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A Normative Power Yes or No? The European Union, Ukraine, and the Transfer of Democracy

Nienke de Deugd

Introduction

In the concluding remarks to his 2002 article ‘Normative Power Europe: A Contradiction in Terms?’ Ian Manners raises three important points with regard to his presentation of the European Union (EU) as a normative power. First, Manners argues that there is an ontological side to his line of reasoning in the sense that ‘the EU can be *conceptualized* as a changer of norms in the international system’ (2002, p. 252, emphasis in original). Second, he discerns a positivist dimension where ‘the EU *acts* to change norms in the international system’ (ibid., emphasis in original). Third, Manners believes that there is a normative quality to portraying the EU as a normative power since ‘the EU *should* act to extend its norms into the international system’ (ibid., emphasis in original).

This chapter focuses on Manners’ second point and analyzes the positivist dimension of the EU as a normative power. It does so specifically with regard to Ukraine. Ukraine is a country that in its still relatively short existence as an independent actor on the international stage has seen two episodes of revolutionary upheaval; both of which were fuelled by their participants’ desire to establish close ties with the EU and to give a fresh impetus to the stalled process of political transformation. When judged by the goals of the Orange Revolution and the *Euromaidan* protest movement, Ukraine appears more than willing to join the EU’s proverbial ‘ring of friends’ and to absorb the values of democracy, respect for the rule of law, human rights, and fundamental freedoms. For its part, the EU seems only too happy to engage in close cooperation with its eastern neighbor and to act as a changer of norms. The various agreements, policy frameworks, and supporting instruments that have been drawn up to manage the relations between the EU and Ukraine never

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fail to highlight the significance that Brussels attaches to the transfer of its core principles to Kyiv.

However, all of these good intentions notwithstanding, the state of democracy in Ukraine is brittle at best. In the 26 years that have passed since the declaration of independence was issued on August 24, 1991, the transition from communism to democracy remains incomplete and the country still hovers between the EU on the one hand and the Russian Federation (RF) on the other. The apparent gap between the professed goals of the EU-Ukraine relationship and the actual results on the ground raises important questions regarding the possibilities of democracy transfer. This chapter argues that the normative power of the EU *vis-à-vis* Ukraine is limited due to a combination of the following factors: the difficulties that beset the EU when it comes to translating policy on paper to policy in practice; the intricacies of Ukrainian domestic politics; and the role of the RF – both directly, i.e. with regard to Moscow's attempts to keep a firm grip on Kyiv, and indirectly, i.e. concerning the broader topic of European-Russian relations.

In the first section of this chapter, the European side of the story is addressed by focusing on the various agreements, policy frameworks, and supporting instruments that have been designed to guide the relations between the EU and Ukraine. While the EU's involvement with its eastern neighbor has increased steadily over time, there is no denying the fact that Brussels has opted to treat Ukraine as a neighbor rather than as a potential candidate member state. Here, several elements come to fore – some of which are internal to the EU whereas others have to do with its external relations with the RF. Brussels needs Moscow as a partner on the international stage, implying that the EU cannot afford to alienate the RF by putting too much emphasis on the establishment of close ties with Ukraine.

The second section of this chapter focuses on the Ukrainian side of the story and explains that a combination of elites with oligarchic tendencies and wavering foreign and security policies has stood in the way of a concerted effort to pursue a European path and to adopt the values of democracy, respect for the rule of law, human rights, and fundamental freedoms. Under these circumstances, the capacity of the EU – limited as it is anyway – to act as a changer of norms should not be overestimated. Here, one also touches upon the role of the RF. Moscow seeks to keep Kyiv securely within its own sphere of influence and has tried – to varying degrees of success – to counter the export of European norms to what it considers to be a vital part of its own 'near abroad'.

The European Side of the Story: From PCA to ENP/EaP to AA

Over the years, the EU's involvement with its eastern neighbor has become more and more substantial. In the aftermath of the fall of the Berlin Wall and the implosion of the Soviet Union, the EU primarily focused on those countries from Central

and Eastern Europe that were on a path to membership. It was only when the course and shape of the enlargement process were fixed that Brussels turned its attention more fully to countries in its new neighborhood. The successive agreements, policy frameworks, and supporting instruments that together make up the EU-Ukraine relationship reflect this increasingly substantial involvement. Brussels' relations with Kyiv were guided by first the Partnership and Cooperation Agreement (PCA), then the European Neighbourhood Policy (ENP) and the Eastern Partnership (EaP), and most recently the Association Agreement (AA).

