives of both the Tripoli-based government and the Tobruk-based HoR, including three vice-chairmen drawn from each historic region of Libya. Initially established in Tunis, the Presidential Council took office in Tripoli on 30 March 2016. Facing the resistance of some leading exponents of the former authorities, who actively opposed the Presidential Council and the GNA, in April 2016 the EU took the decision to expand its sanctions regime against individuals obstructing the implementation of the Libyan Political Agreement and the political transition. The list of targeted individuals included Nouri Abusahmain, president of Tripoli’s ‘rival parliament’, heir of the GNC, and founder of the Libya Revolutionary Operation Room; Khalifa al-Ghwell, prime minister of the government in Tripoli; and Aguila Saleh, president of the HoR in Tobruk, who contributed to blocking the vote expressing parliamentary support for the LPA (Libyan Political Agreement). These measures expanded, without contradicting, UN sanctions and asset freezes recommended by UNSC Resolutions 1970 and 1973 of March 2011,²⁹ which have remained in force. While it is hard to assess the effectiveness of these specific measures, one should observe that Nouri Abusahmain and Khalifa al-

²⁸ Phone interviews with EEAS and FPI officials, January 2017.

²⁹ EEAS officials, interviewed by phone in January 2017, reported that the UN did not back this latest round of sanctions because of the opposition of Russia.

Ghwell ended up supporting – albeit intermittently – the LPA and the GNA. Aguila Saleh, by contrast, reiterated his firm opposition, and yet at the time of writing he remained a key stakeholder and a significant interlocutor, including for some EU member states.

Throughout the second half of 2016 the actual implementation of many of the treaty provisions remained highly problematic. In spite of the slow and uncertain progress, the LPA has nevertheless been considered “quite a satisfactory outcome, especially when compared to the furious divisions about the conflict in Syria”,³⁰ among the members of both the EU and the international community overall. And indeed, it is clear that without the crucial support of the EU, the political survival of the Serraj government would have been unthinkable. It remains to be seen whether this should be considered one of his strengths or weaknesses.

2.3.3 EUBAM Interim Strategic Review

Widespread insecurity seriously undermined EUBAM’s capacity to fulfil its mandate. Moreover, authority disputes among Libyan factions questioned the legal ground upon which the mission rested, i.e. the invitation of the host nation authorities. To cope with these challenges, a EUBAM ISR was launched in September 2014, and tasked with putting forward strategic options in view of the official expiry of EUBAM’s mandate in May 2015. The process was driven by the units working on crisis response within the EEAS, and benefitted from the insights of a fact-finding mission in Tunis in October 2014, led by officials of the Crisis Management and Planning Directorate (CMPD). And when the final report was eventually released (internally) on 13 April 2015, it was widely viewed as an update of the PFCA.

As the ISR made clear, changing circumstances directly challenged the assumptions upon which EUBAM had been launched. Owing to the prevailing political and security conditions, “delivery of IBM capacity in Libya through advice, mentoring and training ceased” (EEAS 2015b: 8), while remote planning was considered resource intensive and unreliable. In the best-case scenario, a maximum of 33% of the mission’s overall budget allocation was forecasted to be spent by the end of the financial year in May 2015. Given the inability to operate, the staff of the mission was reduced from 54 to 17 in October 2014. Despite the Council conclusions of 20 October and 15 December 2014 reaffirming the “EU’s strong political interest and commitment to Libya, including through the efforts of EUBAM Libya” (Council of the European Union 2014!), in early 2015 it became clear that the lack of a government of national unity strongly committed to EUBAM made the resumption of activities almost impossible in

³⁰ Phone interview with an EEAS official, January 2017.

the short term (thereby confirming the overall strategic analysis delineated by the PFCA). The ISR also explored the option of a complete discontinuation of the mission: this would have reduced the costs, but would also have sent a negative message to the Libyan authorities at the moment when external support was most needed. Hence, EUBAM was de facto put ‘on hold’ in February 2015, and its personnel further reduced to the very minimum required to keep the mission formally open (three international staff in Tunis, and two local staff contracted in Tripoli), while waiting for a more favourable context in which to resume activity.³¹

In May 2015, when the mission’s mandate expired, such a compromise solution was further reiterated, and EUBAM’s ‘on hold’ mandate was renewed for an additional year, until May 2016. In the meantime, however, EU leaders appeared to be developing an appetite for a different type of CSDP mission, more narrowly focused on migration. This is mirrored in the conclusions of the Council of the European Union of 16 March 2015, which “invite[d] the High Representative to present as soon as possible proposals on possible CSDP activities in support of the security arrangements, in close coordination with the UN, Libya, key partners and regional actors, as part of a wider set of policy options in the context of an updated Political Framework for [a] Crisis Approach” (Council of the European Union 2015a). Interestingly, the same Council conclusions emphasised that “[t]he EU cannot accept the continuing tragic loss of life at sea of migrants departing from Libya. The irregular movement of people across Libya and through its borders has a dramatic effect on the lives of too many people, and destabilises countries on both shores of the Mediterranean. The challenges posed must be addressed in a comprehensive manner.”

It is noteworthy that, unlike in the PFCA, the wording of the conclusions approaches the issue of migration by echoing both humanitarian and security concerns. This probably mirrored the fears of many European leaders about a dramatic rise in the number of migrants attempting to irregularly cross the EU’s southern borders with the return of warm weather, and given the lack of enforcement by Libyan authorities.³² This interpretation allows one to make sense of the – otherwise surprising – conclusion of the final report of the EUBAM ISR, which was released a month later, stating that, in case

³¹ Noteworthy for the present paper, is that such a decision was taken during the same meeting of the Foreign Affairs Council, which unanimously adopted additional sanctions, such as asset freezes and a travel ban, against “19 persons and 9 entities involved in action against Ukraine’s territorial integrity”. Interestingly, the same Foreign Affairs Council reiterated “its readiness to introduce as soon as it is deemed necessary and in full coordination with UNSRSG, restrictive measures against spoilers of the dialogue process in line with UNSCR 2174 which allows for the listing of individuals who threaten the peace, stability or security in Libya”, yet it did not take any specific action in this regard.

³² In February 2015, the Italian Ministry of Interior estimated that at least 200,000 refugees and migrants staying in Libya were preparing to depart for Europe (see Graham-Harrison and Scammell 2015, in the *Guardian*).

of a reopening of the mission, “the immediate priority would be on developing the Libyan naval coastguard’s capacities and delivering a SAR [search and rescue] concept that would allow Libya to fulfil its international commitments in this regard. This capacity could be reinforced initially through an emphasis on coastguard training in Malta” (EEAS 2015b: 20).

These elements provided crucial inputs for the launch of the CSDP mission EUNAVFOR MED, which took place in those weeks. While the following section will discuss this process in-depth, it is worth adding a few lines on the subsequent developments of EUBAM. The signature of the Libyan Peace Accord in December 2015 shook EUBAM from its ‘on hold’ status. In February 2016, its mandate was amended, with a view to planning for a possible future EU mission providing advice and capacity building to Libyan authorities – at their request – in the areas of criminal justice, border security, migration and counter-terrorism. In spite of such an implicit reference to security sector reform, EEAS officials suggest that the renewed mandate of EUBAM exhibits the EU’s attempt to “exploit EUBAM’s legal framework to develop strategic options for tomorrow, by keeping some people in Tunis with all the immunities required”; and that “one of the implicit missions of EUBAM is to understand how things actually evolve in Libya, reach out to different actors and provide strategic advice to promote change”.³³ In August 2016, the Council appointed a senior police officer from Italy with expertise on Libya, Vincenzo Tagliaferri, as head of EUBAM, extended for one year the new mandate of the mission and boosted its resources. Still, at the time of writing, EUBAM remains by far the smallest CSDP civilian mission, and given the lack of commitment by member states “at operational level the mission is stuck”.³⁴

2.4 From state building to containment

2.4.1 The launch of EUNAVFOR MED

The debate accompanying the launch of the CSDP mission EUNAVFOR MED provides a particularly instructive example of how the EU crisis response mechanisms work in practice. The availability of leaked ‘internal’ and ‘working’ documents, initially meant for a limited circulation but subsequently published by the online platform Statewatch,³⁵ as well as the reliance on interviews with EU officials actively involved in the process, allows one to process-trace (Bennett and Checkel 2014) in minute detail the different steps that contributed towards the final output.

³³ Phone interviews with different EEAS officials, January and February 2017.

³⁴ Phone interview with an EEAS official, February 2017.

³⁵ See <http://www.statewatch.org/>.

On 13 April 2015, the report of the EUBAM ISR report was released. Later that week, on 19 April 2015, a major shipwreck occurred along the central Mediterranean route, one of the most important corridors of irregular migration connecting Libya to Italy. At least 800 migrants and asylum seekers perished, in what the UN High Commissioner for Refugees (UNHCR) later defined as “the gravest humanitarian disaster in recent times” (Bonomolo 2015). Italy’s Prime Minister Matteo Renzi complained that “Europe cannot close [its] eyes”. The following day, 20 April 2015, the Foreign Affairs Council discussed the event, and HR/VP Mogherini introduced a ten-point plan aimed at dismantling the business model of migrant traffickers. Given the swift sequence of the events, one can conjecture that the plan had been prepared in advance, and that the tragic fatality provided an opportunity for it to gain steam. And indeed, EEAS officials recall that “this is the very time when the option of a CSDP naval mission started running at full speed”.³⁶ On 22 April 2015, the Political and Security Committee “invited EEAS and Commission services to urgently present options for possible EU activity against smugglers of migrants across the Mediterranean, including expected challenges and drawing on lessons learned from EU NAVFOR ATALANTA” (EEAS 2015c: 1).

The next day, 23 April 2015, an extraordinary Council of the European Union was held for this purpose. During the Council, the situation in the Mediterranean was defined as “a tragedy”, or “an emergency”, but never as “a crisis” nor as “a threat”. The very notion of security is never mentioned in the Council’s conclusions, which nevertheless noted that “instability in Libya creates an ideal environment for the criminal activities of traffickers”. The Council agreed to step up efforts to “disrupt trafficking networks, bring the perpetrators to justice and seize their assets ... and to undertake systematic efforts to identify, capture and destroy vessels before they are used by traffickers” (Council of the European Union 2015b). It therefore decided to i) enhance the operational capability of Triton, the EU border mission in the central Mediterranean route managed by Frontex, and to triple its resources;³⁷ ii) invite the HR/VP to begin preparations for a possible CSDP operation; and iii) to this end

³⁶ Phone interview with an EEAS official, January 2017.

