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Functionality of the EU Multi-Level Arrangements: the Evidence from the “Russian Case”

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Abstract

The question of practical functionality of multi-level arrangements in the EU has long aroused skeptical assessments with regard to the Union ability to act decisively in foreign affairs and with an eye to enacting unified and effective common foreign policy. Here we argue that the sanctions imposed by the EU on Russia in 2014-2015 suggests that these multi-level institutional arrangements may be acquiring greater functionality and robustness and are better suited than previously thought to pursuing decisive EU foreign policy. Importantly, the Ukrainian crisis revealed the priority of the all-union decision-making institutions over bi-lateral relations. While political leaders of many member states expressed desire to sustain amiable relationships with Putin, at the EU level (European Council, Council of Ministers) leaders of all 28 nations supported united actions against Russia. The Ukrainian crisis has also created new opportunities for strengthening the EU institutions of common foreign policy.

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Common Foreign and Security Policy (CFSP) of the European Union is often criticized for much rhetoric and little substance, the weakness of central institutions, the gap between expectations and delivery, as well as for the lack of the political will. As Petersen states, “most support the conclusion that the CFSP has been crippled by three fundamental defects, none of which can be repaired in any simple way... The first is a lack of identity... A related problem is one of interests... The CFSP’s third defect—its weak institutions” (Peterson, 1998: 3-4). This belief in the severely limited capacity of the EU CFSP spread well beyond the EU itself, reached beyond the expert community and penetrated into the realm of political decision-making of foreign states, Russia included.

After the annexation of Crimea in February 2014 most political commentators in Russia were skeptical about the EU ability to agree on joint sanctions. However, since March 2014, the EU has repeatedly agreed to impose *increasingly* restrictive sanctions on Russia. Each new round of the sanctions required the EU institutions to secure unanimous support of the member states. Such successful consensus building is a remarkable institutional achievement of the EU and an important step in the development of the EU common foreign policy. The EU response to the Russian annexation indicates that the Ukrainian crisis has created new opportunities for moving forward the EU institutions for common foreign policy. We concur with Lehne (2014): “The Ukraine crisis could transform EU foreign policy, much like the September 11, 2001, terrorist attacks transformed U.S. foreign policy.”³

³ Stefan Lehne (2014) A Window of Opportunity to Upgrade EU Foreign Policy, May 2, Read more at: <http://carnegieeurope.eu/2014/05/02/window-of-opportunity-to-upgrade-eu-foreign-policy/h9sj>

It is very difficult for Kremlin to retreat *after* the fact of the Crimea annexation, even in the face of very steep international and domestic costs. But this begs the question: What were they thinking when deciding on this course of action to begin with? Judging by the reports in the world media, the Russian leadership grossly underestimated the scale of the world reaction, and in particular, the willingness of the EU to stand against the Russian annexation.⁴ Some Russian observers dare even to speculate that if the Kremlin could have known about the extent of the western reaction it would have acted differently.⁵

Why did Russia fail to anticipate the scope of the EU sanctions? We argue, that it relied on old expectations of institutional cohesiveness of the EU foreign policy response, while those institutions have progressed in the course of the crisis. And while expecting low cohesion among the Europeans, the Russians were encouraged by a long record “pro-Russia” public statements of highest officials and politicians in the EU member-states. Many European leaders were maintaining friendly personal relations with President Putin. Most European countries continued relying heavily on energy supplies from Russia and important segments of their economics depended on Russian investors and consumers.

Indeed, even in Europe after the Crimea annexation, many national officials and politicians were openly skeptical of feasibility of mustering the economic sanctions as most EU member-states were expected to suffer themselves substations economic losses from the

⁴ Putin’s Year of Defiance and Miscalculation. Kremlin Misjudged Bite of Sanctions, Then Oil Plunged By Gregory L. White and Anton Troianovski Dec. 17, 2014 <http://www.wsj.com/articles/putins-year-of-defiance-and-miscalculation-1418873583>; How Putin Forged a Pipeline Deal That Derailed By Jim Yardley and Jo Becker, Dec. 30, 2014 http://www.nytimes.com/2014/12/31/world/europe/how-putin-forged-a-pipeline-deal-that-derailed-.html?_r=0

⁵ Vedomosti.ru 18.12.2014 <http://www.vedomosti.ru/politics/news/37524151/pomoschniki-uverili-putina-v-fevrale-chto-ekonomika-rossii?full#cut>

sanctions against Russia. As an additionally problematic factor, it was clear that “the burden” of any joint sanctions against Russia would be highly unevenly distributed across and within the European economies. However, while domestic politicians of the EU member-states openly demonstrated divergence and disagreements over the proposed sanctions, in the end the European national leaders unanimously supported sanctions in the European Council. And the Russian politicians failed to anticipate this institutionally-induced difference between public statements of the national leaders at the *national level* and their actual consensus at the *European level*.

The outside observers and scholars lack information on discussions at the EU level (at the meetings of the European Council) – the meetings are held in secrecy. But scholars argue that in general when acting at the EU level, the national executives are interested both in building stronger institutions of the EU and in maintaining own control over those institutions. These two goals stimulate the national executives to value (search for) consensus within the European Union.

An important theoretical premise in analysis of the EU foreign policy capabilities is that external relations of the European Union with any state or international organization are necessarily of multi-level nature. On the one hand, the emergence of the EU external policies has not diminished the importance of national foreign policies. One cannot understand EU foreign policy-making without looking at the separate foreign policies of member states and their compatibility with that of the Union. Moreover, several member-states – like Germany, France, United Kingdom, Italy and some others – play very important individual roles in the current system of international relations. On the other hand, the importance of national foreign policies did not prevent the EU institutions from acquiring an increasingly significant role.

