

## Ukraine and Europe

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# Ukraine and Europe: Reshuffling the boundaries of order

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## Abstract

This article applies the concept of the boundary of order to examine the multi-faceted and complex relations between the EU and Ukraine. The focus is on geopolitical, institutional/legal and cultural boundaries in order to conceptualize the EU's reluctant engagement with Ukraine. Yet, notwithstanding the EU's refusal to offer Ukraine membership, it softened the legal boundary to placate Ukraine's demand for inclusion. Furthermore, the cultural boundary has become blurred through references to Europe as a discursive benchmark of 'normality' in Ukraine, and Ukraine's Europeaness as evidenced in its support for so-called European values. Overall, it is argued that different boundaries are subject to conflicting dynamics and that Russia has, inadvertently, contributed to a diminution of the boundaries between the EU and Ukraine.

## Keywords

Association Agreement, boundaries, EU, Europe, geopolitics, Russia, Ukraine

## Introduction

The disintegration of the post-communist bloc renewed the impetus of the European project. As a result, the evolution of the EU after 1989 reflected a normative consensus which provided 'some form of route map for those attempting to find their way in a disorderly and volatile continent' (Smith, 1996: 11). And, despite the crises the EU has endured in more recent years – financial, political and migrant – the bloc continues to be a beacon of prosperity and stability, particularly when compared to the disorder, poor

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governance and even violence that is present in many of its neighbours. The interface between the EU and wider Europe has been characterized by Michael Smith as a 'boundary of order', which has four elements to it: geopolitical, institutional/legal, transactional, and cultural (Smith, 1996). In the case of the EU the geopolitical boundary relates to 'territory and its demarcation from the disorderly and/or threatening world outside' (Smith, 1996: 14). The institutional/legal boundary relates to the EU's engagement with outside countries in terms of the spread of the EU's rules, *acquis communautaire* and/or access of outsiders to EU institutions and decision-making processes. The transactional boundary seeks to capture the way the regulatory regime of the EU affects trade flows whereas the cultural boundary is the means by which the EU delineates itself from the rest of Europe in terms of the EU's own identity as a value-oriented community. The exclusionary ethos of this multi-fold categorization is explicit.

When analysing Ukraine's relations with the EU, the geopolitical, legal and cultural dimensions have extensive utility (whereas the transactional boundary is of interest when explored in relation to the geopolitical and legal boundaries). The concept of a boundary is particularly useful in that it allows research to move beyond the oversimplified geopolitical 'tug-of-war' perspective for exploring Ukraine's relations with Europe juxtaposed against Ukraine-Russian relations.

However, we modify Smith's EU-centric approach in two respects. First, Smith emphasizes the EU's central role in structuring relations with the wider European order, noting that 'the key variable [...] is the ability of the Union to draw, to maintain or to modify a boundary between itself and the European order' (1996: 12). We argue that EU's boundary-drawing process also depends on how outside countries relate to, and interact with, the EU. Therefore, we concur with Bosse and Korosteleva-Polglase that the boundary-setting is a two-way or mutually constitutive process (2009). Indeed, they observed that the EU is itself subjected to the boundaries constructed by neighbouring countries and/or regions, which can impede EU's efforts to re-draw the boundaries (Bosse and Korosteleva-Polglase, 2009: 146). Notwithstanding the EU's self-perception and, indeed, legalized mission to promote its values and rules in its neighbourhood, *de facto* the EU's influence is constrained by the 'value gap' and mismatch between the legal, institutional and cultural orders of the EU and Belarus. We argue that, in marked contrast to Belarus, Ukraine has been a *demandeur* towards the EU, seeking inclusion and thereby compelling the EU to respond.

The second modification factors in third parties. While Russia's role has been pivotal in shaping Ukraine's policy towards the EU since 1991, Moscow's actions since 2014 have accelerated the re-shuffling of the legal and cultural boundaries of order in Europe. An extensive analysis of how Russia interprets and acts on Ukraine's pursuit of integration with the EU is beyond the scope of this article; however, we do factor in the 'ripple effect' of Russia's actions vis-à-vis Ukraine on the aforementioned boundaries between the EU and Ukraine.

The application of Smith's framework reveals a heterogeneous picture. Writing in the 1990s, Smith placed much emphasis on exclusion, especially with regard to the post-Soviet space. Indeed, with regard to the geopolitical boundary the EU has been uninterested in 'expansion' to Ukraine and any kind of contestation with Russia – in fact, it has been unbending in its refusal to offer Ukraine membership. However, with regard to

the legal boundary, we demonstrate the deliberate efforts of the EU to blunt the ‘hardness of the boundaries’, embodied in the ‘fortress Europe’ metaphor. With new modes of governance the EU has endeavoured to dismantle the dichotomy of ‘ins’ and ‘outs’: ‘intensifying webs of interdependence have, since the 1990s, prompted a progressing blurring of the functional boundaries of the European Union’ (Lavenex, 2011: 372). The cultural boundary has been dynamic too: Europe came to serve as a discursive benchmark of ‘normality’ in Ukraine, whereas within the EU the Ukrainian mass protests against authoritarian tendencies (the so-called Orange Revolution and the Revolution of Dignity of 2004 and 2013–14 respectively) ‘established’ Ukraine as a European state. Therefore, Ukraine-EU relations reflect a highly desynchronized process – different boundaries are subject to conflicting dynamics and the role of the ‘third party’, namely Russia, has been pivotal in re-shuffling the boundaries of order between the EU and Ukraine.