³⁷ Triton was the Frontex mission launched in November 2014 to replace the Italian mission Mare Nostrum, carried out from October 2013 (following the major shipwreck in Lampedusa of 3 October 2013) for 12 months. Yet the two missions remained very different: Mare Nostrum had a monthly budget of approximately €9 million, deployed a greater number of assets and was namely tasked with SAR activities. Triton, instead, was mandated to monitor and protect European borders, and therefore had a much smaller scope in terms of budget (€3 million a month) and area of deployment (European territorial waters). It was never tasked with performing SAR, claiming that this would have represented a pull factor for irregular migration (yet subsequent reports vehemently challenged this view, see Toaldo 2015b). As a consequence, several reports have indicated that the number of migrants drowning while attempting to cross the Mediterranean has soared dramatically since late 2014 (see for instance Almkhatar et al. (2015) in the *New York Times*). Following the EU Council meeting of 20 April 2015, Triton was indeed enhanced, yet despite conspicuous claims by European leaders, available data published by Frontex seem to indicate that its budget was far from being tripled

strengthen the mandate of the then-existing CSDP missions in the region, thereby implicitly referring to EUCAP Sahel Niger.³⁸ According to research interviewees,

the key idea of these meetings, also reflecting the conclusions of [the] EUBAM ISR, was that it was high time to stop this farce [to build an integrated border management in Libya]. EUBAM had failed, and the only thing we could actually do was to contain the threat, prevent its spill-over in neighbouring countries including the Sahel, and tackle the border problem from the maritime side where we had higher chances to succeed; [and]

what we try to do today, is to focus not so much on the crisis itself, which is complex and multidimensional, but on the repercussions that this crisis has in Europe, namely in terms of terrorism and migration.³⁹

The shift in the EU's approach to Libya could not have been greater, from liberal conflict transformation and state building to realist conflict management and containment (Richmond et al. 2016).

Following the clear mandate of the Council of the European Union, the HR/VP activated the Crisis Management and Planning Directorate within the EEAS, and tasked it with putting forward some options for a possible mission. An official within CMPD recalls: "It was all very quick, we were dragged in almost by surprise."⁴⁰ The work led by the CMPD resulted in the drafting of a Crisis Management Concept. The circulation of this document is supposedly limited, but some non-governmental organisations made it public nevertheless (EEAS 2015c). Theoretically, CMCs should draw on a relevant Political Framework for a Crisis Approach, yet no PFCA on migration existed then. The rule was circumvented by relying on the analysis contained in the PFCA for Libya (and on the EUBAM ISR, seen as its update), which ensured a little noticed – albeit crucial – shift from a Libyan crisis to a migrant crisis, although the latter was never explicitly spelled out. And notably, the migration issue was never defined as 'a crisis' throughout the entire CMC, but only as "a situation with very serious implications for the EU [which] requires urgent action" (EEAS 2015c: 3).

The security implications of the migration 'issue' seemed to rely on far-from-evident assumptions and questionable nexuses. In an interesting sentence that significantly omits causal

(<http://frontex.europa.eu/operations/archive-of-operations/djhlpb>). Even more significantly, its mandate did not suffer any significant change, thus emphasising the growing distance between rhetoric and strategy. Fabrice Leggeri, the head of Frontex, dismissed turning Triton into a SAR operation, saying it would "support and fuel the business of traffickers" (see Kingsley (2015) in the *Guardian*).

³⁸ Phone interview with an EEAS official, January 2017.

³⁹ Phone interview with different EEAS officials, January and February 2017.

⁴⁰ Phone interview with an EEAS official, January 2017.

conjunctions, the CMC stated that “there is a link between terrorism and trafficking (persons, arms, drugs). Libya is at the heart of many trafficking routes. The threat posed by Da'esh/ISIL-oriented groups in Libya has risen” (ibid.: 3), and stresses the “need to prevent links between criminal networks and terrorist organisations” (ibid.: 6). Yet the crime-terror nexus therein articulated, while referring to an outdated trope of the security literature (Makarenko 2004), seemed to lack any meaningful empirical substantiation in this case.⁴¹ EEAS officials interviewed for the present research subsequently acknowledged that “migration and terrorism were amalgamated a bit too quickly”, and “we cannot be sure whether there are actual links between terrorism and migrant trafficking. We asked ourselves whether this was true, and the answer is not easy to find.”⁴² One is free to speculate whether this represents an innovative declination of the precautionary principle, or a mere rhetorical expedient to justify the resort to emergency measures and tools for responding to security crises in the face of a ‘migration issue’. Be that as it may, the attention to more substantial security concerns, particularly weapons proliferation and arms smuggling, seemed to progressively fade in Brussels.

The CMC pointed out some major hurdles in the Council’s orientation to “identify, capture and destroy vessels before they are used by traffickers”. First, the CMC warned against “the risk [of] turn[ing] a CSDP mission into another Mare Nostrum”,⁴³ thereby implicitly referring to the engagement of warships in SAR activities, which was seen as inappropriate. While “the CSDP operation will seek [!] to comply with international human rights, humanitarian and refugee law” (EEAS 2015c: 15, emphasis added), the mission should have been conceived essentially to neutralise the traffickers’ vessels before they were launched from the Libyan shores. Yet, “in the case of smuggling of migrants, the measures that can be undertaken against the ship are rather limited (monitoring, stopping, boarding and search) and do not authorise a warship to seize the vessel, make it unusable or destroy it” (ibid.: 7), unless a clear UNSC mandate under Chapter VII and/or invitation by the host country had been secured.

⁴¹ Toaldo (2015a) observes that, in the case of Libya, controversial right-wing organisations have contributed to inflating media anxiety, despite the lack of conclusive evidence. “Media reconstructions of presumed IS plans to use migrants’ boats to attack Italy have been substantiated only by one document that the Quilliam Foundation, a UK-based anti-radicalisation organisation, has translated, adding an important caveat: it is unclear whether the author is a member of IS or just a sympathiser, nor is it clear whether he is part of the leadership of the organisations” (Toaldo 2015a: 10).

⁴² Phone interviews with different EEAS officials, January 2017. Interestingly, one of the sources pointed out that “the most lucrative traffic in Libya is not that of migrants, but of drugs”. Yet this is not mentioned in the CMC and it doesn’t seem to be part of the current priorities of the EU in Libya.

⁴³ Phone interview with an EEAS official, January 2017.

In spite of these uncertainties, the decision-making process was streamlined, and the mission EUNAVFOR MED⁴⁴ was approved in the record time of a couple of months with a decision by the Council of the European Union on 22 June 2016. “We were under great pressure, EU leaders wanted to show something to their constituencies”, commented a CMPD official.⁴⁵ The first mission budget amounted to €11.8 million and covered a 12-month mandate. Rome hosted the headquarters, and the operational command was entrusted to an Italian naval officer, Enrico Credendino, former force commander of EUNAVFOR Atalanta (thereby highlighting the ideal connection between the two operations). In August 2015, Rear Admiral Credendino declared that the first phase of the mission, aimed at understanding the business model of migrant trafficking, had been accomplished.⁴⁶ Phase two was then triggered in autumn 2015, with a view to boarding, searching, seizing and diverting smugglers’ vessels on the high seas.

Yet the mission continued to face major challenges in carrying out its mandate. Available data emphasise that in the first half of 2016, both trafficking flows and the death toll across the central Mediterranean route soared, instead of declining.⁴⁷ In the meantime, neither the expected UNSC mandate nor an invitation by the Libyan authorities to conduct operations on the Libyan shores materialised. This reveals a limited sensitivity on the part of EU authorities vis-à-vis conflict dynamics and stakes in Libya. CMPD officials involved in the planning of the mission acknowledged that “EUNAVFOR MED was launched hastily as an emergency measure. Yet it remained isolated, and it was never part of a broader political package or deal. [The] EU has been unable to obtain an invitation from Libyan authorities, and this severely undermines the capacity of the mission to carry out the mandate for which it was initially designed.”⁴⁸ Such an observation reiterates the worries presciently foreseen in the CMC: “it is self-evident that CSDP alone cannot address the smuggling networks problem, but must be part of a broader and longer-term approach” (EEAS 2015c: 3).

The situation partially changed on 14 June 2016, i.e. just a few days before the expected expiry of EUNAVFOR MED’s mandate, when the UNSC unanimously adopted Resolution 2292 under Chapter

⁴⁴ The mission’s name highlights the symbolic link with the CSDP mission EUNAVFOR Atalanta, deployed in the Gulf of Aden to fight piracy. Soon thereafter the mission was re-baptised Operation Sophia, after the name of a baby who was born to a Somali mother rescued together with another 453 migrants by the German frigate dedicated to the Prussian princess Sophia of Schleswig-Holstein, and part of the EUNAVFOR MED Task Force.

⁴⁵ Phone interview with an EEAS official, January 2017.

⁴⁶ This mandate seems to partly overlap with the mission entrusted to different EU bodies, such as Frontex and Europol. This paper has been unable to assess whether cooperation or competition eventually prevailed.

⁴⁷ See <https://missingmigrants.iom.int/mediterranean>.

⁴⁸ Phone interview with an EEAS official, January 2017.

VII of the UN Charter. As part of a broader effort of the international community against terrorist organisations, the resolution condemned the flow of arms and related materiel into Libya, including to the Islamic State and other terrorist groups in the country, and urged member states to use all measures to carry out inspections and to seize and dispose of such items (UNSC 2016).⁴⁹ Drawing on this legal ground, on 20 June 2016 the Council of the European Union extended EUNAVFOR MED's mandate until 27 July 2017, and added two additional tasks: i) contributing to the implementation of the UN arms embargo on the high seas off the coast of Libya, and ii) training the Libyan coastguards and navy to combat trafficking.

As far as the first task is concerned, one should observe that there is only limited and sporadic evidence of arms smuggling across the Channel of Sicily, where EUNAVFOR MED is deployed, while numerous reports have highlighted the major flows of arms trafficking, including light and heavy weaponry, connecting Libya to the broader Middle East and North African and the Sahelian regions (Strazzari 2014; CAR 2016). In spite of the UN mandate, this seems to be a challenge that the EU has been unwilling or unable to address thoroughly. This issue instead largely remains the domain of unilateral initiatives by individual EU member states combining military capabilities and regional interests. The French mission Barkhane is a case in point here.

The EU has proved more proactive regarding the second of the new tasks of EUNAVFOR MED. In early September 2016, the Political and Security Committee authorised the commencement of capacity building, and training of the Libyan coastguard started soon thereafter. The first module, destined for 89 trainees and concluded in early 2017, was namely focused on seamanship, including a substantial emphasis on applicable human rights law, with the International Organization of Migration, Frontex and EUBAM having contributed to its design.⁵⁰ It is not clear, however, the extent to which these additional tasks have impacted on the fulfilment of the mandate. At the time of writing, irregular crossings along the central Mediterranean route and loss of life at sea persist, and the mission remains substantially engaged in SAR-related activities.

2.4.2 *Humanitarian assistance*

⁴⁹ The Russian delegate at the UN claimed that the resolution was the result of strong pressures, including ultimatums, by the EU to ensure the broadening of Operation Sophia at any cost while advancing unilateral approaches (see <https://www.un.org/press/en/2016/sc12401.doc.htm>), and indeed the timing of the resolution might support this conjecture.

⁵⁰ Phone interview with an EEAS official and a face-to-face interview with an International Organization of Migration official, Rome, February 2017.

For European authorities, the civil war that deflagrated in mid-2014 defined the beginning of a humanitarian crisis in Libya. “Before then, we were not called on [to act] from a humanitarian point of view”⁵¹ – commented an official of the Directorate-General for ECHO – and the funds allocated to Libya were very limited. However, ECHO’s Humanitarian Implementation Plan 2015–16 for North Africa identified pressing humanitarian needs in Libya. According to ECHO, “the health system has basically collapsed, with 60% of health infrastructure not or only partially functioning. ...It is estimated that 2.4 million people have been affected since the *beginning of the crisis in mid-2014*, out of a total population of 6.3 million. At present, approximately 1.3 million people require humanitarian assistance” (ECHO 2017a: 1, emphasis added), i.e. about 20% of the overall population.