The multi-levelness of the EU external relations has many manifestations, one of which is that the same actor is likely to adopt different strategies in different institutional contexts. For instance, the same national executives might prefer acting differently in the supra-national institution (the European Council) than in bilateral relations. It means that the information we get from public statements of the national leaders is not enough to make reliable prediction of what decision they would make at the EU level. This does not mean that national leaders are always willing to put aside their differences in the EU, even if those are being expressed by them at the national level. We argue that one cannot reliably forecast the outcome of the decision-making process on foreign policy at the EU level by means of catching signals and aggregating statements by individual European actors. This argument is equally applicable to any functioning collective decision-making body, but the practice of European foreign policy has delayed the realization that it applied there as well.

Its multi-levelness in foreign affairs makes the European Union an awkward partner for any external counterpart. Recall the phrase often credited to Kissinger: “Who do I call if I want to speak to Europe?” This awkwardness was only heightened when it came to the relations between the EU and such a controversial political regime as Russia, when the same national executives advocated cooperation and closer ties with Russia, but voting in Brussels for tightening the anti-Russian measures.

The question of practical functionality of multi-level arrangements in the EU has long aroused skeptical assessments with regard to the Union ability to act decisively in foreign affairs and with an eye to enacting unified and effective common foreign policy. Here we argue that recent evidence suggests that these multi-level institutional arrangements may be acquiring greater functionality and robustness and are better suited than previously thought to pursuing

decisive EU foreign policy. In this paper we focus on the EU relations with Russia as an illustration. In particular, we demonstrate how the multi-levelness has evolved since establishing the relations between the EU and Russia in early 90s.

The rest of the chapter is divided into five sections. Section 1 reviews multi-level governance in EU foreign affairs as an institutional form. Section 2 analyzes the EU-Russia relation in 90s from the multi-level perspective. Section 3 observes the effects of the 2004 EU enlargement. Section 4 presents multi-level EU policy towards Russia during the current political crises with Ukraine. Section 5 concludes.

1. Multi-level governance in EU foreign affairs as an institutional form

Many old decision-making mechanisms became more complicated in the era of globalization and now involve more participants. They now involve various government structures and non-governmental organizations. The results of the activities of state and non-governmental actors are now also felt directly beyond the national borders (e.g., international organizations, transnational corporations, global rating agencies, transnational NGOs, and etc.). Furthermore, subnational (regional) level authorities now enter into direct contact with supranational and even global institutions.

Already in the beginning of 90s Marks noted that in the EU we observe “a system of continuous negotiations among nested governments at several territorial tiers”.⁶ However this was eight years later when the work of Hooghe and Marks that initiated the process of

⁶ Gary Marks, “Structural Policy and Multilevel Governance in the EC”, *The State of the European Community*, 2 (1993): 392

recognition of multilevel governance approach as promising analytical perspective.⁷ This recognition could be explained (at least in part) by the apparent constraints of the explanatory power of normative theories and, what is even more important, by the results of empirical research on European integration that revealed not a drift of sovereignty from the national to the European level, but complex political processes of dividing and sharing competences. Multilevel governance is not looking at the interplay between national governments and the European Union, as Benz and Zimmer argue, “attention is focused on multiple actors including regional governments, national governments and parliaments, the European Commission and the European Parliament, as well as on their patterns of interaction, which are described as networks and negotiations”.⁸

A multi-level system of governance is therefore an adaptation of decision-making to the circumstances of territories under multiple jurisdictions. It can be said that this practice allows to reflect the local preferences in decision-making. The Westphalian approach to the issue of sovereignty in international relations has been left behind. The Westphalian approach is not any longer a suitable model for explaining what is happening in the European system of governance with its multiple shared sovereignties, namely, the multi-level governance.

The use of multilevel governance approach gave birth to myriads of practically-oriented research that embrace various geographies, policies, dimensions.⁹ A good example of the

⁷ See, Liesbet Hooghe, and Gary Marks, “Types of Multi-Level Governance. European Integration” *European Integration online Papers (EIoP)* 5 (11) (2001). Available at SSRN: <http://ssrn.com/abstract=302786> or <http://dx.doi.org/10.2139/ssrn.302786>

⁸ Arthur Benz and Christina Zimmer, “The EU Competences: The “Vertical” Perspective on the Multilevel System, *Living Review European Government*, 5 (2010): 17

⁹ See, for instance, Ian Bache, “Europeanization and multi-level governance: Empirical findings and conceptual challenges”, *ARENA Working Paper*, 16 (2008); Nupur Chowdhury and Ramses Wessel, “Conceptualizing Multilevel Regulation in the EU: A Legal Translation of Multilevel

emerging system of multi-level governance is the Northern Dimension initiative, in which subnational regions and states (both members and non-members of the European Union, the European Commission and the business community) are involved as equals. The implementation of that initiative demonstrated impressive practical results (notably in environmental protection and healthcare) that can be achieved through a non-hierarchical networking approach.¹⁰

As Scharpf notes, “the European polity is a complex multi-level institutional configuration which cannot be adequately represented by theoretical models that are generally used in international relations or comparative politics”. He suggests that these difficulties could be overcome by using a plurality of simpler concepts representing different modes of multi-level interaction that are characteristic of subsets of European policy processes.¹¹ In the EU “multilevelness” acquires various concrete manifestations, in particular in the sphere of the Union’s external relations. For instance, some actors would concentrate more on working in supra-national institutions (Commission, European Court and European Parliament), while others would be more interested in developing bilateral ties, while the third prefer to specialize on specific issues – e.g., security, environmental issues, energy supplies or democratic development.