## The geopolitical boundary

There is a general consensus that the EU is a novel kind of power, which is said to ‘rely on civilian rather than military means, and to pursue the spread of particular norms, rather than geographical expansion or military superiority’ (Diez, 2005: 613). In that sense the EU is a *post-geopolitical entity*, as it does not seek territorial expansion and eschews projecting power through classic military means. Indeed, the European Community (EC)/EU have been designed to avoid using geopolitics as a lens through which to view relations between European states (Auer, 2015). The fall of the Berlin wall further reinforced this self-identification. As one of the architects of EU’s foreign policy confidently proclaimed: ‘The fall of the wall ended a geopolitical contest between the west and the Soviet bloc’ (Cooper, 1999: 29) because:

The rules of the new European game are far from minimal. The new rules are written in a thousand directives dealing with the noise made by lawn mowers, the qualifications required to be a hairdresser and almost anything else you care to think of. The most important rule is the unwritten one: thou shalt make deals. The system of cooperation, in both Nato and the EU, works only because all of the member states know that compromises have to be reached in the end. This is quite different from the rules of the old Europe which said, rather, that ultimately, if you could not reach agreement, you had to be prepared to fight. (Cooper, 1999: 29)

And yet, geopolitics retains its salience both for those aspiring to join the EU and those challenging the notion of an EU-centred Europe because the very existence of the EU has geopolitical implications. These implications were not anticipated: ‘[t]he initial drawing of the boundary was a function more of superpower confrontation than of the EC’s independent action; the EC in a sense had simply accommodated itself to the boundary’ (Smith, 1996: 14). The emergence of the EC as a ‘bastion of stability’ occurred during the Cold War, effectively producing ‘a geopolitical boundary between the Community/Union and the disorderly and/or threatening world outside’ (Smith, 1996: 14).

The dissolution of the two-bloc Europe and disappearance of the Iron Curtain in 1989–91 created considerable uncertainty for the EU but, ultimately, did not affect its self-defined geopolitical position in the international system. In many respects this geopolitical role was unavoidable. By the 1990s, East-Central European (ECE) countries were desperate to join this bastion of stability, prosperity as well as security to escape from ‘the East’. However, security was more explicitly attained through NATO membership as the EU lacked any effective military capacity. Notwithstanding the development of the Common Security and Defence Policy (CSDP) as part of the EU’s Common Foreign and Security Policy (CFSP), most member states, including those from ECE, proved reluctant to give up sovereignty on foreign and defence matters. While the European project was triggered by the need to overcome conflicts, the hard security dimension has proved elusive (Bechev, 2015: 343). In practice, while the EU has been assigned geopolitical significance, the actual role of the EU in the ‘mosaic’ of European security order remains weak and fuzzy and the EU has limited its role to peace-keeping operations and conflict prevention.

The eastern enlargement of the EU in 2004–7 was proclaimed the ‘most successful foreign policy of the EU’. Yet, ironically, this success exhausted the EU’s willingness to engage in further enlargement. As Romano Prodi, President of the European Commission, put it, ‘we can’t continue to enlarge forever’ (2002). The EU was acutely aware that further expansion would result in institutional paralysis, let alone the high costs of offering membership to large and poor countries, such as Ukraine, with its detrimental impact on the EU’s cohesion and solidarity (see Guicherd, 2002: 12–14). Therefore, in the 1990s, the EU drew a line between East-Central Europe (including the three Baltic states, Estonia, Latvia and Lithuania, which succeeded in being grouped with East-Central European countries, thanks to their small size, historical and cultural factors, and the perseverance of their leaders) and other more eastern and less ‘eligible’ countries, much to Ukraine’s dismay. For over two decades the EU has refused to grant Ukraine a membership perspective, namely to recognize it as a potential future member. However, the Union sought to soften the boundaries between the ‘ins’ and ‘outs’ by exploring ways of lowering the legal and transactional barriers, as will be seen below.

For its part, Ukraine saw the EU as a predominantly geopolitical entity. The desire to constrain and indeed counteract Russia’s influence led Ukrainian leaders to declare a European choice and proclaim EU membership as a foreign policy objective. This was in the face of Moscow’s repeated attempts to reverse the disintegration of the Soviet Union through integration projects such as the Commonwealth of Independent States (CIS). The Ukrainian leaders deigned Russia a ‘strategic economic partner’, yet remained adamant about protecting sovereignty and hence avoiding re-integration with Russia (Dragneva and Wolczuk, 2015b: 8–28). The goal of EU membership has been endorsed by all subsequent Ukrainian leaders, including President Yanukovich.<sup>1</sup>

Kyiv’s fixation with geopolitics distorted Ukraine’s priorities in its relations with the EU. In the early years of independence, the Ukrainian elites cherished the idea that independent Ukraine’s sheer size and geopolitical significance as a counterbalance to Russia guaranteed it an elevated status in the eyes of West. The failure of this perspective to gain any traction in the post-geopolitical EU resulted in a ‘dialogue of the deaf’ and

the growth of ‘Ukraine fatigue’ in Brussels since the early 2000s. Thus, when it comes to Ukraine, the view that the EU has become ‘geopoliticized’ (Sakwa, 2014) does not withstand scrutiny – the fallacy of this argument has been even more evident since the eruption of the ‘Ukrainian crisis’.

### *Russia’s geopolitical contestation*

Geopolitics returned to Europe with a vengeance in 2014 with Ukraine at the heart of the issue. Despite the EU’s refusal to take on the mantle of geopolitical actor, it was treated as such both by Ukraine and Russia: Ukraine’s ever closer moves towards the EU directly challenged Russia’s own ambitions for Ukraine, while Russia saw the EU’s gradual accommodation of Ukraine’s integration agenda as directly contrary to its own geopolitical objectives. Indeed, since the coming to power of Putin in 2000, Russian political elites have once again adopted a Hobbesian framework within which global competition – economic, military and normative – is framed. This understanding of world politics as an arena for the battle of interests and struggle for domination has provided the guiding principles for Russia’s great power aspirations and hegemonic policies in the ‘near abroad’ (see Averre, 2009).

Ukraine’s pursuit of functional ties with the EU through the expansion of the EU’s legal boundaries played havoc with the geopolitical boundary constructed by Russia in the post-Soviet space (the ‘near abroad’). From the Russian perspective, the geopolitical boundary was meant to coincide with legal boundaries, demarcated by, and legalized in, security and economic agreements. The prospect for Ukraine’s economic integration with the EU was therefore perceived as violating these boundaries and, therefore, a violation of Russia’s legitimate geopolitical interests.