Yet the resources allocated to Libya by ECHO are surprisingly limited: in 2016, they amounted to €10.8 million, out of a total running budget of €1.5 billion (i.e. about 0.7%). In 2014 this figure climbed to €19.76 million, while in early 2017 only €2 million was allocated for the whole year.⁵² ECHO has been sponsoring humanitarian assistance in particular in the fields of health services, protection of internally displaced people (IDPs, including those who fled Sirte in 2016) and education in emergency. To make sure that humanitarian principles are respected, and that assistance is not seen as politicised, ECHO has been seeking to support projects addressing the three main regions of Libya at the same time.

Several considerations can help to make sense of so limited attention to the humanitarian crisis in Libya by ECHO. First, Libyan families are seen as relatively better off, on average, than the victims of humanitarian crises taking place in less developed countries. Second, security constraints limit access to the victims, including for local implementing partners. Remote control is said to entail risks for a sound management of the resources, and hampers the possibility to carry out a reliable assessment of victims’ needs on the ground. Third, ECHO officials observe that, while the conflict in Libya per se might be less politicised than other regional conflicts, it entails highly politicised issues such as terrorism and migration. However, political priorities might be conflicting with humanitarian principles: for instance, ECHO does not engage in humanitarian assistance inside detention centres, which can be seen as controversial. Lastly, and related to this, the EU has developed different tools through which aid is allocated to migrants in need. The most prominent of them is the EU Emergency Trust Fund for Africa, launched at the Valletta Summit on Migration in November 2015, which to date has committed €26 million to Libya (more than the overall budget of ECHO since 2014). The residuality of ECHO’s effort in Libya further highlights the shift in Europe’s approach to this crisis, from institution building to

⁵¹ Phone interview with an ECHO official, January 2017.

⁵² Ibid.

containment, and of the underpinning peace doctrine, from liberal peacebuilding to realist conflict management. These observations will be further elaborated in the concluding section of this paper.

3 The EU and the crisis in Ukraine

3.1 Brief summary of the crisis

3.1.1 2013 political crisis: Background and timeline

Two moments can be considered turning points in the development of the Ukrainian crisis: on the one hand the outbreak of the so-called Euromaidan demonstrations and the subsequent escalation of police violence; on the other hand, the annexation of Crimea by the Russian Federation. Still, it is important to briefly review the historical context in which the Ukrainian crisis emerged.

Ukraine was among the countries recognised as post-Soviet successor states, whose independence was declared in August 1991 and then acknowledged a few months later. During the Soviet era, the Ukrainian Soviet Socialist Republic was the second-most populated republic and was seen as the agricultural and industrial driver of the Union. From 1944, the Ukrainian Soviet Socialist Republic was allowed to act as a subject of international law while remaining part of the Soviet Union at the same time. Accordingly, it gained a nominal seat as a member of the United Nations and other international organisations. Its proximity to the Black Sea coast made it a territory of high geostrategic value, which also determined its political trajectory after its independence.

The first years of transition were plagued by a serious economic crisis. In 1997 the Treaty of Friendship, Cooperation and Partnership, signed by Russian President Boris Yeltsin and Ukrainian President Leonid Kuchma marked a rapprochement between the two countries. On the same occasion, a separate agreement was signed establishing the terms of a long-term lease of land, facilities and the resources of Sevastopol and the Crimea in order to permit Russia's Black Sea Fleet to maintain its headquarters there. At the same time, it is worth noting that Ukraine had already entered NATO's Partnership for Peace programme in 1994.

Ukraine was one of the countries where the so-called colour revolutions unfolded. In 2004 the Orange revolution was triggered by allegations of electoral fraud during the presidential election, which initially resulted in favour of Viktor Yanukovich and then was invalidated by the Supreme Court. After mass protests, pro-EU candidate Viktor Yushchenko was declared the new president. Nevertheless, Yanukovich made it to the 2010 presidential election, in spite of Prime Minister Yulia Tymoshenko's allegations of renewed electoral fraud. Tymoshenko then resigned, dismissed her

government and was arrested in 2011, officially on charges of abuse of power related to the signing of a gas deal with Russia in 2009.

Even though the development of EU–Ukraine relations started with the signature of the Partnership and Cooperation Agreement in 1994, the 2004 Orange revolution fast-tracked Ukraine’s pathway to Europe.

Ukraine was the first ENP country to start negotiations on a new Association Agreement (AA) in March 2007 as part of a general revision of the bilateral legal framework. Negotiations on the Deep and Comprehensive Free Trade Area (DCFTA) were only launched in February 2008 after Ukraine’s accession to the WTO. A political agreement was reached in December 2011 and the AA was initialled in March 2012. On 15 May 2013, the Commission adopted the proposals for a Council Decision on the signing and conclusion of the EU–Ukraine AA. Yet this agreement was not immediately signed owing to demands on behalf of the EU to abandon the practice of selective justice and to align the Ukrainian judiciary and law enforcement systems with European standards (Council of the European Union 2012). Eventually, on the eve of the Eastern Partnership summit in Vilnius, the Ukrainian government decided to suspend the process of preparation for signing the AA in order “to ensure the national security of Ukraine and to recover trade and economic relations with the Russian Federation” (Cabinet of Ministers of Ukraine 2013). This news triggered a wave of demonstrations and civil unrest on the night of 21 November 2013, when public protests erupted in Maidan Nezalezhnosti (Independence Square), followed by violent measures undertaken by special police units to disperse the protesters.

The ensuing Euromaidan revolution led to the fleeing and subsequent dismissal of President Viktor Yanukovich on 22 February 2014 and the establishment of an interim government under the leadership of Arseniy Yatsenyuk. These events were considered a serious failure of the EU’s ‘soft power’ and the Eastern Partnership as a regional policy (Rettman 2013). Consequently, the heads of EU institutions and the foreign ministers of some EU member states openly condemned the actions of the Ukrainian government under President Yanukovich and frequently visited Kyiv in order to solve the crisis through face-to-face negotiations. To mediate the political escalation in Kyiv, the EU pushed Yanukovich to sign an agreement with leaders of the opposition in the presence of the foreign ministers of Germany, Poland and a representative of the foreign ministry of France. Nevertheless, it did not prevent further turmoil or the departure of Yanukovich from the country. In May 2014, an early presidential election was held, resulting in the election of Petro Poroshenko. As a short-term advancement, the new authorities in Kyiv proceeded to sign the AA and committed to the provisional application of some parts of it. Eventually the AA was signed on 27 June 2014 in Brussels.

3.1.2 Security crisis

Whereas the political crisis unfolded in Kyiv, eventually finding some de-escalating ‘palliatives’, a security crisis was erupting in Ukraine’s southern and eastern provinces. The self-proclaimed authorities of the Autonomous Republic of Crimea held an unrecognised referendum under Russian military occupation in March 2014. As a result, an integral part of Ukraine – the Autonomous Republic of Crimea and the city of Sevastopol – were annexed by the Russian Federation as federated subjects on 21 March 2014. The annexation has been recognised neither at the domestic level (i.e. by the Ukrainian government and the Mejlis of the Crimean Tatar People) nor by the UN, even though the Security Council could not pass a draft resolution of condemnation because of the Russian veto and Chinese abstention. The General Assembly eventually adopted a resolution declaring the referendum invalid (UNGA 2014);⁵³ some 100 states favoured this resolution. Among the rejections, Armenia and Belarus stand out because these countries participate in the EU-promoted Eastern Partnership, even though the former decided not to sign an Association Agreement with the EU (September 2013), while the latter participates only in the Eastern Partnership multilateral track.

Moreover, in April 2014 a group of rebel militants occupied key administrative buildings in the city of Donetsk and announced the creation of the Donetsk People’s Republic (DPR). Similar actions led to the announcement of the Luhansk People’s Republic (LPR) on 27 April 2014. Status referendums on the establishment of the Donetsk and Luhansk People’s Republics were held in Donetsk and Luhansk on 11 May 2014. The self-proclaimed representatives of the DPR and LPR claimed the overwhelming support of people who took part in the referendums. Both the DPR and LPR were designated as terrorist organisations by the Ukrainian government. These events led to prolonged and bloody military actions between the Ukrainian Army and military units of the self-proclaimed DPR and LPR with the active participation of the Russian regular army and a regular supply of light and heavy military equipment from Russia to the DPR and LPR.⁵⁴

A multiform constellation of state and non-state security actors, legal and extralegal formations, military and paramilitary forces is involved in the hybrid warfare that has been fought in Donbass

⁵³ Only six countries (Afghanistan, Cuba, Nicaragua, Russia, Syria and Venezuela) recognised the Republic of Crimea and Sevastopol as federal states of the Russian Federation. For a legal assessment of the annexation of Crimea by the Russian Federation, see Marxsen et al. (2015).

⁵⁴ Evidence of the illegal supply of weapons from the territory of the Russian Federation to the DPR/LPR is well documented by numerous media reports as well as two reports respectively issued by the Dutch Safety Board and the international Joint Investigation Team, in which Australia, Belgium, Malaysia, the Netherlands and Ukraine take part. Both of them have conducted an investigation into the downing of flight MH17 on 17 July 2014.

(OHCHR 2016). Among the pro-Russian insurgents, siding with the Donbass People's Militia and the Luhansk People's Militia (merged in the United Armed Forces of Novorossiya until the failure of the political project of the Union of People's Republics), there were remobilised veterans (Ukrainian soldiers formerly deployed in Afghanistan in the 1980s), Cossack units, Russian volunteers and special battalions, police and military defectors and deserters who decided to join the separatists, and foreign armed groups.

In spite of the Ukrainian military's engagement in a programme of military reform since 2006, when the so-called Anti-Terrorist Operation (that is, the Ukrainian government's counteroffensive in response to the seizure of government buildings by separatists in the east) was launched in April 2014, at that time Ukraine's Armed Forces suffered from being underequipped and undertrained. As a matter of fact, in 2014 professional soldiers were in short supply and the number of combat-ready troops was insufficient. In May 2014, military conscription was reinstated. At the same time, volunteer battalions started to support the military forces: while their crucial role in containing the separatists has been acknowledged by several experts, concerns have been raised about the endangered Ukrainian state's 'monopoly on legitimate violence', their increasing politicisation and allegations of human rights abuses (Sanders 2017). Along with further reforms initiated by President Poroshenko, since 2015 efforts have been undertaken to integrate the paramilitary units within the defence or interior ministries, subsuming them into the chain of command of the Anti-Terrorist Operation (Puglisi 2015).

The hybrid nature of the conflict in the eastern provinces has led to human rights violations perpetrated by different actors involved in combat: the situation has thus rapidly deteriorated into a severe humanitarian crisis, as testified by a number of reports issued, among others, by the Office of the United Nations High Commissioner for Human Rights. The ongoing conflict is also accompanied by an increasing problem of internally displaced people and refugee flows, which has already been underway since March 2014 (the referendum in Crimea) and which has intensified alongside the escalation of the conflict in Donbass: based on UN Refugee Agency (UNHCR) monthly reports, a 2015 estimate underlined an overall increase of IDPs from about 3,000 in March 2014 to 1,600,000 at the end of 2015 (UNHCR Statistics). As of 2017, according to government sources in receiving countries, the total number of Ukrainians seeking asylum or other forms of legal stay in neighbouring countries stands at more than 1,500,000; their requests are mostly directed at the Russian Federation, but also Belarus as well as Germany, Italy, Poland, France and Sweden (UNHCR 2017).