The PCA was concluded on June 14, 1994 and entered into force on March 1, 1998. The objective of the agreement is to facilitate cooperation between the EU and Ukraine and to provide the former with an opportunity to assist the latter in the dual process of political and economic transformation. Put differently, the PCA is designed as a framework within which the EU and its member states can engage Ukraine and offer support for the transition from a centrally-planned economy to a market economy as well as for the consolidation of a democratic political system.¹

The launch of the ENP on May 12, 2004 and subsequently of the EaP on May 7, 2009 marked the next step in the EU-Ukraine relationship. Together with many other neighboring countries on the EU's southern and eastern borders, Ukraine has become part of a framework that is supposed to help Brussels 'avoid drawing new dividing lines in Europe' and 'develop a zone of prosperity and a friendly neighbourhood – a “ring of friends” – with whom the EU enjoys close, peaceful and co-operative relations' (Commission of the European Communities 2003, p. 4). As the founding documents of the ENP/EaP show, much emphasis is placed on the establishment of free and functioning market economies and on the transfer of the EU's core principles of democracy, respect for the rule of law, human rights, and fundamental freedoms (ibid., pp. 3–5; Council of the European Union 2009).

When the AA was signed on June 27, 2014 and then provisionally applied as of November 1, 2014, the shared commitment of the EU and Ukraine to the ongoing process of political and economic transformation was reiterated once more. The preamble to the AA speaks of the core principles that guide the partnership between Brussels and Kyiv, to wit 'respect for democratic principles, the rule of law, good governance, human rights and fundamental freedoms, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, human dignity and commitment to the principles of a free market economy'² while article 4 of title II stresses the importance of political reform and the intention of the signatories 'to strengthen respect for democratic principles, the rule of law and good governance, human rights and fundamental

¹Partnership and Cooperation Agreement between the European Communities and their Member States, and Ukraine (1998) *Official Journal of the European Communities*, L49, pp. 4–6, available at: <http://ec.europa.eu/world/agreements/downloadFile.do?fullText=yes&treatyTransId=659>, accessed April 8, 2016.

²Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014) *Official Journal of the European Union*, L161, p. 4, available at: http://eeas.europa.eu/ukraine/docs/association_agreement_ukraine_2014_en.pdf, accessed April 11, 2016.

freedoms, including the rights of persons belonging to national minorities, non-discrimination of persons belonging to minorities and respect for diversity, and to contribute to consolidating domestic political reforms'.³

Accompanying these agreements and policy frameworks are several supporting programs for the provision of technical and financial assistance. Already in 1992 – in the immediate aftermath of the implosion of the Soviet Union – the EU launched the Technical Assistance to the Commonwealth of Independent States (TACIS) program. The TACIS program is designed to help the various former Soviet republics with the implementation of their respective PCAs by means of the provision of know-how and expertise. A significant part of TACIS's efforts and financial means is devoted to economic transformation (Solonenko 2005, p. 62); the transition from centrally planned economies to market economies is after all one of the main goals of each PCA. With regard to the other main goal, political transformation, the TACIS program has been instrumental in the development of a number of democratization projects that are aimed at, or channeled through, the national governments of the partner countries in the former Soviet space (*ibid.*).

The European Initiative for Democracy and Human Rights (EIDHR) was launched in 2006 in order to provide 'assistance to the development and consolidation of democracy, the rule of law and the respect for all human rights and fundamental freedoms'.⁴ The initiative, which is intended to be complementary to other EU programs in the field of democratization, has been in operation in a large number of countries around the globe including in former Soviet republics such as Ukraine. The EIDHR is intended to bypass national governments and to work directly with Non-Governmental Organizations (NGOs).⁵ By openly engaging civil society, without asking for the formal permission from the government in question, the EU should be able to boost the process of political transformation in EIDHR partner countries (Solonenko 2005, pp. 62–63).