In the context of this essay, however, the most significant manifestation of multi-level relations of the EU with external partners is the fact that the same actor is likely to adopt

Governance? *European Law Journal*, 18 (3) (2012): 335-357; Marine de Lassalle, “Multilevel governance in practice: Actors and institutional competition shaping EU regional policy in France”, *French Politics* 8 (2010): 226-247

¹⁰ Irina Busygina, and Mikhail Filippov, “End Comment: EU-Russian Relations and the Limits of the Northern Dimension”, in *The New Northern Dimension of the European Neighborhood*, edited by Pami Aalto, Helge Blakkisrud and Hanna Smith. (Brussels: Center for European Policy Studies, 2008), 204-220

¹¹ Fritz Scharpf, “Notes toward a theory of multilevel governing in Europe”, *Scandinavian Political Studies*, 24(1) (2001): 2

different strategies within different institutional playing fields. These levels of interactions are defined as autonomous, but of course they are strategically interconnected. This means that the key actors take into account consequences of interactions at all levels but assign different importance (weights) to the outcomes of different “games.” In light of such strategic linkages, the choice to cooperate or not at one level could explain decisions – similar *or* contrary – made at other levels. Depending on the cooperative opportunities at various levels, hierarchical or horizontal power relations on each of the sides, and the perceived relative importance of attainable outcomes at each level, such linkages across games could result in strategies that for outside observers may seem counter-intuitive.¹²

The strategic calculus of multi-level interactions is of the utmost importance for the executives of the EU member-states, whose institutional status is arguably increasing as a result of the European integration. As Moravcsik points out, “the EU does not diffuse the domestic influence of the executive; it centralizes it. Rather than “domesticating” the international system, the EU “internationalizes” domestic politics. The EU severely restricts formal participation in decision-making by most domestic actors other than the executives”.¹³ This is because “international regimes and institutions reallocate political resources. This reallocation generally favors those who participate directly in international negotiations and institutions most often –

¹² See, Irina Busygina, and Mikhail Filippov, “End Comment: EU-Russian Relations and the Limits of the Northern Dimension”, in *The New Northern Dimension of the European Neighborhood*, edited by Pami Aalto, Helge Blakkisrud and Hanna Smith. (Brussels: Center for European Policy Studies, 2008), 204-220

¹³ Andrew Moravcsik, *Why the European Union Strengthens the State: Domestic Politics and International Cooperation*, (Paper presented at the Annual Meeting of the American Political Science Association, New York(Moravcsik, 1994): 4-5

national executives”.¹⁴ As a result, “EU foreign politics are foremost characterized by a noteworthy executive dominance at all stages of the decision-making process.”¹⁵

These are pertinent facts for a foreign counterpart of the scale and complexity such as Russia. Representatives of the EU interact with Russia at multiple institutional levels and routinely balance several objectives. While some actors in Europe would focus more on the relations between EU and Russia as a whole, other actors would be more interested in good bilateral relations. In general, the key actors would define their strategies by, first, taking into account what happens at all levels of interactions with Russia and second, by assigning different priorities to the interactions at different levels and to different issues. It means that the main European institutions (the Council, the Commission, the Parliament) and individual member-states, as well as sub-national governments of the member-states would likely pursue different and probably contradicting strategies vis-à-vis Russia at any point in time and as a matter of course.¹⁶

Moreover, national executives of the member-states dealing with Russia would adapt their behavior in different institutional contexts, making it a bad set of signals to try to read. For instance, the same French president or Greek Prime-Minister are expected to act differently in the European Council than bilaterally. Thus, the conclusion is that the lack of coherence of the EU foreign policy is a natural reflection of its multilevel governance structure.¹⁷

Using the examples of multilateral negotiations on international food standards, climate change and public health policies, Van Shaik challenges the popular assumption that more unity

¹⁴ Moravcsik, *Why the European Union Strengthens the State: Domestic Politics and International Cooperation*, 2

¹⁵Stephan Stetter, “Cross-pillar politics: functional unity and institutional fragmentation of EU foreign policies”, *Journal of European Public Policy* 11 (4) (2004): 722

¹⁶ See, Busygina and Filippov, End Comment, 212

¹⁷ See, Busygina and Filippov, End Comment, 217

will automatically lead to increased negotiating power.¹⁸ Probably this is equally true for EU relations with Russia, since developing the EU foreign policy demands building voluntary commitment without any form of enforcement. Such a voluntariness is possible solely when national executives preserve certain “room for maneuver” at bilateral level. This is not a sign of failure, but a mechanism of reaching broader consensus in the EU foreign policy.

2. The EU-Russia relation in 1990s from the multi-level perspective.

Russia is a persistent high-salience foreign affairs issue for the EU. A number of scholars have already stressed the importance of the *multi-level nature of the EU-Russia relations*, focusing on the interactions between the all-Union institutions and the Russian government, on the Russian bilateral relations with member-states and on the cross-border cooperation at sub-national level.¹⁹

For the Russian leadership, multi-levelness in the design of its strategic counterpart creates a strong temptation to seek “arbitrage opportunities.” That is, to pursue the course of marginalizing “the EU factor” and developing bilateral relations, exerting the maximum pressure possible on the EU members that are mostly dependent upon Russia. Again, this temptation

¹⁸ See, Louise Van Shaik, “*EU Effectiveness and Unity in Multilateral Negotiations: More than the Sum of Its Parts?*” (UK: Palgrave Macmillan, 2013)