3.2 The EU's crisis response in Ukraine

3.2.1 Early stages of EU engagement

Immediately after the onset of the Euromaidan wave of protests, the then HR/VP Catherine Ashton and Commissioner Štefan Füle issued a joint statement on 30 November 2013, condemning the excessive use of force exerted by the police in Kyiv to disperse the peaceful protesters, and recalling that Ukraine, also in its capacity as chair in office of the Organization for Security and Co-operation in Europe (OSCE), should fully abide by its international commitments to respect the freedom of expression and assembly. The joint statement concluded that they “call upon the President and the Ukrainian authorities to carry out investigations into the events last night and to hold responsible those who acted against the basic principles of freedom of assembly and of expression” (EEAS 2013c).

The joint statement came a few days after the first manifestations of disapproval by, respectively, the chair and rapporteur of the European Parliament’s Foreign Affairs Committee (Elmar Brok and Jacek Saryusz-Wolski), who had issued an early statement not only to warn the Ukrainian authorities to refrain from using force against peaceful protesters, but also to voice their support for the latter and to stress that the EU remained open to the Ukrainian people (European Parliament News Room 2013). Moreover, the leaders of both the European People’s Party and the European Democratic Party visited Kyiv in December. Catherine Ashton also visited Kyiv (10–11 December), reiterating her criticism of police brutality in trying to expel the protesters from Maidan Square (EEAS 2013d). A few days after, in January 2014, on the occasion of the Plenary Session of the European Parliament, European Commission President José Manuel Barroso declared that the protests in Kyiv demonstrated that the EU represents “a beacon of hope and values, a guarantee of human rights and liberties” (*Interfax Ukraine* 2014).

These moves undertaken by the EU institutions were largely declaratory⁵⁵ and ineffective, reinforcing the discourse that considered Ukraine’s Europeanisation unproductive and the EU’s stance vis-à-vis Russia inconsistent and weak. Against that background, still in February 2014 the Association Agreement was principally labelled as a ‘trade deal’ and not depicted as an ‘either–or’ framework of cooperation:

The Association Agreement and the Deep and Comprehensive Free Trade Agreement (DCFTA) are not directed towards or against Russia. It is not because Ukraine would have closer relations with Europe that it cannot have economic relations with Russia. Not at all. Technically, the DCFTA is not compatible with Ukraine becoming a member of the customs union between Russia, Belarus and Kazakhstan, but Ukraine is not. Apart from that, we even

⁵⁵ See for example Council of the European Union (2014a; 2014b).

applaud that Ukraine would have closer economic relations with Russia. For us, Ukraine is a sovereign country that can decide for itself with whom and to what extent it has relations. For us, Russia is not an opponent – I think we better should be partners with respect to Ukraine. (Press Release, European Commission 2014b)

However, in March 2014 the economic and financial assistance to Ukraine was remarkably increased, through a package worth €11 billion over the period 2014–20 (European Commission 2014a), coming from the EU budget and EU-based international financial institutions, complemented by the funding being provided by the IMF and World Bank. These measures were conceived of by the Commission as

part of the EU's effort is to support Ukraine on its path towards political and economic reform[s], including those set out in the Association Agreement/Deep and Comprehensive Free Trade Area, which we stand ready to sign. It is essential to raise public awareness in Ukraine as well as in third countries on the benefits and opportunities that such reforms can offer both for Ukraine and the region as a whole.

The Commission memo issued in March 2014 listed the key elements of the package:

- €3 billion from the EU budget for macro-financial assistance and development assistance;
- €8 billion from the European Investment Bank and the European Bank for Reconstruction and Development (EBRD);
- additional support to be potentially mobilised through the Neighbourhood Investment Facility and the Instrument contributing to Stability and Peace;
- the setting up of a donor coordination platform;
- provisional application of the DCFTA when the Association Agreement is signed and, if need be, by autonomous frontloading of trade measures;
- organisation of a high-level investment forum/task force;
- modernisation of the Ukraine Gas Transit System and work on reverse flows, notably via Slovakia;
- acceleration of the Visa Liberalisation Action Plan within the established framework and the offer of a Mobility Partnership; and
- technical assistance on a number of areas from constitutional to judicial reform and the preparation of elections (European Commission 2014a).

Table 1. Support to Ukraine: Indicative Assistance Package

Funding source	Indicative amounts/ranges (in € million)
<i>I. European Commission (2014–20)</i>	
I.1 Overall development assistance (grants)	1,565
Bilateral envelope, where:	
- Annual Action Programme for 2014	140-200
- Annual Action Programmes (average) – for 2015–20	780
- Umbrella programme ('more for more') for 2015–20	240-300
Neighbourhood Investment Facility	200-250
Instrument contributing to Stability and Peace	20
Common Foreign and Security Policy	15
I.2 Macro-financial assistance (loans)	1,610
<i>II. European financial institutions</i>	
European Investment Bank	up to 3,000
European Bank for Reconstruction and Development	5,000
Total	11,175

Source: *European Commission 2014a*.

The Commission's memo included some additional actions, among which were the opening of an antenna office in Kyiv to monitor the situation and provide information on humanitarian and civil protection issues. At the same time, it recalled that

the EU has demonstrated that it can act in a rapid and flexible manner to adopt the necessary relevant legislation. The Commission presented its proposal on Monday 24 February and [it] is about to be adopted by the Council, updated to reflect the changing reality on the ground so as to now focus on the freezing and recovery of assets of persons identified as responsible for the misappropriation of State funds.

The memo actually referred to the introduction of “restrictive measures on the freezing and recovery of assets of persons identified as responsible for the misappropriation of Ukrainian state funds and persons responsible for human rights violations” (March–April 2014). Among the persons targeted by the restrictive measures were Viktor Yanukovich, his sons as well as his advisers, the former prime minister and a number of ministers, the former prosecutor-general, the former head of the security services and some businessmen (Council of the European Union 2014d; 2014e; 2014f; and 2014g).

The subsequent steps undertaken by the EU were affected by the removal of Yanukovich from power and the swift militarisation of Crimea, where unidentified armed men (Russian army units acting in uniform without insignia, special forces of the Crimean police (Berkut), local militiamen among whom were Cossack volunteers) set up checkpoints in Chongar and Armyansk (on the only two highways connecting the Black Sea peninsula to mainland Ukraine). They took control of the regional parliament and presided over an emergency session where deputies decided to hold a referendum on Crimean statehood in May, and later also took control of the airports in Sevastopol and Simferopol.

The Council conclusions on Ukraine of 3 March 2014 finally display all the signs of a changing approach. Not only did the EU condemn “the clear violation of Ukrainian sovereignty and territorial integrity by acts of aggression by the Russian armed forces” and call “on Russia to immediately withdraw its armed forces to the areas of their permanent stationing” (of the Black Sea Fleet), but also

in the absence of de-escalating steps by Russia, the EU shall decide about consequences for bilateral relations between the EU and Russia, for instance suspending bilateral talks with Russia on visa matters as well as on the New Agreement, and will consider further targeted measures. The Council decides to remain permanently seized, in order to be in a position to take rapidly all necessary measures (Council of the European Union 2014c).

Other declarations were issued in the following weeks (Statement of the Heads of State or Government on Ukraine, 6 March 2014; the introductory statement by José Manuel Barroso on Ukraine; the European Parliament Plenary debate, 12 March 2014; and the Council conclusions on Ukraine of 17 March 2014), with EU representatives trying to strike a balance among member states’ positions vis-à-vis Russia.

3.2.2 Political Framework for a Crisis Approach

The Ukrainian crisis has represented the testing ground for the innovations introduced by the EEAS review and the revision of crisis management procedures (EEAS 2013a; 2013b).

The new course was marked by the introduction of the PFCA, “a document drafted under the auspices of the relevant EEAS Managing Director, which outlines the parameters of the crisis, the motives for collective action, and potential response options” (Koenig 2015: 7). It sets “the political context [of the crisis], articulating what the crisis is, why the EU should act (based on the EU’s interests, objectives, and values) and what instruments could be available, and best suited, for that action” (EEAS 2013b). This procedure was applied for the first time to Ukraine in June 2014, unfortunately (allegedly)

resulting in “an exercise of reverse engineering [more] than of strategic and preventive planning” (Koenig 2015: 16).

The PFCA to Ukraine – a text that was released to the Political and Security Committee on 7 May 2014, and made “partially accessible to the public” on 9 February 2015 – was elaborated following the deployment of a preparatory mission in Ukraine between May 2014 and August 2014. The mission included a pool of seconded national experts later complemented by a group of planning officials sent by Brussels. According to one of our sources, the deployment and activities of the abovementioned officials displayed a lack of strategic vision for a crisis response by the EU, as well as weak coordination with the EU delegation in Kyiv, and in general a modest interest in designing an effective mission in Ukraine.⁵⁶ Anyway, the preparatory mission visited not only the capital but also several cities in the western and eastern provinces of the country, with the purpose of collecting materials to be transferred to Brussels as inputs for drafting the PFCA. Yet according to one source, these documents were subjected to several rounds of revisions and were finally moulded more by the need of reconciling national as well as personal interests than the empirics collected in the field. Several insights and recommendations provided by the experts were disregarded and ‘got lost’ in the course of the *navettes* between Brussels and Kyiv.

The final document first reviewed the current areas of EU involvement in Ukraine: i) institutional dialogue (at both the technical and political levels) addressing rule of law, police and civilian security sector concerns; ii) macro-stabilisation and governance, financed through the Commission’s “special programme” (€365 million, approved on 29 April), including the “State Building Contract” and the “Civil Society Support Programme”, as well as an exceptional assistance measure of €5 million under the Instrument contributing to Stability and Peace; iii) decentralisation and regional development; iv) justice and the rule of law; and v) border management (including EUBAM). Second, the crisis was defined as a humanitarian crisis, a security crisis and a human rights crisis; however, all the sections outlining how the crisis was impacting on the EU’s interests, values and objectives in the region, as well as details on the security aspects and the security sector reforms (that is, the field of the prospective CSDP mission) were deleted and not available.

The Revised Crisis Management Concept for a civilian CSDP mission in support of security sector reform in Ukraine was released a few weeks later (17 June 2014) by the CMPD. The document mainly defined the crisis as a “political situation” on the one hand, and as a “security situation” on the other. These dimensions were complemented by the economic and humanitarian crises experienced by the

⁵⁶ Skype interview with a former civil servant previously working for CSDP missions, February 2017.

country, as well as deficiencies in terms of human rights and the rule of law. The document described the “continued interference from Russia” as “the product of a deeply dysfunctional and corrupt domestic government structure”. The response to the crisis in Ukraine was defined in terms of EU political interest:

It is in the European interest that countries on our borders are well-governed. Violent conflict, weak states where organised crime flourishes and dysfunctional societies all pose risks to Europe. The EU’s interest in the region is to secure stability and economic prosperity in Ukraine by promoting rule of law, democracy, human rights, good governance and economic development, which are underlying conditions for lasting and sustainable political stability and economic prosperity. Normalisation of relations with Russia is also of key interest in this specific context (Council of the European Union 2014h).