This sense of encroachment intensified with the launch of the Eastern Partnership in 2009 (see Haukkala, 2013; Zagorsky, 2011). Russia began to view the EU’s policy as a threat to Russia’s re-integration agenda: ‘the EU is not supposed to seek to undermine the Russian integration policy towards the Soviet successor states’ (Zagorsky, 2011: 49). In order to counteract its growing marginalization as a global actor, Moscow embarked on its own region-building project, by creating a legal, rule-based economic organization, modelled on the EU (Dragneva and Wolczuk, 2015a); for it to be a meaningful international entity, Ukraine’s membership was perceived as indispensable. In this regard, Ukraine was a vastly more important country for Russia than it was for the EU. Indeed, while Ukraine is for Brussels just one of its neighbours, for Russia ‘it is the crucial test case which will either prove or dismiss the credibility of its Great Power ambitions’ (Moshes, 2012).

Russia’s renewed region-building started with the Eurasian Customs Union of Russia, Belarus and Kazakhstan in 2010, moving to the Single Economic Space in 2012 and then the Eurasian Economic Union (EEU) in 2015 (see Dragneva and Wolczuk, 2013). Despite getting Armenia and Kyrgyzstan to join the original triumvirate, Russia has dominated the new organization, delineating ‘its privileged sphere of influence – or interests – in a more clear and institutionalised manner’ (Haukkala, 2013: 165). The EEU

provided Russia with a vehicle to put it on a more equal footing with the EU: relations between the Eurasian bloc and the EU could be used to legitimize the formation of an increasingly bi-polar Europe.

Ukraine refused to participate in the Eurasian bloc (Dragneva and Wolczuk, 2015b). However, as the signing of the Association Agreement loomed, and using a combination of incentives and disincentives which respectively exploited and exacerbate Ukraine's bankruptcy in late 2013 Russia convinced Yanukovych to not sign the Association Agreement. The societal backlash within Ukraine culminated in Yanukovych's escape to Russia, and more ominously for the post-war world order, the annexation of Crimea and violation of Ukraine's borders by Russia (see Allison, 2014).

That a supposedly technocratic event such as a bilateral trade agreement could trigger a chain of events that disrupted the post-Cold War order in Europe speaks volumes about the stakes which were at risk. The EU-Ukraine accord, while essentially a free trade agreement, represented a shifting of boundaries which Russia was simply not prepared to countenance culminating in the gradual but ultimately decisive 'geopoliticization' of the EU in the eyes of the Russian leaders (Allison, 2014) at the time the Kremlin endeavored to engineer Ukraine's inclusion in its own Eurasian project.

In contrast, the EU approached the creation of a free trade area with Ukraine as a technocratic exercise in modern economic relations, namely creating multiple and overlapping free trade areas. With an underdeveloped foreign policy capacity, let alone geopolitical identity, the EU was caught off guard by Russia's geopolitical challenge over a free trade agreement with Ukraine. This is unsurprising. The EU was never designed or expected to engage in such a contestation. In institutional terms, it is not even clear where foreign policy leadership resides in the EU. This lack of leadership was evident during the Russian-Georgia war in 2008 and the Arab Spring, when larger EU member states took the initiative, leaving the EU as a whole marginalized. As a result of this institutional fuzziness, the EU eschews traditional nation-state foreign policies, using bilateral economic agreements with outside countries as its primary foreign policy instrument, deployed by the European Commission. The mutual benefits that this approach confers are supposed to result in the EU having a 'ring of friends' around its borders (Prodi, 2002). However, the limits of this technocratic approach were reached in the Ukraine crisis when the EU failed to foresee Russia's irritation and subsequent reaction. This merely confirmed the view that the EU did not see its policies as aggressive and hence did not expect others to view its policies as malign and threatening (Adebahr, 2014).

Indeed, the EU's response to Russia's actions reflects its self-definition as that of a non-geopolitical, post-historic entity. Firstly, the EU has not and is not considering offering membership to Ukraine. The military backlash from Russia has not changed this and, if anything, has reinforced the opposition to further enlargement. Moreover, apart from enhanced financial and technical assistance there has been no upgrade of relations with Ukraine beyond the Association Agreement. In general, the EU's eastern policy has been scaled down in scope and ambition.

Secondly, Western European and US politicians, including the German Chancellor, Angela Merkel, and the US President, Barak Obama, ruled out *any* possibility of a military solution in Ukraine in early 2014, hoping that this declaration would defuse

Russia's concerns. However, it appears that this pledge only emboldened Russia: 'the Russian government perceived it as a sign of weakness, an open invitation for its own military solution' (Auer, 2015). Germany (backed by France) was instrumental in fostering ceasefire and peace negotiations between Ukraine and Russia, leading to the two Minsk agreements on resolving the tensions in Eastern Donbass. Germany, as the reluctant leader of the EU, has sought to 'prevent a war in Europe at any price, especially if Ukraine pays the price' (Rettman, 2015). The German propensity to dialogue has, through the two Minsk agreements, resulted in Ukraine making concessions in favour of Russian preferences (Meister, 2015).

Thirdly, despite some internal divergences, the EU's member states were unanimous in agreeing that the EU introduce sanctions against Russia in response to the violation of territorial integrity of Ukraine in Crimea and Eastern Donbass. The sanctions indicated that values took precedence over interests in the EU. Inviolability of borders on the European continent and their change by force has been such a fundamental principle that all member states have been 'rhetorically entrapped' by it (Schimmelfennig, 2003) and hence unanimously agreed on the economic sanctions against Russia, including those which have been historically close to Russia, such as Greece and Bulgaria. While the impact of economic sanctions on Russia is difficult to ascertain, especially in light of the decline of energy prices, Russia's main export commodity, it has been an important marker of the EU's principled position.