¹⁹ See, Michael Smith, “Toward a theory of EU foreign policy making: multi-level governance, domestic politics, and national adaptation to Europe's common foreign and security policy”, *Journal of European Public Policy* 11 (4) (2004):740-758; Irina Busygina, and Mikhail Filippov, “End Comment: EU-Russian Relations and the Limits of the Northern Dimension”, in *The New Northern Dimension of the European Neighborhood*, edited by Pami Aalto, Helge Blakkisrud and Hanna Smith. (Brussels: Center for European Policy Studies, 2008), 204-220; Gjovalin Macaj, and Kalypso Nicolaïdis, “Beyond ‘one voice’? Global Europe's engagement with its own diversity”, *Journal of European Public Policy*, 21(7) (2014), 1067-1083; Dmitri Nechiporuk, “Redesigning maritime space: EU multi-level governance and environmental issues of the Baltic Sea”, *Robert Schuman Centre for Advanced Studies Research Paper* 23 (2014)

increases progressively during crises periods, when it is seemingly so easy to separate bilateral from the EU as a whole – but contrary to hopes and expectations this Russian strategy has mostly failed.

The 1990s: Communal hopes and private tensions

Soviet Union and then Russia were always perceived as a common security concern for the EEC and later the EU (Busygina 2012). In 1970, when the six foreign ministers of the European Community met for the first time in the framework of the EPC, there were two important issues on the agenda: the situation in the Middle East and the question of how to respond to the Soviet proposal for European Security Conference. The EEC foreign ministers began then their negotiations with USSR on the European security pact.²⁰

The 1989 agreement between the Soviet Union and the ECC was breaching the differences in the socio-economic systems in the USSR and Western Europe and to some extent reflected the (justified) distrust on the part of the EEC of the ongoing changes in the USSR. In any case, the Soviet Union was dissolved two years later, and the EEC itself experienced a serious transformation, creating the need for a different legal framework for relations between the two entities.

Later, after the collapse of the Soviet Union, managing relations with Russia became particularly important to several EU member-states because of their reliance on Russian natural gas. Besides, Russia required attention because of its significance for the stability on the

²⁰ Wallace, William, “Does the EU Have an Ostpolitik?” In *Ambivalent Neighbors: the EU, NATO and the Price of Membership*, edited by Anatol Lieven and Dmitri Trenin (Carnegie Endowment for International Peace, 2003): 44

European continent: economically weak, turbulent, and corrupt, Russia could threaten security in Europe.

During the 90s, national executives and EU commissioners have travelled to Moscow more frequently than to any other capital outside the EU; relations with Russia developed into the most active EU external dimension. All in all, as Joan DeBardeleben argues, “a relatively high degree of unanimity about Russia prevailed amongst EU member states in the early to mid-1990s, a period of post-communist honeymoon when the newly democratising neighbours posed relatively few problems”.²¹

EU member-states were and are unevenly attuned to the goings-on in Russia. This was less apparent in the 70s and the 80s, when western European relations with the Soviet Union were conducted primarily through bilateral channels, but this difference became clear in the 90s (and grew much stronger with the 2004 enlargement). The German government was among the most involved. It put forward the strongest initiatives for conducting close relations with the Soviet leadership post-Cold War. In the 90s, the bilateral German-Russian relations were probably the most important element of West-East relations within Europe, and Germany had the most active engagement with Russia among the EU member-states. The United Kingdom and France saw active diplomacy towards Russia as symbolic for their status of serious European powers and both had a significant cadre of experts on Russia.²² With the 1995 enlargement, furthermore, the EU was joined with member-states for which the common policy towards Russia was one of the highest priorities in foreign policy. Finland and Sweden have joined the EU and elaborated the concept of “Northern Dimension” (1997) that developed into an important pattern of relations not

²¹ Joan DeBardeleben, “The End of the Cold War, EU Enlargement and the EU-Russian Relationship”, in *The Crisis of EU Enlargement, LSE Ideas Special Report* (London: London School of Economics, 2013): 45

²² Wallace, “Does the EU Have an Ostpolitik?”, 55

only with Moscow, but also with the regional authorities in the Russian North-West. The rest of the EU members, however, displayed much weaker interest in developing relations with Russia.²³

Partnership and Cooperation Agreement (PCA) between Russia and the EU was signed on June 24, 1994 and defined the basic framework of the Union's relations with Russia. The Agreement did not come into force until three years later, on December 1, 1997. The European side delayed its ratification due to the fact that the intervening period saw the fourth wave of European Union enlargement (Austria, Sweden and Finland joined the Union), and the agreement with Russia had to be signed and ratified by new member states. The PCA played a very important role in the development of ties between the European Union and the Russian Federation because it sealed the transition from strictly bilateral relations between Russia and the various European Union member countries to relations with the European Union as a whole, provided the political and legal basis for them, and established institutions for political dialogue. Article 106 of the Agreement stated that it was to be extended automatically every year. At the same time, the PCA was also influenced by CFSP principles; it constitutes what can be described as *mixed external action of the EU with a cross-pillar dimension*.²⁴ This "cross-pillarization" of the PCA has contributed in particular in solving the problem of policy coordination across the EU pillars.²⁵ The Agreement was not only aimed at promoting economic cooperation between

²³ Irina Busygina, and Mikhail Filippov. "Resource Curse" and Foreign Policy: Explaining Russia's Approach Towards the EU", in *Russian Energy in a Changing World*, edited by Jakub Godzimirski (UK: Ashgate, 2013): 108

²⁴ Christophe Hillion, "Institutional Aspects of the Partnership between the European Union and the Newly Independent States of the Former Soviet Union: Case Studies of Russia and Ukraine", *Common Market Law Review* 37 (2000): 1219

²⁵ See, Alasdair Blair, "Getting to Grips with European Union Foreign Policy", *Diplomacy & Statecraft* 14 (2003):183-197; Stephan Stetter, "Cross-pillar politics: functional unity and

the EU and Russia but also at developing of political dialogue within multilevel institutional framework.