The document also distinguished between the EU’s political objective and its strategic objective:

The EU’s political objective is to promote European values, rule of law and democratic principles in order for Ukraine to develop a modern political framework that is conducive to the political and economic modernisation of the country. This includes the free and fair conduct of the presidential elections in May, comprehensive and inclusive constitutional reform, justice and security sector reforms. The EU remains committed to Ukraine’s political association and economic integration with the EU, including signing the remaining provisions of the Association Agreement/DCFTA as soon as possible. ... The EU strategic objective is to create the conditions that would allow a stabilised security situation, re-establishment of the primacy of the rule of law and enhancement of Ukrainian authorities’ capacity to ensure adequate and democratic governance of institutions in charge of internal security (Council of the European Union 2014h).

According to the document, the EU Advisory Mission (EUAM) would be deployed paying attention to the coordination and division of labour with all other actors operating on the field, namely the OSCE, NATO, Frontex, EUBAM and the Council of Europe, as well as the US and Canada.

The latter aspect is worth a brief digression: as a matter of fact, a number of international and regional organisations have a long-term story of engagement in the country, a story that certainly predates the escalation of the abovementioned political and security crises. When the PFCA and the Revised Crisis Management Concept were issued, the EU was already ‘represented’ in the country

through several initiatives and instruments, along with the presence of individual EU member states.⁵⁷ In particular, the EU Border Assistance Mission to Moldova and Ukraine was launched in 2005, having established over the years a headquarters in Odesa, as well as six field offices on both the Moldovan and the Ukrainian sides of the joint border, displaying quite a widespread coverage. EUBAM was designed to help the Moldovan and Ukrainian border authorities to curb smuggling networks and counter criminal activities feeding the Transnistrian frozen-conflict economy. As the mission has appeared to be not only an instrument to address illegal cross-border trafficking and professionalise customs, border guard and law enforcement services, but also as a contribution to conflict settlement (Sasse 2009), elements of competition and contrast with Russia's interests and actions have emerged.

NATO's commitments vis-à-vis Ukraine, though, have certainly been more problematic, as they have been part of a wide-ranging process of eastward enlargement bringing all former Soviet states to establish different forms of cooperation since the mid-1990s. At the same time, the Ukrainian crisis can be also considered a 'stress test' for the endurance of the transatlantic alliance and the relations between the EU and the US, whose definitions of security have recently paved the way to alternate moments of convergence and divergence. Even though "Russia's annexation of Crimea has prompted a remarkable alignment of *tactical* responses by North American and European responses" (Hamilton 2014: 31), a comprehensive vision of Wider Europe's security does not seem to be *strategically* defined.

Finally, the OSCE's engagement in Ukraine can be considered problematic as well, as Russia's OSCE policy has increasingly exposed the organisation to different waves of criticism since the mid-2000s, questioning the fundamentals of the OSCE's security governance norms (Kropatcheva 2015; Russo and Gawrich, forthcoming).

Consequently, the documents outlining the EU's involvement in the Ukrainian crisis have tried to carefully consider the complex landscape of national and international actors, whose initiatives and programmes already coexisted in the country. During the months that followed the publication of the PFCA and the Revised Crisis Management Concept, the EU's response to the Ukrainian crisis has gradually taken shape at different levels, following a threefold set of actions and namely focusing on i) continued humanitarian, technical and financial support for Ukraine (in terms of both the reform path

⁵⁷ For example, Annex D of the Revised Crisis Management Concept listed the EU member states already involved in civilian security sector reform in Ukraine, a mapping that may indicate the main stakeholders (Czech Republic, Denmark, Estonia, France, Hungary, Ireland, Lithuania, Luxembourg, Poland, Romania, Slovakia, Sweden and the UK).

and humanitarian assistance); ii) ‘multilevel’ restrictive measures and sanctions; and iii) political dialogue and engagement in diplomatic formats.

3.3 Continued support for Ukraine

3.3.1 Humanitarian assistance and restoration of governance

The EU’s support for Ukraine tends to translate into policies and approaches designed along locally-owned solutions. While the EU has firmly maintained a non-recognition policy and considers Russia’s annexation of Crimea and Sevastopol illegal, it has not adopted the Ukrainian designation of ‘terrorist organisations’ for the breakaway ‘people’s republics’ of Donetsk and Luhansk. Even though there have been rumours from “diplomatic sources” about it (Jozwiak and Schreck 2015), on the occasion of a public talk organised by the Brookings Institution, when replying to Ukraine’s ambassador to the US Olexander Motsyk, HR/VP Federica Mogherini made clear that the separatists are not at all comparable with the Islamic State militants, and above all that the EU has “come to the conclusion that it is not up to us to make such definitions. What is our role ... is to try and support your efforts for reaching a solution to the conflict” (Mogherini 2015).

EU support for Ukraine is being manifested through a wide range of channels, primarily with reference to humanitarian assistance and support for the ongoing process of reform.

Ukraine’s humanitarian crisis chiefly revolves around IDPs and people forcibly displaced abroad, the main external destinations being Russia and Belarus. Meanwhile, people residing in the non-government controlled areas and along the frontline have less and less access to basic service provision, while the de facto authorities of the self-proclaimed DPR and LPR have expelled several humanitarian organisations from the conflict zones, compromising the access and delivery of humanitarian aid. In addition, in February 2016, the Ukrainian government also suspended state social assistance to a significant number of displaced people due to alleged irregularities (for example double social assistance payments, which a significant share of those IDPs living in the DPR and LPR territories receive from both the separatist and the Ukrainian governments). As of February 2017, the EU emergency and early recovery assistance to Ukraine amounted to €399 million, to cover small repair works, activity to promote the social and economic integration of IDPs and to build links with host communities, mine risk education activities and psychosocial support for conflict-affected communities. The European Commission (DG ECHO) contributed €88.1 million (plus the Commission’s assistance to Ukrainian refugees in Belarus and Russia through the national Red Cross Societies in the respective countries), while the EU member states contributed €133.9 million (ECHO 2017b).

Brussels’ multiform support for the Ukrainian path of reforms has first been ascribed to the negotiations on the Association Agreement and the DCFTA before the political and security crises arose, and to the Association Agenda since March 2015. Ukraine’s reform process has been discussed in the course of a number bilateral meetings (EU–Ukraine summits, EU–Ukraine Association Councils and EU–Ukraine Association Committees). It is financially supported through the commitment of a €12.8 billion package distributed among loans through EU macro-financial assistance (€3.4 billion), the European Investment Bank (€3 billion), the EBRD (€2.7 billion) and multi-purpose grants for the state-building contract supporting the fight against corruption as well as reforms of the public administration, the judiciary, law enforcement and the police, the constitution and the electoral framework, the decentralisation programme supporting local governance, and programmes for the development of civil society and the private sector (€838.7 million) (EEAS 2017).

Both the Instrument contributing to Stability and Peace and the European Endowment for Democracy contributed to supporting Ukraine’s reforms in different fields. The former funded 14 projects in Ukraine (> €51 million), among which a few are reported in Table 2.

Table 2. Examples of projects funded by the EU’s Instrument contributing to Stability and Peace in Ukraine.

Instrument contributing to Stability and Peace		
Project name	EU funding	Themes
Support to Election Observation in Ukraine	€1,500,000	Electoral assistance
Stabilisation Support for Internally Displaced Persons and the Conflict-affected Population in Ukraine	€4,500,000	Assistance to migrants and host populations
Support for the OSCE in the area of satellite imagery	€5,000,000	Security sector reform
Support for the UN Human Rights Monitoring Mission in Ukraine	€3,199,522	Confidence building, mediation and dialogue
Humanitarian Mine Action Assistance in Ukraine	€1,579,355	Humanitarian mine action; small arms and light weapons
Regional Eye	€2,110,477	–
Psychosocial seeds for peace: Trauma rehabilitation and civic activism in Ukraine	€2,232,945	Confidence building, mediation and dialogue
OSCE Special Monitoring Mission to Ukraine	€6,000,000	Confidence building, mediation and dialogue

Further Support for the OSCE Special Monitoring Mission	€7,000,000	Confidence building, mediation and dialogue
Mine Action Response in Eastern Ukraine	€377,698	Humanitarian mine action; small arms and light weapons

Source: Insight on Conflict, <https://www.insightonconflict.org/icsp/>.

The Instrument contributing to Stability and Peace financed, for example, the project on Restoration of Local Governance and Reconciliation in Crisis-Affected Areas of Ukraine (€10 million), implemented by the UNDP and operational between May 2016 and November 2017. Against the background of difficult access to non-government controlled areas by humanitarian actors, the project aims to restore effective governance and promote reconciliation in the crisis-affected communities of Donetsk and Luhansk, and enhance the credibility and legitimacy of local government in the government controlled areas of the regions. It also seeks to assist peacebuilding and the prevention of further conflict in Ukraine through effective and accountable decentralisation, gender-responsive recovery planning and equal access to services, as well as improved community security and social cohesion.

The initiatives sustained by the European Endowment for Democracy (378 in total), include (to name a few) the following:

- the Open University of Maidan;
- the Kharkiv Anticorruption Centre, promoting activities in Kharkiv, Poltava, Sumy and Dnipropetrovsk as well as Donetsk and Luhansk;
- the Crimean Tatar Resource Center;
- the Institute of Post-Information Society, also promoting activities in Kharkiv, Odesa, Kyiv, Poltava, Kremenchuk, Kramatorsk, Kirovograd, Kherson and Mariupol, including near conflict zones;
- the Voice of Crimea, an information centre to cover developments on the peninsula, after the Crimean Centre for Business and Cultural Cooperation ‘Ukrainian House’, founded in 1999, was forced to flee from Simferopol;
- the Donbas Hromadske (Public) TV, an online Russian-language TV reporting daily on developments in eastern Ukraine, realised through a network of correspondents in separatist-controlled regions, with offices in Kyiv and Kramatorsk; and

- emergency support for Ukrainian activists.

Whereas the abovementioned interventions have been added to the framework of the existing bodies, agencies and instruments of the EU, there are two other actions undertaken on an ad hoc basis to deal with specific aspects of the Ukrainian crisis: the creation of a Support Group for Ukraine (SGUA), which was agreed in early April 2014; and the deployment of the EUAM in December 2014.