Some argue that the 'Ukrainian crisis' has been a wake-up call for the EU: 'What Europe needs is a more hard-nosed realist approach, which recognizes that Russia's expansionist ambitions can only be constrained by its own readiness and willingness to deploy power both politically and, if necessary, even militarily' (Auer, 2015). Yet lacking a meaningful foreign policy role, let alone the necessary military power to back up that role, the EU is simply unable to act in this way. In contrast, Moscow's use of military force in Ukraine has provided NATO with a renewed *raison d'être*, ironically leading to a further marginalization of the EU's CSDP within the wider European order (Bechev, 2015: 343). Overall, its response to Russia's actions in Ukraine, the EU's reputation as an anti-geopolitical entity has been reaffirmed (Guzzini, 2012: 62; Mead, 2014).

The implications of EU's reluctance to re-draw the geopolitical boundary with regard to Ukraine are noteworthy. Kyiv has in effect been left on its own to face Russia's attempts to divert Ukraine's westward drift in military and economic terms. Yet Moscow failed to stymie Ukraine's desire to integrate with the EU, while the deployment of force has (so far) backfired. Russia's actions have in fact imbued the EU with a much stronger purchase over Ukraine, something which the EU's own policies could not achieve. In the face of Russian military force, Ukraine is determined to be covered by the 'geopolitical blanket' of the EU, despite EU's own reluctance to offer it.

## The institutional/legal boundary

As the most densely institutionalized international organization in the world, the defining feature of the EU is its clearly delineated institutional and legal boundaries. It has been considered a 'community of law', in terms of internal functioning and external



relations, codified in the Lisbon Treaty's obligation to promote its values and rules via foreign policy (Dragneva and Wolczuk, 2012). The dense and pervasive set of institutions and rules governing the inside of the EU is one of the central boundary markers which differentiates it from the wider European environment. It is the law-based, highly legislated functioning which accounts for much of the EU's attraction to outsiders, especially those with weak domestic institutions and rule of law. Yet, at the same time, as Smith argues, this law-based nature constitutes 'a severe gradient or set of obstacles' to aspirants to the EU (Smith, 1996: 15).

In this sense, the geopolitical and the institutional/legal boundaries of the Union are closely aligned. Indeed, on independence, post-Soviet states came face to face with the rigid legal boundaries, and were kept at arms length through much weaker institutional ties in the bilateral Partnership and Cooperation Agreement (PCA), a generic agreement for the post-Soviet states, which envisaged cooperation across a number of areas with few detailed and binding commitments (Dragneva and Wolczuk, 2014).

Aside from the Baltic states which gained membership in 2004, no former Soviet republic has so insisted on EU membership as Ukraine. To avoid future enlargement, the EU therefore sought to extend its legal boundaries through an alternative framework – the European Neighbourhood Policy (ENP). This was conceived in 2002–3 as a policy for the post-Soviet countries of Eastern Europe, and subsequently extended to the southern neighbours of the EU.

The ENP was a technocratic exercise which provided a 'bureaucratic answer' to the question as to where the geopolitical and cultural boundaries of Europe lie. It deliberately did not differentiate between the European and southern neighbours of Europe: 'To cope with complexity, the EU has developed a highly flexible and intricate framework of governance allowing for various degrees of inclusion and association of "third countries" in its proximity' (Bechev, 2015: 342).

With the ENP, the EU has devised 'alternative forms of integration below the threshold of membership' (Lavenex, 2011: 373). The strategy offers the neighbourhood countries a stake in the EU's internal market, through gradual economic integration, but not membership, conditional on the adoption of EU rules. In this way the EU softened the legal boundary with European non-members and enticed the eastern neighbours into domestic reforms, but without jeopardizing deeper integration between the members.

Despite being the most comprehensive, ambitious and sophisticated foreign policy ever launched by the EU, the ENP is ridden with ambiguities and contradictions (see Kochenov, 2011). While seeking to promote the modernization of the neighbouring countries, it lacks a so-called *finalité*, namely a clear sense of what the end goal of relations with the neighbours actually is. The lack of clear vision for the diverse neighbourhoods has resulted in a fuzzy and diffused policy where uncertainty over the ends are compounded by the proliferation of various instruments, facilities, programmes through which the policy is implemented.

The cautious stance vis-à-vis the neighbours was understandable as few of them had been enthusiastic adopters of EU rules and policy templates hitherto. In terms of rule-based behaviour, Ukraine has hardly been a credible partner for the EU. The above-mentioned misplaced fixation with geopolitics distorted Ukraine's priorities in relations with the EU, to the detriment of political, legal and economic issues. As a

result, little attention was paid to the importance of meeting contractual obligations with the Union, such as fulfilling the obligations of the Partnership and Cooperation Agreement (PCA).

Yet, despite Ukraine's dissatisfaction with the policy, Kyiv used the ENP to develop closer legal ties with the EU. While bemoaning the lack of membership perspective in the ENP, Ukrainian officials insisted on a new contractual framework to guide Ukraine's integration with the EU, as they were keen to capitalize on the mechanisms available to them to promote closer ties with the EU with a view to paving the way to a membership perspective.<sup>2</sup> At first, the EU showed considerable resistance to any new agreement, fearful of opening the 'membership question'. Crucially, however, the launch of the ENP coincided with the Orange Revolution in Ukraine of 2004, mass protests against the fraudulent elections which were intended to put Viktor Yanukovich into power. The Orange Revolution presented the EU with a dilemma: despite the pan-European expression of support for democratization in Ukraine, there were divergences between member states on how to deal with Ukraine. In the end, the EU agreed to offer Ukraine a new contractual framework to replace the outdated PCA in recognition of Ukraine's newly enhanced democratic credentials. There is no evidence to support the view that the EU imposed the Agreement on Ukraine (see, for example, Sakwa, 2014), an echo of the Russian narrative, which asserts that the EU imposed it on Ukraine.