By the mid-1990s, the European Union proposed enlarging the tools of common foreign policy. The Treaty of Amsterdam (1997) for the first time introduced a new instrument in the Common Foreign and Security Policy of the European Union called Common Strategies. In light of that, PCA was no longer a sufficient instrument. The first Common Strategy (CS) with regard to Russia was developed and adopted by the European Union in 1999. The draft of the Strategy was elaborated under German presidency by the group of the most concerned member states – France, United Kingdom and Finland - and approved by others practically without discussion. The list of the main priorities for CS included fostering democracy and rule of law in Russia, preserving stability on the European continent, working to improve the investment climate and nuclear safety, and fighting organized crime.

The second Chechen war revealed significant differences in attitudes between the EU as a whole and among its member-states. The European Council declared the violation of human rights in Chechnya as “totally unacceptable” and decided on a set of measures, as a result of those credits for food and trade preferences were blocked, and TACIS aid was substantially reduced. Besides that, the EU came forward with resolution condemning actions of Moscow in Chechnya at the UN Commission for human rights. Six months later the EU restored its cooperation with Russia²⁶. The EU measures had practically no impact on the behaviour of Russian political elites, nevertheless the attempt (already the second one) was made and the

institutional fragmentation of EU foreign policies”, *Journal of European Public Policy* 11 (4) (2004):720-739.

²⁶ Clara Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (UK: Routledge, 2010): 114

signal was sent to Moscow. At the same time, national executives of the member states (especially of the larger ones) chose a more practical approach to shaping the relations with Moscow. Tony Blair and then Gerhard Schroeder visited Moscow to meet with yet to be elected Vladimir Putin in order to establish good relations with the future Russian president. As Haukkala argues, “the member states used the CFSP and the Common Strategy on Russia as avenues through which they expressed collective disapproval of the Russian actions while using them simultaneously as shields under which they were able to carry on more or less business as usual in their bilateral dealings with Moscow”.²⁷

Thus in the 90s, the basic consensus between the EU institutions and the member-states as well as among the member-states was established only around the thesis of overall importance of Russia to the European Union, but not about real policy priorities towards Russia. The very combination of challenges posed by Russia at the time (a powerless giant that needed assistance to prevent the return of communism) with the attraction of its new market for European businesses, plus the need for energy supply from Russia – all led the national executives to negotiate their separate foreign policy interests with Russia, while the Union’s yet weak institutions for consensus-building were not truly triggered by the Russian case. The EU was inclined to consider the two Chechen crises if not an internal affair of Russia, then at least some unpleasant incidents not worth undermining the progress already made by Russia and in relations with the Russian government.

3. Effects of the 2004 EU enlargement

²⁷ Hiski Haukkala, 2010. *The EU-Russia Strategic Partnership: The Limits of Post-Sovereignty in International Relations* (UK: Routledge, 2010): 119

The beginning of 2000s witnessed the events that looked like a new breakthrough in the EU-Russia relations: both sides agreed on Strategic Partnership and Four Common Spaces, new format of mutual relations. Under new, much more favorable, economic conditions and Putin presidency Russia stopped positioning herself as western-oriented country any more, President Putin wanted the country's relations with the EU built on the basis of pure economic interests (interests instead of values). Unlike other countries on the EU borders, that were queuing to get closer to the Union, Russia did not sign up to the "European model".

In connection with the preparation of a large-scale expansion of the European Union (2004), the EU Commission issued a report entitled Wider Europe — Neighborhood: A New Framework for Relations with our Eastern and Southern Neighbors. This document set forth the European Commission's position on future relations with Russia, the "Western Newly Independent States" (Belarus, Ukraine and Moldova) and the southern Mediterranean countries, all of which were defined as states with no immediate prospects of joining the European Union. The European Commission's proposals became the official policy of the European Union towards the neighbor states. This initiative has been most passionately lobbied by Swedish, Danish and Polish governments. Moscow was fiercely critical of the Wider Europe concept, which put Russia on the same footing as the European Union's other neighbors; the European Union, for its part, was disappointed with Russia's departure from the course based on "common values" as declared in the Strategic Partners Agreement.

The 2004 enlargement brought major changes to the EU relations to Russia. The EU has included East-Central European countries as well as three former Baltic republics of the Soviet

Union. All these countries distrusted Russia and feared its imperialist ambitions.²⁸ The track of Russia's political development under Putin only validated their quickly resurgent suspicions.