3.3.2 *The Support Group for Ukraine*

The SGUA has actually been fully operational since autumn 2014. It was conceived of as an assemblage of EU officials, seconded national experts and special advisers, supporting Ukrainian policy-making agents and processes in the implementation of the Association Agreement, the DCFTA and the Association Agenda that derives from it. The creation of the Support Group was particularly promoted by José Manuel Barroso, at that time president of the European Commission, who envisaged a response to the Euromaidan demonstrations specifically coming from the institution he led, since he considered the response being elaborated by the EEAS rather tardy and inconsistent: visibility (the “EU had to be seen reacting”) was a priority matter.⁵⁸

The initial composition of the SGUA included about 20 senior EU officials from different DGs, working in thematic teams; the personnel increased over time up to 30, when the SGUA was later complemented by seconded national experts (among others from the UK, Poland and Lithuania) to assure a certain degree of coordination between the EU’s efforts and those by member states. The design and tasks of the SGUA have slightly changed over time: it took over responsibility for designing, programming and monitoring EU assistance from DG DEVCO and the DG for Neighbourhood and Enlargement Negotiations. This transfer of competencies resulted in the creation of a specific team devoted to financial cooperation in the summer of 2015. At the same time, the SGUA ‘returned’ the responsibility for trade matters to DG Trade and instead specialised in the particular sector of small and medium-sized enterprises and business support. Finally, some of the SGUA staff members (namely experts in public administration and decentralisation reforms) were moved from Brussels to Kyiv. This adjustment, however, created some initial tensions between the locally deployed SGUA officials and the EU delegation *in loco*. Similar difficulties of coordination were also noted elsewhere, at the early stages of EU involvement in the Ukrainian crisis: some rivalries and mistrust between the SGUA and the EEAS (even though between the two bodies there was an organic link, with the SGUA having seconded some personnel from the EEAS), later resolved especially thanks to the ‘double hat’ worn by

⁵⁸ Phone interview with an EU official, February 2017.

Federica Mogherini (EEAS and European Commission).⁵⁹ Moreover, a problematic overlapping has existed (and disentangled, according to our interviewee) between the SGUA and the EUAM mission (see below), as far as judicial and anticorruption reforms are concerned.

Solving these interinstitutional tensions has been crucial for the SGUA, as the latter has intended to have a liaison function, facilitating coordination among different European and international actors operating in the field and/or engaged in the management of the Ukrainian crisis: a variegated landscape of donors, international finance institutions and other international organisations (for example, the OSCE), DG ECHO and the EU delegation in Kyiv. The SGUA has been tasked with monitoring and evaluating Ukraine's policies, with special attention to those related to the reintegration of IDPs (whose rehabilitation and resettlement make up one of the conditions for the disbursement of the third tranche of macro-financial assistance). Accordingly, in coordination with the labour and social policy ministry, it has launched an assessment of Ukrainian government policy for the delivery of social services to IDPs.

More broadly, the SGUA's activities have been planned for the short, medium and long term. First (until the end of 2014), their mission was focused on stabilising the financial, economic and political situation in Ukraine, as well as planning reforms and facilitating their advancement. After that first phase, the SGUA's assistance has aimed at more comprehensive programmes, in line with the European Agenda for Reform, a document jointly drafted with Ukrainian authorities.

One of the main limitations of the SGUA lies in its being mainly based in Brussels, "with its staff travelling to Ukraine as necessary" (citing from the online presentation). Authors' sources have confirmed that even in Brussels, officials from other institutions (both EU and non-EU) generally consider the SGUA's role unproductive, the key reason for its ineffectiveness being exactly its weak credibility vis-à-vis Ukrainian counterparts.⁶⁰ Particularly alarming was the admission, by one SGUA official who has been interviewed, that he was not particularly aware of the allegedly key document defining the Ukrainian crisis and the EU's response therein – that is, the PFCA.⁶¹

3.3.3 EU Advisory Mission for Civilian Security Sector Reform in Ukraine

EUAM Ukraine presents itself as a mission aiming to "assist the Ukrainian authorities towards a sustainable reform of the civilian security sector through strategic advice and hands-on support for

⁵⁹ Ibid.

⁶⁰ Skype interview with a former civil servant previously working for CSDP missions, February 2017.

⁶¹ Phone interview with an EU official, February 2017.

specific reform measures based on EU standards and international principles of good governance and human rights. The goal is to achieve a civilian security sector that is efficient, accountable, and enjoys the trust of the public.”

EUAM was allocated a budget of €13.1 million for the first year (2014), which has gradually increased over the years until the latest amendment, which allocates to the mission, for the period from 1 December 2016 to 30 November 2017, €20.8 million (Council of the European Union 2016).

Table 3. EUAM Ukraine: mandate, priorities, progress.

EUAM		
Mandate	Priorities	Progress
Strategic advice on civilian security sector reform, in particular the need to develop civilian security strategies	Delineation of competencies: division of labour and the responsibilities of civilian security sector agencies	Survey by Kyiv International Institute of Sociology (September 2015): 45% of respondents considered reform of law enforcement agencies to have progressed; 18% of respondents considered reform in general to be progressing (low levels of public trust in the political, law enforcement and judicial systems)
Support for the implementation of reforms, through the delivery of hands-on advice, training and other projects	Community policing: building trust within communities especially in crime prevention	Support for the establishment of the National Police of Ukraine: training in leadership development for heads of regional chiefs of police patrol, a series of pilot community police workshops for supervisors of the Kyiv City Patrol Police, public order training for the new specialised public order sub-branch of the Ukrainian police (Kord), and training on the rights of peaceful assembly for police officers in Lviv and Kharkiv
Cooperation and coordination, to ensure that reform efforts are coordinated with Ukrainian and international actors	Public order: ensured by state authorities by maintaining peace and the right to assemble in accordance with international human rights standards	Strategic advice on a range of concept papers and strategies (e.g. the Strategy for reform of the internal affairs agencies, National Police Reform Concept 2016–17), on legislation (e.g. the Law on the National Police of Ukraine and the draft law on freedom of assembly) and on the National Human Rights Strategy and Action Plan
–	Criminal investigation: strengthening the ability of a state to fight crime and corruption, while respecting human rights and building public trust; these are a necessary	Together with the National Police of Ukraine, EUAM established four joint working groups to develop concepts and action plans on community policing, criminal investigations, public order and human-resource management

	component of preserving the rule of law and protecting citizens	
–	Human-resource management: transparent, merit-based system of recruitment; proper compensation and equipment; health and safety standards of the workplace	Development of a response police model for rural areas and small towns (supplementary to the patrol police in the big cities) in Sambir (pilot), Kyiv, Lviv and Kharkiv regions
–	–	Introduction of the concept of community policing (new to Ukraine), provision of strategic advice and training
–	–	EUAM is acting as an observer in the re-attestation process of the Ukrainian police, whereby officers need to pass exams in order to meet adequate professional standards
–	–	Support for the establishment of the National Anti-Corruption Bureau, Specialised Anti-Corruption Prosecutor’s Office and National Anti-Corruption Prevention Agency by acting as observers in the selection panels that choose heads and deputy heads of those institutions
–	–	Training programmes to support reform in areas such as public order, community policing, leadership and strategic communication, and taking Ukrainian partners on study visits to EU member states to share experience and best practices

Source: <http://www.euam-ukraine.eu>.

Interviews reveal that EUAM is undermined by dysfunctions similar to those affecting the SGUA, including the assignment an unarmed, non-executive civilian mission with its headquarters in Kyiv and regional (field) offices in Lviv and Kharkiv. One of our sources was especially critical vis-vis EUAM, in particular, and most of the CSDP missions in general, whose impacts are considered extremely modest, and whose mandates are allegedly defined by informal backroom deals and lobbying activities in Brussels. According to an interviewee, the Ukrainian authorities expected to have a CSDP mission being designed similar to the EU Monitoring Mission (in Georgia); however, EU member states did not agree on the size and the scope of the mission to deploy in Ukraine. While countries like the UK, Poland and Sweden favoured a “transformative presence” in Ukraine to be organised by the EU, other countries

like Italy, Malta and Hungary envisaged a limited and carefully circumscribed mission. Interestingly enough, Italy finally, has ‘given up’ on Ukraine in exchange for receiving support in the Mediterranean.

Another limitation underlined by one of our sources has been the poor coordination between EUAM and the other EU mission already operating in Ukraine, that is EUBAM – the European Union Border Assistance Mission to Moldova and Ukraine, launched in 2005 to promote EU standards and procedures related to border control, customs and trade. When EUAM was deployed, Ukrainian authorities (namely, the State Border Guard Service, the State Fiscal Service, the Ministry of Internal Affairs of Ukraine and the Security Service) were somehow ‘socialised’ to collaborating with EUBAM in the fields of borders and customs. One rationale for the division of labour between EUAM and EUBAM could have been functional, with the former taking care of security sector reform alone, leaving to EUBAM its traditional functions, to be extended over a larger portion of Ukrainian territory. However, the division of labour between the two missions has followed geographical criteria, leaving EUBAM to the Moldova–Ukraine state border and assigning to EUAM mixed functions with country-wide coverage. This arrangement has allegedly created confusion, at least at the beginning of EUAM operations, among the Ukrainian counterparts.

3.4 ‘Multilevel’ restrictive measures and sanctions

3.4.1 Sanctions

The annexation of Crimea represented a threshold in the EU’s response to the Ukrainian crisis, resulting in the application, for the very first time, of Article 215 of the Treaty on the Functioning of the European Union within the Eastern Partnership space.⁶² The second turning point was allegedly represented by the MH17 plane crash: in July 2014, a Malaysia Airline flight en route from Amsterdam to Kuala Lumpur lost contact with air traffic control when it was close the Russia–Ukraine border. Its crash site was then identified in the Donetsk region, and the Ukrainian authorities accused pro-Russian separatists and Russia itself as responsible for having shot down the aircraft.

Proceeding chronologically, immediately after the Foreign Affairs Council of 3 March 2014, an extraordinary meeting of EU Heads of State or Government on Ukraine was convened three days after. The EU leaders decided to suspend bilateral talks with the Russian Federation on visa matters and on the New Agreement and to support the decision of the European G8 members and the EU institutions to suspend their participation in G8 summit preparations scheduled to take place in Sochi in June 2014.

⁶² See “Timeline – EU restrictive measures in response to the crisis in Ukraine”, <http://www.consilium.europa.eu/en/policies/sanctions/ukraine-crisis/history-ukraine-crisis/>.

Moreover, EU leaders considered the possible implementation of additional measures, such as travel bans, asset freezes and the cancellation of the EU–Russia summit, in the event of Russia undertaking further steps to destabilise the situation in Ukraine. A first set of individual restrictive measures were introduced in March, to be possibly complemented by targeted measures vis-à-vis Russia as well as economic, trade and financial restrictions regarding Crimea (European Council 2014). It is worth noting that this first set of sanctions also targeted individuals identified as responsible for the misappropriation of Ukrainian state funds.

Furthermore, the Council imposed substantial restrictions on economic relations with Crimea and Sevastopol. Whereas the ban on goods originating from Crimea or Sevastopol had already been adopted in June (Council of the European Union 2014i), with additional restrictions introduced in July 2014 on trade and investment related to certain economic sectors and infrastructure projects,⁶³ EU leaders were more reluctant to introduce sanctions targeting some sectors of the Russian economy.