The EU hoped that the Agreement would promote the modernization of the country (Dodini and Fantini, 2006) and improve the quality of democracy, governance and the rule of law. The prospect of such advanced integration – normally reserved for economies at a higher level of development – was a major concession on the part of the EU and a direct though reluctant response to Ukraine's insistence on upgraded relations (see Dragneva and Wolczuk, 2014). From the EU perspective, the Agreement was a political 'gift' to Ukraine because, in terms of trade alone, the EU had little interest in integrating Ukraine; at the time it accounted for only 1.4% of EU exports, thus making it difficult to justify such an agreement on purely economic grounds (Delcour and Wolczuk, 2013).

Yet, despite its reluctance, in response to Ukrainian demands, the European Commission drafted a comprehensive, complex and ambitious agreement which provided for economic integration and enhanced political cooperation. The Association Agreement belongs to an exclusive group of integration-oriented agreements (Van der Loo et al., 2014). There are few agreements that the EU has with third countries which allow for such advanced forms of economic integration into the single market. This inclusion is premised on Ukraine adopting a number of rules pertaining to the single market and other areas of integration. Thus the Agreement contains extensive, detailed and binding provisions on Ukraine to align its laws and policies with those of the EU. The commitment of Ukraine as a non-member state to abide by EU regulations implies first and foremost an extension of the EU's legal boundary to include Ukraine (Lavenex, 2011: 374).

Ukraine seized the opportunity presented by this 'breakthrough'. By the mid-2000s, the leadership of Ukraine had understood the futility of focusing on Ukraine's geopolitical importance and accepted that the political and economic reforms were a precondition for Ukraine's integration with the EU. Reform-minded domestic actors hoped

that the adoption of the EU rules would create a framework for the socio-economic development of the country. Indeed, since the mid-2000s, integration with the EU provided a *sui generis* agenda for socio-economic modernization and democratization for a growing body of actors – politicians, state officials, civil society, the expert community and business – for whom the domestic lack of drive for reforms amongst the elites was only too apparent. Capitalizing on membership aspirations officially proclaimed by the Ukrainian political leaders, state officials in charge of negotiations with the EU promoted extensive convergence with the EU rule book. Interactions with the EU nurtured demand for reforms in Ukraine and empowered a diverse and vocal pro-reform constituency (Langbein and Wolczuk, 2012). It was the chronic failure to embark on and sustain domestic reform which accounts for Ukraine's voluntary subjugation to EU's rule-based order. In itself the Association Agreement with its extensive monitoring and disciplining mechanisms was a sobering acknowledgement that Ukraine may have been an independent state but it was one which was not capable of building state institutions or developing and delivering public policies. Ridden with corruption and burdened with decayed institutions, laws and public policies, Ukraine opened itself up to 'legal colonization' by the EU.

### *EU-Ukraine legal boundaries and Russia*

Since independence, Ukraine had played a cautious but somewhat clumsy balancing act between the two powers to its East and West: all Ukrainian presidents proclaimed a European orientation for Ukraine yet, at the same time, they engaged in a complex balancing game with Russia in order to manage profound economic, energy and political dependencies on Russia. Proclaiming an 'economic strategic partnership' with Russia, they avoided being drawn into Russia-led integration regimes.

Mindful of the impending shift in relations between Ukraine and the EU, in 2011 the Russian leadership invited Ukraine to join the newly formed Eurasian Customs Union between Belarus, Kazakhstan and Russia (ECU). This was an ambitious integration initiative developed in conjunction with Russia's accession to the WTO. The deep and advanced nature of the integration was designed, with the Customs Union to evolve into a Single Economic Space (SES) in 2012 and, eventually, into the Eurasian Economic Union (EEU) by 2015. In contrast to previous Russia-led integration initiatives, the Eurasian project was constructed as a binding legal regime with no selectivity, with delegation of significant powers to supranational institutions (Dragneva and Wolczuk, 2013). With the erection of the Eurasian pole, Putin promoted the idea of a bi-polar European order structured around two blocs: European and Eurasian. Ukraine was a priori reserved a place in the Eurasian project.

As a result of these developments, in 2011 the Ukrainian leadership was faced with the option of joining either of two integration regimes. However, domestic politics in Ukraine, by then under President Yanukovych, who was elected in 2010, meant that the choice was not straightforward. Under his rapacious regime, where political power served to maximize the economic wealth of the ruling elites in Ukraine (Aslund, 2014), he had so plundered the country that it was on the verge of bankruptcy by 2013. In pursuit of a desperately needed financial bail-out from Russia, he suspended the signing of the

Association Agreement just before the Eastern Partnership Summit in Vilnius in November 2013, to the dismay of European leaders and the shock of the Ukrainian population. The resulting social protests on the streets of Kyiv ultimately lead to Yanukovych's ignominious escape from the country, and the eventual election of a new government which signed the Agreement in June 2014.

In response to Ukraine's resolve to embrace the EU's rules, not only did Russia resort to coercion but it also hardened the legal and transactional boundaries with Ukraine. In itself, the creation of the EU-Ukraine free trade area does not preclude Ukraine from economic cooperation with the post-Soviet countries. The Agreement is sophisticated in terms of promoting Ukraine's integration with the EU while accommodating Ukraine's legal commitments in relations with other countries. In particular, the Agreement has been crafted to allow Ukraine's participation in multiple free-trade areas with other countries/organizations – this meant that Ukraine could retain its legal agreements with Russia and the CIS. Russia, however, announced that the FTAs with Russia and with the EU were incompatible and ended the free trade arrangement with Ukraine within the CIS context and introduced a number of impediments to trade. As a result, over 2014–15, Ukraine's trade with Russia decreased more than two-fold. In 2015, the EU consolidated its position as the most important trading partner of Ukraine with 37%. In that respect, transactional boundaries shifted to reflect, respectively, the inclusion of Ukraine in EU legal frameworks and the exclusion from those centred on Russia.

For two decades Ukraine existed in a twilight zone of legal frameworks and had few legal commitments, as a result. This came to an abrupt end in 2015: Ukraine's pursuit of economic integration with the EU, through the adoption of EU rules on a voluntary basis, triggered an exclusion from the post-Soviet arrangements for free trade with Russia, resulting in rapid shifts of legal and transactional boundaries.