The European Neighbourhood Action Plan is meant to accompany the EU's neighborhood policies. The specific action plan that has been concluded with Ukraine contains a host of concrete targets that – if and when met – should ensure the consolidation of a democratic political system. As such, the action plan focuses on the need to: (1) 'strengthen the stability and effectiveness of institutions guaranteeing democracy and the rule of law'; (2) 'further judicial and legal reform, so as to ensure the independence of the judiciary and strengthen its administrative capacity, and to ensure impartiality and effectiveness of prosecution'; (3) 'ensure the effectiveness of the fight against corruption'; (4) 'ensure respect of human rights

³ Association Agreement between the European Union and its Member States, of the one part, and Ukraine, of the other part (2014) *Official Journal of the European Union*, L161, p. 7, available at: http://eeas.europa.eu/ukraine/docs/association_agreement_ukraine_2014_en.pdf, accessed April 11, 2016.

⁴ *European Instrument for Democracy and Human Rights (EIDHR)*, 2016, available at: https://ec.europa.eu/europeaid/how/finance/eidhr_en.htm_en, accessed May 11, 2016.

⁵ *EIDHR – EIDHR –ms*, 2016, available at: https://ec.europa.eu/europeaid/subsites/european-instrument-democracy-and-human-rights-eidhr_en, accessed May 11, 2016.

and fundamental freedoms, in line with international and European standards'; (5) 'foster the development of civil society'; (6) 'ensure respect for the freedom of the media and expression'; (7) 'ensure respect for rights of persons belonging to national minorities'; (8) prevent 'ill-treatment and torture'; (9) 'ensure equal treatment'; (10) 'ensure respect of children's rights'; (11) 'ensure respect for trade unions' rights and core labour standards'; and (12) 'ensure international justice'.⁶

In order to provide assistance in meeting these targets, the EU in 2007 created the European Neighbourhood and Partnership Instrument (ENPI). The ENPI was launched to assist the countries in the EU's southern and eastern neighborhood with the implementation of their respective action plans by giving financial assistance, sharing expertise, offering assistance with the approximation of legislation, and providing institutional support.⁷ In this regard, important instruments include cross-border cooperation between those EU member states and ENP/EaP partner countries that share a common border, as well as various institutional-building instruments such as Twinning, Technical Assistance Information Exchange (TAIEX), and Support for Improvement in Governance and Management (SIGMA) (Tulmets 2011, pp. 7–12).⁸

The Association Agenda was adopted in 2009 in order to help Ukraine prepare for the implementation of the AA – an agreement that at that point in time was still under negotiation. In keeping with the political parts of the AA, the Association Agenda also has democratization as one of its focal points and mentions a list of so-called 'implementing instruments' that include the tools from previous agreements and policy frameworks and aims at 'exchanges of technical expertise and advice, best practices and know how, the sharing of information, support to capacity-building and institutional strengthening' (European Commission 2009, pp. 3 and 5).

All in all, the various agreements, policy frameworks, and supporting programs that the EU has developed to foster close ties with Ukraine, to assist in the dual process of political and economic transformation, and to help with the adoption of the values of democracy, respect for the rule of law, human rights, and fundamental freedoms boil down to the following: the EU and its member states aim to work together with the Ukrainian government, civil society, and NGOs, and does so usually on an EU budget. Over the course of more than two decades, the level of cooperation between the two sides has increased, the details of what Brussels expects from Kyiv have become more pronounced, and the tools to translate the goals of the EU-Ukraine relationship into actual results have become more refined.

⁶ *EU/Ukraine Action Plan*, 2005, available at: [file:///X:/My%20Downloads/ukraine_enp_ap_final_en_0%20\(2\).pdf](file:///X:/My%20Downloads/ukraine_enp_ap_final_en_0%20(2).pdf), accessed April 13, 2016.

⁷ *European Neighbourhood and Partnership Instrument (ENPI)*, 2016, available at: http://ec.europa.eu/europeaid/funding/european-neighbourhood-and-partnership-instrument-enpi_en, accessed May 10, 2016.

⁸ *European Neighbourhood and Partnership Instrument (ENPI)*, 2016, available at: http://ec.europa.eu/europeaid/funding/european-neighbourhood-and-partnership-instrument-enpi_en, accessed May 10, 2016.