Earlier, in April, the European Parliament had

reiterate[d] the necessity for the EU and its member states to speak to Russia with one united voice; consider[d] that the current situation requires the Council to strengthen the second phase of sanctions and be ready for the third phase (economic sanctions), which must be applied immediately; reiterate[d], furthermore, its call on the Council to swiftly apply an arms and dual-use technology embargo. (European Parliament 2014)

Still, EU leaders decided to wait until 30 June before adopting further sanctions, and to reconvene for that purpose if Russia and the separatists had not i) agreed on a verification mechanism monitored by the OSCE, for respect of the ceasefire and effective border control; ii) returned three border checkpoints to the Ukrainian authorities; iii) released hostages, including all of the OSCE observers; and iv) launched substantial negotiations on the implementation of President Poroshenko's peace plan. Only on the occasion of the special meeting of the European Council (16 June 2014) did EU leaders agree on a new set of restrictive measures, renewing those against specific individuals or entities but also suspending the signature of new financing operations in Russia by the European Investment Bank (and envisaging a similar measure in relation to the EBRD). EU leaders also requested the Commission and the EEAS to reassess and potentially suspend the implementation of EU bilateral and regional cooperation programmes with Russia.

⁶³ Restrictions vis-à-vis Crimea and Sevastopol were further extended, to include a full ban on investment (since December 2014), along with a prohibition on the supply of tourism services and a ban on exports of key goods for certain sectors, such as equipment for prospecting, exploring and producing oil, gas and mineral resources.

Accordingly, since July 2014, the EU has signalled directly to Russia in two ways. First are the economic sanctions targeting exchanges in specific sectors (finance, energy, defence and dual-use goods), in particular:

- limitations on access to EU primary and secondary capital markets for five major, Russian majority state-owned financial institutions and their majority-owned subsidiaries established outside the EU, as well as three major Russian energy and three defence companies;
- an export and import ban on trade in arms;
- an export ban for dual-use goods for military use or military end users in Russia; and
- limitations on Russian access to certain sensitive technologies and services that can be used for oil production and exploration.

Second are the additional restrictions that were introduced concerning economic cooperation:

- the European Investment Bank was requested to suspend the signature of new financing operations in the Russian Federation;
- EU member states agreed to coordinate their positions within the EBRD Board of Directors with a view to also suspending the financing of new operations; and
- the implementation of EU bilateral and regional cooperation programmes with Russia was re-assessed and certain programmes suspended.

Retaliatory measures adopted by Russia, in turn, targeted EU member states: in August 2014, a ban was imposed on agricultural products (the Russian president's Decree No. 560 of 6 August 2014 and the Resolution of the Government of the Russian Federation No. 830 of 20 August 2014), while in May 2015 a blacklist of 89 politicians and activists from EU member states was released (Rinke 2015).

3.4.2 Member states' consensus on sanctions: Walking on the edge?

Even though the EU's agreements on sanctions related to the Ukrainian crisis have been interpreted as a proof of surprising EU unity, some of the mainstream commentaries also tend to report a weakening of the consensus among EU member states about the extension of sanctions towards Russia, according to a rather neat divide between two fronts: on the one hand are France, Italy, Greece, Hungary and the Czech Republic, which are in favour of rolling back or easing sanctions; on the other hand are the "hard-liners" such as Germany, the UK, Sweden, Finland, Poland and the Baltics (Savel 2016).

Table 4. EU member states and their attitudes toward tougher sanctions on Russia.

Country	Support for tougher sanctions on Russia	Total gas consumption from Russian imports (%)
Austria	Reluctant	52
Belgium	Supportive	43
Bulgaria	Supportive, but big differences among parties	100
Croatia	Reluctant	37
Cyprus	Very reluctant	0
Czech Republic	Reluctant but will support	80
Denmark	Supportive	0
Estonia	Supportive	100
Finland	Reluctant	100
France	Reluctant	17
Germany	Reluctant but will support	40
Greece	Very reluctant	55
Hungary	Very reluctant	50
Ireland	Supportive	0
Italy	Reluctant	20
Latvia	Supportive	100
Lithuania	Supportive	100
Luxembourg	Supportive	28
Malta	Reluctant	0
The Netherlands	Reluctant	6
Poland	Supportive	52
Portugal	Reluctant	0
Romania	Supportive	24
Slovakia	Reluctant but will support	63
Slovenia	Reluctant but will support	57
Spain	Reluctant	0
Sweden	Supportive	100
United Kingdom	Reluctant	

Source: Dempsey (2014).

Although EU policy vis-à-vis Russia is not to be considered a black box, as one can find varying degrees of support in the EU member states, the member states themselves have displayed changing attitudes over time in relation to the question of sanctions: multiple political and economic actors, as well as contingent dynamics (for example, election campaigns) have contributed to shaping and reshaping their respective positions.

The German case is quite telling. After having defended an uncompromising approach in the wake of the EU levying the first waves of sanctions, in February 2016 Chancellor Angela Merkel stated that she would lift them “today rather than tomorrow”, speaking in front of the Christian Democratic parliamentary group (*Reuters* 2016). This happened a few days after Horst Seehofer, the leader of the German state of Bavaria and representative of the conservative party, the Christian Social Union in Bavaria, whose criticism of sanctions (and Merkel) are renowned, travelled to Moscow to visit Russian President Vladimir Putin (*RT* 2016). It is worth noting that already in December 2015, the German–Russian Foreign Trade Chamber presented the results of a survey on the effects of sanctions conducted among German entrepreneurs and businessmen. The latter mainly considered the sanctions to be ineffective (political non-effectiveness: 80.6%; economic non-effectiveness: 60%).⁶⁴

In April 2016, the German–Russian Forum, in cooperation with the Gortschakow Foundation for Public Diplomacy, organised a delegation of German Bundestag delegates to the Russian State Duma, where the former were welcomed by Sergey Naryshkin (at that time blacklisted and banned from travelling to the EU). A second meeting of a similar kind took place shortly afterwards (July), this time in St Petersburg, where the German delegation included members of the CDU/CSU coalition (Christian Democratic Union and Christian Social Union in Bavaria) and of the Social Democratic Party, as well as the federal minister for foreign affairs, the vice-president of the German Bundestag and a representative of the Friedrich-Ebert-Stiftung. This second meeting was also complemented by the 15th Russian–German Forum of Civil Societies ‘Petersburg Dialogue’, at which the keynote speech was delivered by Hamburg Mayor Olaf Scholz. Similarly, the Aspen Institute and the Club of Three (a Franco–British–German leadership network) promoted more or less confidential meetings with Russian representatives (*Spiegel* 2016).

Against this background, Merkel’s changing course has been considered mostly driven by her junior coalition partner, that is the Social Democratic Party, which is given a voice through Gernot Erler, the German government’s special coordinator for Russia policy, Vice-Chancellor Sigmar Gabriel (who visited Moscow in October 2015) and Frank-Walter Steinmeier, the foreign minister. Steinmeier has

⁶⁴ Source: Deutsch-Russische Auslandshandelskammer.

long supported Russia's return to the G7 and, in May, further stated that sanctions are not a punitive measure but a political instrument, and they can be gradually lifted according to the achievements of the Minsk negotiation process.

Similar developments can be seen in the French case over 2016. Besides the well-known positions of presidential candidates François Fillon and Marine Le Pen, in January 2016, the back-then economic minister (and current presidential candidate) Emmanuel Macron (while in Moscow heading a French delegation at a session of the Franco–Russian Economic, Financial, Industrial and Trade Council, reconvened for the first time since 2013) declared that the French objective is to assist in lifting sanctions (*Le Monde* 2016). Macron's position had already been put forward in the previous months by President François Hollande, as well as Prime Minister Manuel Valls, who restated this softening approach also on the occasion of a meeting with his Russian counterpart Dmitry Medvedev at the 52nd Munich Security Conference. At different times, then, both the Assembly (April) and the Senate (June) voted for a resolution in favour of gradually and partially lifting the sanctions.

Whereas the German and French positions are considered crucial, as they can influence the walk to different negotiation tables, other countries have been closely scrutinised by many analysts for their controversial and fluctuating postures. In that sense, Italy can be depicted as the emblem of a swing state in relation to its Russian policy in general, and the sanctions in particular.

3.5 Diplomacy and political dialogue

3.5.1 A plurality of negotiating tables

The EU's diplomatic engagement has translated into sitting at multiple negotiation tables, through both the involvement of the HR/VPs (Catherine Ashton first and Federica Mogherini later) and the variable-geometry contributions of EU member states.

An early quadrilateral meeting was convened in April 2014 in Geneva, where representatives of the EU (HR/VP Catherine Ashton), the US (Secretary of State John Kerry), Ukraine (Foreign Minister Andrii Deshchysia) and Russia (Foreign Minister Sergei Lavrov) gathered to immediately de-escalate the crisis. One of the main results of the meeting was agreement on the role of the OSCE Special Monitoring Mission, to which the US, EU and Russia committed to provide monitors. Moreover, the joint statement referred to the parties' commitment to refrain from any violence, intimidation or provocative actions, and to reject all expressions of extremism, racism and religious intolerance. The parties declaratorily subscribed to disarming all illegal armed groups, returning all illegally seized buildings to legitimate owners, dismantling the barricades and vacating all illegally occupied streets,

squares and other public places in Ukrainian cities and towns; however, there were no provisions for implementing such actions (Freedman 2014). Ukrainian authorities also committed to granting amnesty to protesters and occupiers as well as conducting an inclusive, transparent and accountable constitutional process, involving all of Ukraine's regions and political constituencies (even though Ukrainian authorities definitely excluded federal solutions to the crisis). The constitutional proposals were worded in ambiguous terms; nonetheless, by negotiating them, the Ukrainian government was recognised by Russia as an interlocutor.

Even before the Geneva meeting, it is worth noting that while Kerry and Lavrov met twice (on the 14th in London and on the 30th in Paris) in the absence of their Ukrainian counterparts, EU member states decided to anticipate the EEAS with some joint declarations representing either sub-regional formats (for example the Baltic Council and the Visegrad Group) or issue-related coalitions (in the case of Poland and Sweden, as initiators and main promoters of the Eastern Partnership).

Furthermore, the Geneva meeting was considered by the actors on the ground to be a declaratory move: it did not (and it could not) solve the rooted mistrust between pro-Western Kyiv-based factions and pro-Russia groups. Moreover, the statement was vague enough not to clarify who should be disarmed first, in practice, between the separatists and the nationalists, both considering disarmament to be a surrender. The representatives of the self-proclaimed DPR and LPR administrations did not feel bound by the agreement reached in Geneva, and the only aspect they considered relevant in the document was a decreasing attentiveness displayed by Russia to protecting their interests (Grove and Vasovic 2014). Finally, another element of the purposeful elusiveness of the Geneva statement was represented by the fact that it carefully avoided even mentioning Crimea and the role of the Russian troops on Ukrainian territory (it is worth noting, in this respect, that the taboo about the presence of Russian military forces operating in Ukraine was broken with some delay in Brussels – first in August 2014 at the level of the European Council and then in February 2015 in a document signed by Federica Mogherini).

After the presidential election (25 May 2014) and the contested⁶⁵ success of Petro Poroshenko, another diplomatic initiative was initiated by the Trilateral Contact Group on Ukraine, composed of representatives of Ukraine, Russia and the OSCE, whose first meeting was held on 8 June 2014 in Kyiv

⁶⁵ It should be noted that Petro Poroshenko won with 54.7% of votes and that 61% of the population in Ukraine took part in the elections. On the other hand, one week before the election, the Central Election Commission declared that the elections could not be prepared and conducted in six constituencies in the Donetsk and Luhansk Oblasts, for safety reasons. In the days immediately before the election, representatives of the self-proclaimed Donetsk People's Republic and Luhansk People's Republic impeded the regular works of election commissions in the Donetsk and Luhansk Oblasts and prevented citizens from going to the polls to vote.