The 2004 enlargement also drastically increased the gap in attitudes among the EU member-states towards Russia. As Braghiroli and Carta (2009) show, the least friendly member-states towards Russia come from Central East Europe: Poland, Slovakia, Czech Republic, Latvia, Estonia and Lithuania. These were new members of the EU who insisted that the issue of EU Eastern policy required special attention and that the EU should develop special relations with the Eastern European countries beyond the EU borders. The UK was the more hostile among the biggest member-states; among the most supportive were Italy, Greece and Austria.²⁹

Generally speaking, there were two key areas of divergence between the Member States with regards to their Eastern European neighbors. The first was about the final purpose of the EU activities: should they finally lead to full membership of the Union for the eastern neighbors, such as Ukraine, or the idea was to keep them close to the Union as much as possible – both politically and economically – but though without full membership. The second area of divergence was policy towards Russia since policy towards the other eastern neighbors is viewed in many Member States through the lens of relations with Russia (Member State Policy, 2008). As Shymilo-Tapiola argued, “the EU debate on Ukraine is rarely about Ukraine itself or the EU's interests there. Instead, it is primarily about EU enlargement or Russia”.³⁰

²⁸ Alexander Motyl, “Ukraine, Europe, and Russia: Exclusion or Dependence? In *Ambivalent Neighbors: the EU, NATO and the Price of Membership*, edited by Anatol Lieven and Dmitri Trenin, Carnegie Endowment for International Peace, (2003): 24-25

²⁹ See, Caterina Carta, and Stefano Braghiroli, “Measuring Russia's Snag on the Fabric of the EU's International Society”, *Journal of Contemporary European Research* 7 (2) (2011): 260-290.

³⁰ Olga Shymilo-Tapiola, *Why Does Ukraine Matter for the EU?* (2013) (<http://carnegieeurope.eu/2013/04/16/why-does-ukraine-matter-to-eu/fzq3>)

Prior to enlargement of 2004, Germany was a “traditional” leader in the formulation of EU strategy towards Eastern Europe, in particular with the view that Russia’s position within the region is too important to neglect.³¹ However, gradually Germany’s *Ostpolitik* was shifting away from over-concentration on Russia towards the rest of the eastern neighborhood, and also towards closer co-operation with the new Member States of the EU on this issue.³²

In May 2008, Poland and Sweden put forth and the EU soon adopted as its external initiative the proposal to form the Eastern Partnership (EP), they were addressing Ukraine and five other post-Soviet countries and excluded Russia. Russia, through the foreign minister Sergei Lavrov, expressed hope that this was not an attempt to create a new sphere of influence.³³ Moscow was seriously upset with the prospect. While some invited states were initially lukewarm on the initiative and while as a general pattern the announcement of the initiative did not generate a broad discussion in any of the invited states at that early stage, Russia’s attention was captured. Russian leadership began increasingly stressing for the domestic audience the issue of the EU aiming to isolate Russia from her post-Soviet neighbors. Besides that, it was

³¹Iris Kempe, “From a European Neighborhood Policy toward a New Ostpolitik – The Potential Impact of German Policy”, *CAP Policy Analysis* 3 (2006): 8

³² *Member State Policy Preferences on the Integration of Ukraine and the Other Eastern Neighbors*, SIPU report for the Swedish International Development Agency (SIDA) 5 (2008): 4-5

³³ Kateryna Malyhina, 2009. “EU Membership ambitions: What alternative approaches exist and how is the European foreign policy perceived in Ukraine?” in *The EU member states and the Eastern Neighborhood – From composite to consistent EU foreign policy?* Edited by Sebastian Schäffer and Dominik Tolksdorf, *CAP Policy Analysis* 1 (2009): 26

commonly believed in Russia that in 90s the West has exploited Russia's weakness to its own favor.³⁴

When the PCA between EU and Russia has expired in 2007, both Brussels and Moscow have expressed the intention of negotiating a new deal, however Poland has vetoed negotiations due to the Russian ban on Polish meat imports. In fact, the Polish government has shown that joining the EU did not mean necessarily following the course of the "European core" members. Rather the opposite: by joining the Union Poland has got a channel of defending and even strengthening its national attitudes. Polish leadership spoke about "unique mission" for Poland in the EU being the "guardian of the memory of totalitarian crime in Europe."³⁵ In subsequent years the negotiations on the New Basic Agreement between the EU and Russia were developing slowly, without any significant results, as there were few benefits for politicians on both sides for compromising on issues. On the contrary, both in Russia and the EU, politicians relied on the continuing external tensions as a mechanism for generating internal consensus while implementing the respective transformations of their political systems.³⁶ This situation of gradual deterioration of Brussels-Moscow relations created a void, in which the member-states were left to develop their relations with Russia almost fully in accordance with their national priorities, be it dependence (or independence) of national economies on Russia's gas, capital, or exports.

³⁴ Tatiana Romanova, "Normative Power Europe: Russian View", in *Normative Power Europe in a Changing World: A Discussion*, edited by Andre Gerrits (The Hague: Netherlands Institute of International Relations, 2009): 54

³⁵ Geoffrey Edwards, "The New Member States and the Making of EU Foreign Policy", *European Foreign Affairs Review* 11 (2) (2006): 144

³⁶ Irina Busygina, and Mikhail Filippov, "End Comment: EU-Russian Relations and the Limits of the Northern Dimension", in *The New Northern Dimension of the European Neighborhood*, edited by Pami Aalto, Helge Blakkisrud and Hanna Smith. (Brussels: Center for European Policy Studies, 2008): 216

This situation was quite favourable for Russian leadership. It allowed Moscow to separate its foreign policy from its domestic representation, as nothing high-profile was overtaking the world media³⁷, and, in foreign affairs, to “marginalize” the EU concentrating on bilateral relations. This explains why, despite the growing political differences between the EU and Russia in the 2000s, most observers expressed confidence in the prevalence of the cooperative status-quo. The cooperation between the EU and Russia seemed to be ensured by the logic of mutual economic interdependence between Russia and its bilateral partners.