Still, there is no denying the fact that the EU has refrained from using the most effective instrument at its disposal when it comes to achieving norm change: conditionality. While it is certainly true that there is a modest degree of conditionality in the AA – in case Ukraine fails to make headway with the implementation of the necessary political reforms the agreement can be temporarily suspended (Van der Loo et al. 2014, p. 12) – the usefulness of the ‘punishment’ of suspension pales in comparison to the leverage that the ‘reward’ of EU membership can provide. Put differently, by not offering Ukraine the ultimate prize that is the prospect of membership, the EU has limited its capacity to transfer its core principles (Wolczuk 2009, p. 208). Or, as Frank Schimmelfennig and Hanno Scholtz argue in their 2008 article, ‘absent the offer of membership, [...] EU incentives such as partnership and cooperation do not reliably promote democratic change’ (p. 187).

On the Use of ‘Weak’ Conditionality: Enlargement Fatigue and the European Union’s ‘Russia-First Policy’

The form of ‘weak’ conditionality that is applied to countries in the EU’s neighborhood arguably is a poor substitute for the type of ‘strong’ conditionality that is directed towards countries that are on a path to membership. In order to try and explain why the EU has opted to treat Ukraine as a neighbor rather than a potential candidate member state, several elements come to the fore – some of which are internal to the EU whereas others have to do with its external relations with the RF.

When in the early 1990s the EU first began to contemplate enlargement towards countries from Central and Eastern Europe, Ukraine was not on the list of possible future member states. The country was a long way removed from meeting the level of political and economic development of even the worst performing EU member states and the dual process of political and economic transformation that was needed in order to catch up constituted a task of herculean proportions – not to mention financial consequences.

In the wake of the Orange Revolution and the subsequent coming to power of president Viktor Yushchenko, the issue of membership resurfaced. During a visit of the newly elected Ukrainian president to Brussels on January 13, 2005, the members of the European Parliament adopted a resolution (with 467 votes in favor, 19 against, and 7 abstentions) that advocated a ‘clear European perspective [...] possibly leading ultimately to the country’s accession to the EU’.⁹ However, this apparent enthusiasm from the part of the parliament in Brussels notwithstanding, Ukraine was considered to be a part of the EU’s neighborhood and, as such, it was relegated to the ENP/EaP. To an EU that struggled with the arduous task of enlargement and that was still adjusting to life as a much bigger and more diverse entity, the accession of a country like Ukraine – that is both big, and thereby a potential institutional

⁹The European Parliament and Ukraine, available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+PRESS+BI-20050126-1+0+DOC+XML+V0//EN>, accessed April 14, 2016.

upset, and lagging behind in political and economic terms – was simply not a viable option.

Under the presidency of Viktor Yanukovich, the EU-Ukraine relationship focused primarily on cooperation within the framework of the ENP/EaP as well as on concluding the AA (Pifer 2012). Yet, when this feat was finally accomplished Yanukovich refused to sign the AA, thereby setting in motion the *Euromaidan* protest movement that ultimately led to his removal from office and to the election of Ukraine's current president, Petro Poroshenko. Under the *aegis* of Poroshenko, the question of a Ukrainian membership of the EU has once again reared its head.¹⁰ Yet, with the unconditional ratification and subsequent implementation of the AA in doubt following a referendum in The Netherlands – where the 32.2% of the Dutch electorate that actually took part in the voting rejected the AA by 61.1% – the commencement of a process of enlargement to include Ukraine can be considered a bridge too far.

Besides, even if the EU would be able to overcome its enlargement *fatigue*, there would still be the Russian factor. Dubbed by some the 'Russia-first policy' (Solonenko 2009, p. 714), the EU appears to prioritize its relationship with the RF over that with Ukraine. In spite of the fact that the PCA between the EU and Ukraine was signed earlier than the one between the EU and the RF, the latter came into force earlier than the former. Also, whereas Ukraine is grouped into the EU's neighborhood policy with other countries from the post-Soviet space like Armenia, Azerbaijan, Belarus, Georgia, and Moldova, the RF – a neighboring country and a former Soviet republic too – has its own special relationship with the EU in the form of the Four Common Spaces and the Partnership for Modernisation.¹¹