## Cultural boundary

The emergence of the post-war geopolitical boundary in Europe was a corollary of the Cold War, during which the European Community came increasingly to stand and define itself in contrast to the communist bloc. Despite its ostensibly economic *raison d'être*, it was the liberal democratic order which characterized the western European community, and which differentiated it from the 'people's democracies' of the Eastern bloc. While there are significant cultural disparities within the EU, key shared European values – liberty, democracy, respect for human rights and fundamental freedoms, rule of law – have been defined as what turns the participating states into a community. In Manners' view:

because of its particular historical evolution, its hybrid polity, and its constitutional configuration, the EU has a normatively different basis for its relations with the world. . . . [N]ot only is the EU constructed on a normative basis, but importantly . . . this predisposes it to act in a normative way in world politics. (2002: 252)

A corollary of such a construction of the EU is that, *vis-à-vis* the outside world, there is an assumption of difference between those inside and those outside, and this cultural difference has a political and economic resonance and implications (Smith,

1996). As was argued above, the sophisticated institutional mechanisms of the EU are the most obvious ways in which the EU structures the linkages between insiders and outsiders (Lavenex, 2011). This cultural boundary is expressed in the development of a complex hierarchy of agreements between the EU and outsiders within the European order. By far the most advanced forms of inclusions are offered to highly developed European countries, such as Norway, Lichtenstein and Switzerland. The agreements between the EU and these countries appear instrumental and technical, but they reflect the underpinning cultural homogeneity. In contrast, it was the assumed cultural heterogeneity that framed relations with the post-Soviet countries following the collapse of the USSR. By refusing to offer enlargement to the former USSR the EU had *de facto* stated that the former Soviet republics, with the exception of the Baltic states, were somehow lacking in 'Europeanness'. Ukraine fell into this camp, despite its claims to Europeanness premised on geography and history. These cultural assumptions were directly reflected in and reinforced by the geopolitical and institutional/legal boundaries. As Smith noted 'when all four of these dimensions come together, as they have in dealing with some of the ex-Soviet states, there can be a powerful representation of the EU as a force for division and discrimination' (Smith, 1996: 17–18; see also Webber, 2007).

As a result, Ukraine found itself marginalized in 'the Europe beyond Europe' (Sapper, Weichsel and Huterer, 2007) in the formative period when Ukraine was asserting its Europeanness. Europe had come to play a constant, consistent and important role in Ukraine, underpinning the narrative on Ukrainian national identity and independence. Upon independence, Ukrainian presidents, including Kuchma (1994–2004), began to draw from the repertoire of ideas elaborated by 20th-century Ukrainian intellectuals about Ukraine's organic distinctiveness from Russia (Riabchuk, 2003). References to the universalist culture of Europe were used to counteract disagreement on the Ukrainian identity and nation. In contrast to the intellectuals, the political elites eschewed addressing those thorny questions (Orlova, 2013). The promotion of the supra-national, European identity, in place of the Soviet supra-national identity, has conveniently offered an alternative to the narrative and identification of the population solely with Ukraine as a nation-state defined in terms of language and ethnicity. As Szporluk pointed out: 'Modern nationalism speaks the language of particularism but practices universal engagement: it measures its own performance according to universal values and standards, it looks up to those who are the most advanced' (1998: 314, see also Finlayson, 1998). The 'European choice' became an *ersatz* ideology of successive Ukrainian leaders and with Europeanness being a key marker of Ukraine's post-Soviet identity, the 'European choice' through membership of the EU became the formal policy objective, reflective the view that, as a British diplomat put it, 'Europe is now defined by the membership of different clubs. Today you are what you belong to. We're no longer governed by history or geography, but by institutions' (Cooper, 1999).

With the EU defining itself as a powerful community of values, outsiders are compelled to relate to the European project through their normative positioning with regard to those values. This confers on the EU the power to define and demarcate Europeanness in cultural terms: when outsiders adopt European values they are deemed to have achieved 'Europeanness'. Therefore, within the EU-dominated Europe, to become

European in cultural terms is to become more like the EU with the latter assessing the degree of normative convergence/divergence.

In order to reclaim Ukraine's place in Europe, the Ukrainian elites expressed the desire to move closer to Europe and to this end made declarations about joining the EU. No major political force objected to this goal (Wolczuk, 2008; Orlova, 2013). Yet, despite this being a key foreign policy goal, Ukraine, particularly under the increasingly authoritarian second presidency of Kuchma (1999–2004), failed to meet the benchmarks of EU-defined Europeaness.

The first major break with this tendency came with the so-called Orange Revolution of 2004, when Ukraine witnessed mass protests against electoral fraud. In the words of Yuri Andrukhovych, a Ukrainian writer, in a speech at the European Parliament during the Orange Revolution:

This [Orange Revolution] is also the victory of Europe as an ethical system of value. My Polish friend Andrzej Stasiuk writes about it in a marvellous essay as follows: 'Great things are happening in the East. Ukraine has lifted itself up from its knees. In these last, cold and snowy days of November the heart of Europe is beating right there, in Kyiv, on the Square of – appropriately called – Independence. It is right there in Kyiv that the battle for basic European values is being honed, that in the West those values are understood as something comprehensible in and of themselves, something granted once and for always. Andrzej Stasiuk entitled his essay 'Europe, You Have Become Bigger'. (Andrukhovych, 2004)

Certainly, the revolution finally put Ukraine on the cognitive map, with EU institutions and member states regularly referring to 'Ukraine as a European country'.<sup>3</sup> Many observers in Ukraine and outside believed that the EU would find it difficult to ignore Ukraine's membership aspirations after its unambiguous defence of European values during the tumultuous days of mass protests against electoral fraud. They believed that the 'Hour of Europe' (Stephen, 2004) in Ukraine would be reciprocated by an 'Hour of Ukraine' in Europe – namely, an offer of a membership perspective (however distant).