(Ukraine was tellingly represented by its ambassador to Germany, then appointed to the post of Ukraine's minister for foreign affairs). Shortly after the Kyiv meeting, Poroshenko proposed a fifteen-point peace plan, which was separately discussed by the OSCE monitors and a representative of the separatist front. The second meeting of the Trilateral Contact Group took place in Donetsk, on 23 June 2014, and included Ukraine's former President Kuchma, the Russian ambassador to Ukraine, OSCE representatives, the prime minister of the Donetsk People's Republic, the prospective speaker of the Unity Parliament of the confederation Novorossiia, as well as the chairman of the political organisation Ukrainian Choice, who was presented as a mediator between Ukraine and the separatists and whose involvement was backed by Angela Merkel.

While further meetings of the Trilateral Contact Group kept on being organised, after Poroshenko's visit to Berlin and his attendance with Merkel and Putin at the remembrance ceremony in France to mark the 70th anniversary of the World War II Allied landings in Normandy, a parallel format of negotiations was established: that is, the Normandy Contact Group, including representatives (at the level of heads of state/government and/or ministers of foreign affairs) of Ukraine, Russia, Germany and France, which first met in Berlin in July 2014.

The Trilateral Contact Group, extended to the representatives of the two separatist republics, signed the Minsk Protocol on 5 September 2014 – an agreement that resembled the fifteen-point peace plan. Subsequently, the negotiations conducted through the Normandy format resulted in reviving, in February 2015, the by-then weakened, if not voided, Minsk Protocol. The ceasefire agreed upon in September 2014 had not held; a new peace plan elaborated by Germany and France was thus brought to the negotiation table (the so-called Minsk II), again under the auspices of the OSCE. However, among several measures for de-escalating the war in Donbass, the only success of Minsk II has admittedly proven to be (according to Federica Mogherini) the exchange of hostages (Mogherini 2015).

4 Concluding observations

This preliminary analysis of the two cases of Libya and Ukraine points to the challenges and limits faced by the EU in addressing security crises emerging in its neighbourhood area. As the two crises analysed throughout this paper have displayed and are displaying all their potentially disruptive impacts on Europe's core interests, the existing instruments and policies deployed by the EU to respond to them need to be urgently and critically reviewed. While the geopolitical contexts and the intrinsic dynamics

of the crises in Libya and Ukraine differ sharply, they still provide some grounds for comparative analysis and lesson learning.

The crisis in Libya can be schematically divided into two separate phases: following the ousting of a longstanding authoritarian regime in 2011, the country engaged in a painful transition whereby institution building was meant to accompany Libya on the path towards a democratic regime. Yet, in 2014, competing views about this process escalated into an all-out civil war. The widespread insecurity across the country, the lack of a political agreement among local parties and the possible spillover of the Libyan crisis across the broader region, notably North Africa, the Sahel and Europe, ultimately convinced all international actors, including the EU, to write the final chapter of the story of liberal peacebuilding, previously inspired by the principles of local ownership and transformative interventions. While liberal peacebuilding was already discredited in other cases and by other international actors, the EU seemed to persist with such an approach to Libya, until 2014. After that turning point, though, the EU's approach to this crisis shifted from institution building to containment, thereby highlighting the parallel swing of the underpinning peace doctrines, from liberal peacebuilding to realist conflict management (Richmond et al. 2016).

A similar reflection arises from the analysis of the EU's engagement in the Ukrainian crisis, although with a different periodisation and rationales. As a matter of fact, the Ukrainian crisis (and in many ways the 2008 Russo–Georgian War before that) epitomises the weakening of the 'transformative power of Europe' paradigm and the EU's imperative to reintegrate geopolitical considerations into its strategic vision, especially when it comes to its peripheries. Such shifts have obviously challenged the ENP framework.

While deploying a great diplomatic effort with both local and international actors, in actual terms the EU approach to the crisis in Libya was increasingly materialised as a host of initiatives concerning border enforcement and control. This strategy was underpinned by a narrative in which migratory flows across Libya and to Europe are increasingly portrayed as a threat. The securitisation (Buzan et al. 1998) of migration thus contributed to swiftly reframing the Libyan crisis into essentially a migration crisis: in other words, as the crisis became increasingly complicated, and Islamic State terror seized terrain in Libya, the migration question captured much of the agenda on the European side. However, the discursive construction equating migration with a security threat has led the EU to address the migratory flows across Libya and to Europe through a purely securitarian approach. Yet, the tools and mechanisms designed for a crisis response have so far proved inappropriate to cope with

these challenges, thereby pointing to an increasing disconnect between rhetoric, intentions and capabilities (Chandler 2007).

In the case of Ukraine, the development of crisis response instruments and practices by the EU has been affected by one crucial factor that seems to emerge in several instances of the EU's external projection and international actorness: that is, the difficulty of reconciling the EU's positioning with the national interests, policies and definitions of the crisis itself. Even though a new crisis management approach was first experimented with on the occasion of the Ukrainian crisis, previous EU activities in the country continued to operate, resulting in a set of instruments put in place for solving the crisis, yet formulated before the crisis manifested itself (Batora and Rieker, forthcoming). One may recall that EU-Ukraine relations and the EU's engagement with reforming different sectors of the country's political and economic life certainly predate the 2013-14 crisis: the latter has actually catalysed, rather than inaugurated, the EU's endeavours for security and stabilising its eastern neighbourhood. The coexistence of old and new actors, agendas and projects resulted in a weak coordination both between the EU and other international actors, and among different EU institutions and programmes (for example the SGUA and the EU delegation in Kiev; the EUBAM mission and the EUAM mission). The crisis in Ukraine cannot be read without keeping in mind the embedded nature of these dynamics and the degree of path dependence that has often hindered the adjustment of crisis response strategies according to the evolutions of the crisis itself.

Moreover, the presence of a strong regional leader, whose ambitions include guarding a hegemonic position in the so-called 'near abroad' (also through establishing an alternative regionalist project in the 'shared neighbourhood', i.e. the Eurasian Union) has certainly shaped the EU's response to the crisis and impacted on the structuration of the diplomatic formats made available to de-escalate it. Whereas the emergence of evidence demonstrating the direct involvement of Russia's military personnel (and equipment) in the conflict zones has loosened some reserves in Brussels, other sources of pressure (from election campaigns in different member states to the business-driven debates on the negative impacts of sanctions on EU-Russia trade) have led EU and national policy-makers, at different times, to question the viability of deteriorating relations with Moscow, thereby exacerbating the problems of consistency and coordination of the European response to the crisis in Ukraine.

It is nevertheless worth highlighting some elements that allow some preliminary case comparisons. Noticeably, in both cases the EU made extensive use of a broad range of tools, procedures and instruments designed for crisis response. Libya and Ukraine were among the first countries to undergo the new procedures introduced by the EEAS review of 2013, including the

adoption of a PFCA, which were drafted for both countries in summer 2014. While the appropriateness of the specific provisions of each PFCA can obviously be questioned, the procedural significance of these documents can hardly be disputed. In both Libya and Ukraine, the PFCA set the basis for all the subsequent measures, policy decisions and strategies to respond to the respective crises, including CSDP missions and their Crisis Management Concepts. As an exercise of politics and policy, then, the ‘framing’ of these crises put forward by European institutions can be seen as endowed with both an ideational and a material power, to the extent that it shapes the institutional understanding of the world and drives the choice of the most appropriate means to intervene in it (Bøås and McNeill 2004). Moreover, sanctions have widely been resorted to by European actors. In Libya, their adoption was generally swift and did not stir any significant controversy, along the lines of the UN consensus, but their impact is difficult to assess and open to diverging interpretations. A different situation and precarious equilibrium are to be observed in the Ukrainian case, where problems of consistency are also to be attributed to the divisive role Russia has played vis-à-vis different sets of EU member states as well as political and economic actors therein: this was particularly evident in the elaboration and implementation of restrictive measures (sanctions).

Lastly, the complex interlinkages between the unfolding of the crises and the ENP are worth noticing. While in Libya the Association Agreement was seen as a promising recipe to challenge the country’s instability and bring the transition to an end, in the case of Ukraine the very negotiation of an AA represented one of the fundamental triggers of the crisis. This discrepancy emphasises the crucial differences between Europe’s southern and eastern neighbourhoods, which previous formulations of the ENP tended to obfuscate. In fact, while partner countries in the south are non-European states and have no prospects for membership,⁶⁶ the situation for eastern neighbours is more ambiguous. What is more, while neighbouring countries in the south face limited alternatives to some kind of association with the EU, the presence of a powerful challenger to the east – with diverging interests in a common neighbourhood – makes the ENP just one of two options, furthermore exposed to competition and possible misinterpretation. That being stated, cultural, social and political differences seem more pronounced vis-à-vis the southern neighbourhood, thereby limiting the potential appeal of neighbourhood policies in the Mediterranean area. However, as the integration between the EU and its southern partners is generally more restricted, this might also prove less of a hindrance for the Union’s crisis response activities.

⁶⁶ Interestingly, Morocco applied for EU membership in 1987, but the application was declined on the grounds that Morocco is not a European country.

It is also noteworthy that the unfolding of both crises triggered an unprecedented process of reviewing the ENP in Brussels. The evolutions in the southern Mediterranean (including the crisis in Libya) on the one hand, and the Ukrainian crisis on the other, have been considered among the key factors accelerating the review process of the European Neighbourhood Policy. In spite of an initial *élan* of commitment to promote democratic values, in Libya and Ukraine normative concerns seemed to progressively fade, in both policy formulations and practical implementation, vis-à-vis more impelling security imperatives, framed in terms of stabilisation at all costs. Indeed, the Communication of November 2015 regarding the ENP review confirmed that “the new ENP will take stabilisation as its main political priority” (European Commission and High Representative 2015b), thereby implicitly acknowledging the limits of the ‘transformative power’ approach that had prevailed until then.

Within this framework, the Union’s emphasis on border control and reforms in the security sector represents another significant analogy between Libya and Ukraine. While in Libya issues of border control have resulted from the securitisation of migratory flows and the reframing of the whole crisis since 2014, in Ukraine the management of migration flows and IDPs has not trespassed the realm of humanitarian assistance, as the migration has not been directed towards EU member states and therefore not framed as an EU security concern. And yet, just as much as in Libya, the EU’s crisis response in Ukraine has comprised a renewed effort in the realm of border security and border management and further investment in cross-border cooperation with neighbouring countries. Curiously enough, the CSDP missions mandated to strengthen border security in both countries had the same acronym, EUBAM. Aimed at consolidating the pillars of statehood and stability by promoting the EU’s standards, these missions’ mandates obviously clashed with the patterns of informality and extralegal economies existing locally, but crucially neglected their impact on conflict dynamics. Irrespective of the different threats they were purported to contain, or deter, the EU’s CSDP missions in crisis areas thus yielded poor results, which can partly be attributed to their conflict-insensitive designs.

While these observations point to some of the limits and contradictions of the EU’s capacity to respond to crises in its neighbourhood, further research is required to assess how these aspects are perceived by actors in the field, including European and third countries, and how they impact on the actual implementation of European strategies for the construction of a more secure neighbourhood.

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