4. Ukraine-related politics after the crisis as evidence of multi-level governance in foreign affairs

Through the 2000s, relations between Russia and the European Union have been paradoxical: while their interdependence in trade has been growing steadily, cooperation in the political sphere, far from developing, has actually been curtailed. As the political relations between the EU and Russia were gradually cooling off, the expectation among the observers was of a reluctantly maintained status-quo, which seemed to have been ensured by the shared rationale of maintained economic interdependence that would keep the growing political differences muted. The international calamity with regard to Ukraine has abruptly changed the situation and, insofar as the European actors are concerned, allowed us to witness the process of realigning to a new and a completely distinctive equilibrium via the mechanisms of multi-level governance.

³⁷ See, Irina Busygina, and Mikhail Filippov. “Resource Curse” and Foreign Policy: Explaining Russia’s Approach Towards the EU”, in *Russian Energy in a Changing World*, edited by Jakub Godzimirski (UK: Ashgate, 2013): 91-111

It is not our task to focus on what caused the escalation of the situation in Ukraine. Let us merely note that the internal conditions for the crisis had been building up for a long time due to growing financial problems, economic mismanagement and corruption. The latent crisis erupted into the open after President Viktor Yanukovich refused to sign an Association Agreement with the European Union. This provoked a wave of protests called Euromaidan (protests on Kiev's main square, Maidan Nezalezhnosti), whose duration and persistence the Ukrainian President misjudged and as a result effectively lost his grip on the country. Immediately after, Russia moved to annex a part of Ukraine (Crimea) and supported various groups of armed separatists in the East of Ukraine.

After the annexation of Crimea, the EU actors were confronted with the decision-making context that required generating a completely new response, with no prior expectation of events developing along such a course. While given the European practice, sanctions against Russia would have been an expected instrument of influence, the Russian side remained quite confident that the multi-level nature of foreign policy actions in the EU will make such a move either impossible or far delayed considering the strong economic counter-pressures at various relevant junctures. Subsequent events however serve as evidence that multi-level governance mechanisms are becoming more robust and successful in delivering equilibrium response.

Europe used sanctions as an instrument of political influence since the Rome Treaty of 1957, and since the 80s, they were imposed by the EU quite frequently with the general idea is of coercing third countries to policy changes.³⁸ “In more specific terms, restrictive measures have been adopted to support democracy and human rights, to preserve peace, to prevent conflicts, to strengthen international security, and to promote an international system based on stronger

³⁸ Clara Portela, *European Union Sanctions and Foreign Policy: When and Why Do They Work?* (UK: Routledge, 2010): xiv

multilateral cooperation and good global governance”.³⁹ The EU gradually came to the idea of targeted sanctions (or “smart” sanctions) like travel bans, commodity boycotts, financial sanctions “aimed at non-state actors (i.e. individuals, groups or companies for the most part) and/or . . . only specific economic sectors or specific products. The objective is to design the restrictive measures in order to maximize their impact on the actors responsible for violations, and to minimize the unintended consequences on innocent civilians”.⁴⁰

Circumstantial as an explanation behind the Russian strategy, but this is noteworthy, that extreme difficulties – and finally failure - in reaching the agreement on sanctions against Russia among 28 EU members were predicted by both Western and Russian media. Russia Today referring to “confidential sources” argued in June 2014 that “preliminary consultations show that today almost no leaders of EU states find it necessary to impose trade and economic sanctions on Russia”⁴¹ and a month later that “France, Germany, Luxembourg, Austria, Bulgaria, Greece, Cyprus, Slovenia, and EU President Italy see no reason in the current environment for the introduction of sectorial trade and economic sanctions against Russia and at the summit, will block the measure”.⁴²

The European observers stressed the difficulties in reaching the agreement “because they require unanimity from the 28 member-states. There were wide differences over the numbers of

³⁹ Francesco Giumelli, “Beyond Intergovernmentalism: The Europeanization of Restrictive Measures?” *Journal of Contemporary European Research* 9 (3) (2013): 396

⁴⁰ Giumelli, “Beyond Intergovernmentalism”, 395

⁴¹ <http://rt.com/business/168864-no-sanctions-against-russia/>

⁴² <http://rt.com/business/172888-9-eu-block-sanctions-russia/>

Russians and Crimeans to be punished, with countries such as Greece, Cyprus, Bulgaria and Spain reluctant to penalize Moscow for fear of closing down channels of dialogue⁴³.

However, predictions proved false, although of course there were considerable difficulties due to divergence of the member-states positions. Some national economies felt the impact of economic sanctions and announced by Russia embargo on wide range of food export the more than others. Thus, EU member states such as Bulgaria, Hungary, Slovakia and Italy rely heavily on Russia's gas deliveries and energy. Finland suffers much from Russian ban on exports of dairy products. These countries have only reluctantly gone along with the sanctions, which is not surprising. In this context position of Germany that buys around 30% of its gas and oil from Russia, looks even more remarkable. Just a few years ago in the EU Germany was among the friendly member-states towards Russia, after the crises its position has changed drastically – in March 2014 the German chancellor, Angela Merkel has mentioned that she was not sure if Mr. Putin was in touch with reality. She later continued to consistently condemn Putin, “warning that the Kremlin was seeking to spread its sphere of influence not only in the former Soviet states of Georgia and Moldova, but also to Serbia and Bosnia”.⁴⁴

Thus, with regards to sanctions regime the Union managed to coordinate the member-states positions, in January 2015 after the meeting of the EU Foreign Affairs Council the EU High Representative and Vice-President Federica Mogherini commented that the sanctions regime was "not changing and is most probably not going to change". “The Union dispels any

⁴³ <http://www.theguardian.com/world/2014/mar/17/eu-imposes-sanctions-21-russian-ukrainian-officials-crimea>

⁴⁴ <http://www.theguardian.com/world/2014/nov/17/european-leaders-fear-growth-russian-influence-angela-merkel-vladimir-putin>

suggestion that its united front against Russia was faltering or that members were considering lifting sanctions on Moscow in the near future”.⁴⁵

As this was definitely expressed by Giumelli, “Brussels has become the only place wherein sanctions can be imposed”.⁴⁶ However, the support of the sanctions regime by some national leaderships does prevent them from making declarations in favor of Russia when in case when internal political situation demand them to do so. This does not relate only to the countries of Central and Southern Europe like Hungary, Slovakia, Greece and Bulgaria which relatively weak and small economies indeed bear substantial losses due to the EU sanctions and Russia’s responses. The example of Italy is a better example.