Yet, the membership breakthrough did not come. The EU insisted on conducting relations in the framework of the neighbourhood policy, which had been implemented by the time. As was pointed out above, the ENP served as a bureaucratic answer to the geopolitical and cultural question of the boundaries of Europe. But the expectations vis-à-vis the EU were so high in Ukraine that the new framework for relations – with its technocratic focus on rule transfer – could not satisfy them. The very term of 'European neighbourhood' invoked indignation in Kyiv as it located Ukraine outside the boundaries of Europe, and even worse, grouped it with the southern neighbours of the EU. The fatigue and frustration with the EU was articulated by Andrukhovych within two years of the Orange Revolution:

I am overflowing with negative suspicions and hypotheses [...] For example: perhaps Europe is simply scared? Perhaps it is scared of Europe, of its very self? Perhaps it closes itself off from us for the very reason that we took its values too close to heart, that these values have become ours? For in reality, this Europe could not care less for these values these days. The main thing it wants is not to change. Is this incapacity to change that it secretly nurtures, its highest value? (Andrukhovych, 2006)

This statement intentionally strongly parallels the famous essay by Kundera, 'The Tragedy of Central Europe', published in 1984, decrying Europe's cowardliness and betrayal of its own values and the resulting exclusion of the 'other Europe' from the boundaries of self-centred (western) Europe (Kundera, 1984).

Nevertheless, in Ukraine's interactions with the EU it also became apparent that the later operates in subtle ways 'to order the expectations and the cultures of those to whom it relates in the European setting' (Smith, 1996: 12). Manners introduced the concept of normative power into the analysis of EU as a foreign policy actor: EU's power is neither military nor purely economic, but one that works through ideas and opinions. 'Normative power', in Manners' view, is a power that is able 'to shape conceptions of the "normal"' (2002: 239–40). While a lot of doubt has been cast on the EU as a normative power (see, for example, Diez, 2005), Ukraine could be actually regarded as representing a 'success story' for the EU in the sense that in Ukraine EU's notion of 'normality' became authoritative and hegemonic.

Many intellectuals argued that the European continent is an exclusively intellectual construct, but, as Hnatiuk pointed out, 'Europe is a discourse which translates into the political and ideological project, which then impacts on the discourse of identity' (2003: 46). This is exemplified by ubiquitous yet vague references to Europe when analysing Ukraine's problems and failings. For example, when writing about the east Ukrainian city of Kharkiv, a Ukrainian journalist described it in terms of a mix of Soviet and European traits and noted Ukraine's needs for European style reforms:

The country is already geographic Europe. What needs to be done in order to make it truly European not only from without (for foreign geographers) but also from within (for Ukrainians themselves) is a 'small detail': '*Evroremont*' of all spheres of life: from personal attitudes and indeed the European respect to oneself and others to a grand scale modernization of surrounding economic and socio-technical environment, Europeanization of politics and its discourses.

How do we combine the Soviet past with the current quest for Europe? Well, the answer is: the Will! And adaptation of European standards of course: When tap water begins to be drinkable – you can call it Europe! When the road begins to deserve to be called a road, and not just a direction – you can call it Europe! (Svyetlov, 2007)

Ubiquitous references to 'Europe' indicated the extent to which the EU had become the benchmark in the political debates in Ukraine (Orlova, 2013), let alone in literary and intellectual debates (see Pavlyshyn, 2016 ; Hnatiuk, 2003). With claims to Europeanness underpinning Ukraine's narrative since independence, Ukraine opened up itself to the normative power of the EU in the political domain too. In the Ukrainian political debates, the conceptions of the 'normal' were largely shaped by references to 'European experience', which are resorted to as a sort of ultimate argument in the discussion, which is supposed to 'disarm' opponents – the adjective 'European' became a self-explanatory synonym of 'goodness' (Orlova, 2013: 105, 113). Certainly, references to Europe in political debates is a construct lacking depth and nuance – the discourse of Ukrainian political elites equated Europe with the EU and constructed Europe as a single and homogenous entity.

As pointed out above, for many domestic actors – politicians, experts, state officials and civil society – formal membership became less important than actual step-by-step, functional integration reflecting a growing demand for reform templates and the presence of an external watchdog in Ukraine. The more Ukraine's leadership reneged on democratic, legal and economic reforms, the greater was the reference to deviation from European values and standards. In the Ukrainian political discourse the EU has been assigned the role of an 'inspector' to which Ukraine is accountable, much in line with the normative power conception (Manners, 2002). This discourse constrained the political leaders' freedom of movement in foreign policy, as was eventually discovered by President Yanukovich in late 2013.

The 2004 Orange Revolution clearly asserted the aspirations of swathes of Ukrainian society to be a 'normal European country', with respect for democracy, human rights and rule of law. However, the failure of the Orange regime resulted in the election of President Yanukovich in 2010, who was quick to assert his authoritarian tendencies with a marked increase in corruption and rent-seeking. As a result the 'value gap' between Europe and Ukraine became larger than ever. By refusing to institutionalize closer ties with the EU by signing the Association Agreement with the EU in November 2013 (see Dragneva and Wolczuk, 2015b), Yanukovich's turn to Russia was driven by the calculus of political survival. In doing so, he sought to bail out his political regime, while dashing any hopes that closer ties with the EU would force the regime to modernize, uphold the rule of law and democracy and reduce the rampant corruption:

For many Ukrainians, the Association Agreement was the last hope to fix these things peacefully, that is, to make their rulers obey the law, and to get the EU's support in their attempts to re-establish the rule of law in the country. (Riabchuk, 2013)

The ensuing mass protests (Euromaidan) took both the Ukrainian and the EU leaders utterly by surprise. Both the protests and the subsequent Russian military backlash placed Ukraine at the heart of European debates, particularly in relation to the EU's anemic response and the glaring need for internal reforms within the EU. From marginality Ukraine moved to the centre of debates on the future of Europe. For example, the Slovenian philosopher Slavoj Žižek sought to re-formulate the European left's position on Ukraine by reinvigorating the EU as an equalitarian, progressive project:

So yes, the Maidan protesters in Kiev's Independence Square were heroes, but the true fight begins now: the fight for what the new Ukraine will be. And this fight will be much tougher than the fight against Putin's intervention. The question is not if Ukraine is worthy of Europe, good enough to enter the EU – but if today's Europe is worthy of the deepest aspirations of the Ukrainians. (Žižek, 2014)

But perhaps above all it was Russia's military aggression against Ukraine over 2014–15 that guaranteed Ukraine a place in European consciousness in a way that the Orange Revolution failed to. Russia's anti-Ukrainian turn had the unintended consequence of separating Ukraine from Russia in the European mind:



The tragic irony of the recent conflict with Russia is that Ukraine has finally shed its 'Little Russia' brand, most likely for good. With the bloodshed associated with the Maidan uprising, the annexation of Crimea, and scenes of death and destruction in the country's east, Americans, Canadians, and Britons all are now acutely aware of the differences between Ukraine and the Russian Federation. Despite the frightful cost, Ukraine has been able to step out of Russia's shadow. (Motyl, 2015)

In this same vein, the Ukrainian public and media have now shed their schematic, idealized view of the EU (Orlova, 2013) and instead have focused on the debates in, and positions of, individual EU member states with regard to Ukraine and Russia to a much greater extent than before – the EU started to be deconstructed in the Ukrainian discourse (Silina and Kravchenko, 2016). The Euro-romanticism, which dominated the attitudes towards the EU after the Orange Revolution, has all but evaporated: nowadays Europe is regarded as a complex and inconsistent entity which, despite its flaws and contradictions, is Ukraine's designated as a political and cultural destination.

## Conclusions

In the 1990s it became apparent that the EU has 'both boundaries and a boundary problem' (Smith, 1996: 18). While so much attention was being devoted to overcoming 'internal frontiers' by creating a deeper Union, a corollary of the elimination of internal borders was the hardening of the external ones and the emergence of 'fortress Europe'. Yet, at the same time the EU also acted as a 'magnet' attracting outsiders seeking to be included in the integration processes. The EU has sought to respond to Ukraine as a *demandeur* by creating a mosaic-like broader European order. The EU's approach to Ukraine exemplifies what might be called 'fuzzy logic, whereby approximations and an inevitable dynamism are characteristic of boundary-building. EU's approach leads to variety and lateral thinking, rather than linear development' (Smith, 1996: 22).

Yet, contrary to Smith's analysis, the EU does not unilaterally determine boundaries between itself and other countries in Europe. For example, in relations with Belarus, 'the EU is little more than an observer in the construction of the geopolitical and cultural boundaries between itself and Belarus', as argued by Bosse and Korosteleva-Polglase (2009: 159). Being a *demandeur* vis-à-vis the EU, Ukraine has succeeded in overcoming legal and then cultural exclusion from the EU but has failed to dismantle the geopolitical boundary. And it is the latter boundary that matters most to Ukraine in the Hobbesian world of Russian geopolitics. The conundrum for Ukraine is that the EU does not care enough about Ukraine's European choice while Russia cares too much. This does not bode well for Ukraine:

Indeed, it is hard to remain optimistic about Kyiv's long-term ability to withstand this pressure, taken that Western support has remained mainly political and symbolical and has shied away from providing Ukraine with more robust forms of economic and military support. For all intents and purposes, Kyiv has been left to rely on its own means and resolve to try to fend off the multifaceted and increasingly sophisticated and ruthless Russian challenge to its European choice. (Haukkala, 2015: 36)

Therefore, the cultural and legal dimensions of inclusion do not compensate for the geopolitical exclusion: 'In a sense, Ukraine has never been closer to Europe, and yet so far' (Chapman, 2016).

For the EU itself the implications of softening the legal boundary with Ukraine has been more profound than the Union could ever have anticipated. This is because, for Russia, the lowering of the EU-Ukraine legal boundary carried geopolitical significance. As a result, doing away with the notion of fixed, mutually-reinforcing boundary has led to 'the internalization of disturbance rather than its containment', as predicted by Smith (1996: 23).

Ironically, since 1991 'the EU had very little idea what to do about Ukraine, and no obvious ambitions' (McShane, 2014), and yet by 2014 Ukraine turned into one of the most important foreign policy challenges the EU has ever faced. The 'Ukrainian crisis' has put into question core European values: democracy and the rule of law, the inviolability of borders as enshrined in the 1975 Helsinki Final Act and the broader international system with its established principles on the use of force. Thus, Ukraine has become a defining challenge for the EU, as the crisis 'strikes at the heart of the European project' (Adebahr, 2014). But the EU – with its post-modern definition of self – has staked its identity on moving beyond geopolitics within Europe. This has led to a stalemate: 'while Russia cannot replace the EU as a purveyor of functional integration, the EU is in no position to effectively balance and contain Russian might with coercive means' (Bechev, 2015: 341).

While the cultural boundary between the EU and Ukraine has diminished, the geopolitical boundary has become more pronounced and is a pivotal issue in the survival of Ukraine as an independent state. Ironically, after decades of marginality, Ukraine has become crucial to the debates on the future of Europe.

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### **Notes**

1. Decree of the President of Ukraine (11 June 1998) No. 615. The focus has been firmly on the EU whereas the attitudes and policy towards NATO has been much more ambiguous and inconsistent. Ukraine's approach to the EU has been marked by a lack of complementarity in policy towards the EU and NATO, in contrast to East-Central Europe. Aspirations to EU

membership were voiced earlier and more persistently than periodically-voiced aspirations to join NATO.

2. Author's interviews with a Ukrainian official from the Ministry of Foreign Affairs of Ukraine, Brussels, September 2006 and September 2010.
3. Author's interview with officials from EU institutions and member states, Brussels, September 2006.

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