In the 2000s personal friendship between Berlusconi and Putin “has provided an informal, favorable context” for bilateral economic relations.⁴⁷ Italy was quite active in Russia’s energy market and too close cooperation between two countries was met with mixed feelings in Brussels as leading “Italy to compromise on political and economic issues”.⁴⁸ Indeed, Italy responded relatively passively to Russia’s aggression towards Georgia in the summer 2008.⁴⁹ In the Kremlin, Italy until very recently was considered to be the most reliable European partner.⁵⁰ In the midst of the political crisis in October 2014, Putin chose to visit Milan to attempt rapprochement (though unsuccessfully) with the EU.

⁴⁵ <http://www.wsj.com/articles/eu-has-no-plans-for-easing-russia-sanctions-1421653971>

⁴⁶ Giumelli, “Beyond Intergovernmentalism”, 400

⁴⁷ Nadezhda Arbatova, “Italy, Russia’s Voice in Europe?” *Russie.Nei.Visions* 62 (2011): 12

⁴⁸ Arbatova, “Italy, Russia’s Voice in Europe?”, 12

⁴⁹ http://www.ecfr.eu/article/commentary_how_should_europe_respond_to_russia_the_italian_vie353

⁵⁰ Arbatova, “Italy, Russia’s Voice in Europe?”, 15

There are some opponents to EU sanctions regime against Russia and Russian counter-sanctions placed on the EU within Italy itself. Italian right-wing opposition Northern League intends to defend national economy, farmers and exporters. In the European Parliament Northern League's representative describes Russia "as a major economic partner for Italy and Europe, and as a model example of national identity and protection of family". In October 2014, members of Northern League formed the group 'Friends of Putin' in the Italian parliament.⁵¹ However, despite all this, Italian expert Natalie Tocci argues that "Italy is likely to follow Europe's line on punitive measures towards Russia".⁵² In Brussels Italian leadership supported sanctions, during its Special Meeting "the European Council welcomed the intention of the Italian government to approve the adoption of significant economic sanctions against Russia".⁵³

5. Conclusion

Above we argue that the sanctions imposed by the EU on Russia in 2014-2015 revealed strengthening of the EU common foreign and security policy. An important specifics of the EU foreign policy is that it originates and operates via the institutions of multilevel governance. Thus any evaluation of success or failure of the EU foreign policies must take into account the constraints imposed by multilevel governance as a decision-making mechanism.

Perhaps the most significant and persistent manifestation of such constrains in the EU political institutions is the tendency towards consensus decision-making, as exclusion of a minority of any side can be seen as violating that minority's national sovereignty. As a result, as we illustrate above with the case of relations with Russia, the European Union often

⁵¹ <http://www.newsweek.com/putin-meet-italian-opposition-come-january-289178>

⁵²

http://www.ecfr.eu/article/commentary_how_should_europe_respond_to_russia_the_italian_vie_w353

⁵³ <http://www.consilium.europa.eu/en/home/>

demonstrated a limited ability to pursue a consistent course or respond quickly and decisively to obvious infringements.

The Ukrainian crisis witnessed a different institutional outcome. It has established the fact that, when faced with a significant common challenge, all 28 EU member states are capable on agreeing on *costly* joint measures such as sanctions against Russia. Moreover, it shows that the EU members are capable of consenting to bear significantly *different* costs of this joint action, in terms of the partial interruption of their economic relations with Russia. Therefore, the Ukrainian crisis has demonstrated the ability of the EU institutions to obtain and sustain compliance if not necessarily consensus despite the significant differences in the interests of the national states. Third, the EU sanctions against Russia revealed the readiness for the de-facto supremacy of the all-union decision-making institutions over bi-lateral relations. While political leaders of many member states expressed desire to sustain amiable relations with Putin, at the EU level (European Council, Council of Ministers) they supported united actions against Russia. Moreover, according to German Government Commissioner for cooperation with Russia Gernot Erler - “Kremlin has tried to drive a wedge in this unity” but without much success.⁵⁴

Finally, the Ukrainian crisis created a unique opportunity to formally upgrade the role of the institutions of the EU common foreign and security policy to reflect their evolving de-facto prevalence. Theoretically, a reallocation of more decision-making authority from national to the European institutions requires an overwhelmingly important issue of concern for all member-states, and the conflict with Russia over the annexation of Crimea and its support of separatists in the South-West of Ukraine appears to be as such an issue. At the same time, multi-level nature of the EU allows members to preserve a degree of specific national concerns. Member-states with

⁵⁴ <http://www.badische-zeitung.de/ausland-1/tsipras-provoziert-bruessel--99666711.html>

economies more dependent upon economic cooperation with Russia still preserve the institutional means of maintaining a more benevolent tone in their bilateral discourse, while placing the responsibility for the “angry voice” on the European Union as a distinct actor in which they can pose as a minority. The same actors – national executives – continue playing different games in different arenas.