One of the reasons underlying this special relationship is the EU's dependence on the RF when it comes to energy security. To a substantial degree, the EU is reliant on the supply of Russian oil and especially Russian gas (Baran 2007, p. 132; Proedrou 2007, p.334). Brussels, therefore, cannot afford to alienate Moscow altogether. Recent European attempts to diminish its dependence on Russian gas and oil by establishing direct supply lines with energy suppliers in the Caucasus, Central Asia, and North Africa have so far been insufficient or unsuccessful (Chyong et al. 2015) and, as such, have been unable to change this dynamic. Also, the EU's condemnation of the RF's recent behavior towards Ukraine notwithstanding, the two parties still need each other when it comes to some of today's most pressing global issues. Especially in the Middle East, the strong Russian ties with the regime of president Bashar al-Assad in Syria mean that – whether the EU likes it or not – the RF is a necessary partner in any attempt to solve the ongoing conflict.¹²

¹⁰ *Ukraine Today*, June 27, 2015, available at: <http://uatoday.tv/politics/ukraine-is-to-apply-for-eu-membership-in-the-coming-years-poroshenko-446697.html>, accessed April 25, 2016.

¹¹ *EU Relations with Russia*, available at: http://eeas.europa.eu/russia/about/index_en.htm, accessed August 5, 2016

¹² Together with the United States (US), the RF acts as chair of the International Syria Support Group (ISSG), a broad coalition that aims to bring an end to the current hostilities. The EU is one of the ISSG's participants.

Adding to this predicament are the internal divisions that characterize the EU when it comes to its relations with the RF. Already in 2007, Mark Leonard and Nicu Popescu from the European Council on Foreign Relations issued the policy paper *A Power Audit of EU-Russia Relations* in which they made visible the divisions among EU member states with regard to the RF. Ranging from ‘Trojan Horses’ to ‘Strategic Partners’ to ‘Friendly Pragmatists’ to ‘Frosty Pragmatists’ to ‘New Cold Warriors’ (Leonard and Popescu 2007, p. 2), the EU is home to countries that defend Russia’s interests, have a downright hostile point of view, and everything in-between. In line with this partition of the EU between some of the more pro-Russia and some of the more anti-Russia member states, there are those who advocate a greater involvement with Ukraine – up to the point of offering a membership perspective – but also those who are weary of becoming overly engaged in the EU’s neighborhood.

In short, Ukraine does not enjoy the EU’s undivided attention. Even though the PCA, the ENP/EaP, and the AA articulate the wish to engage in close cooperation with Ukraine and to assist in the adoption of the values of democracy, respect for the rule of law, human rights, and fundamental freedoms, the EU has opted to treat Ukraine as a neighbor rather than as a potential candidate member state – with all that this entails in terms of applying ‘weak’ conditionality as opposed to ‘strong’ conditionality. Not wanting to run the risk of alienating an indispensable partner, a divided EU has struggled to unequivocally commit itself to act as a changer of norms in Ukraine.

The Ukrainian Side of the Story: The Intricacies of Domestic Politics in a Post-Soviet State

Still, whatever the difficulties that beset the EU as a normative power, the successful transfer of norms from one party to the next is not only dependent on the effectiveness of the sender but also on the context within which these values are received (Wolczuk 2009, p. 208). As Sharon Pardo and Natalia Chaban explain, the actors on the receiving side can either embrace the new norms, reject them, or display some type of mixed reaction where ‘the same norm-receiver reacts positively to one norm and rejects or resists another norm, often simultaneously’ (2015, p. 39). Among the factors that can help explain which response prevails is that of a cultural filter (Pardo and Chaban 2015, p. 39). The concept of a cultural filter is explicitly mentioned by Manners who bases his definition on the work done by Catarina Kinnvall (1995) and describes it as a mechanisms that ‘affects the impact of international norms and political learning in third states and organizations leading to learning, adaptation or rejection of norms’ (Manners 2002, p. 245). Put differently, a cultural filter is important in that it influences the way in which a given set of norms reaches a given society (Pardo and Chaban 2015, p. 40). Therefore, this chapter now turns to the intricacies of Ukrainian politics and the domestic factors that have stood in the way of the country’s process of democratization.

When the Berlin Wall fell and the Cold War came to an end, many of the countries from Central and Eastern Europe were quick to try and cut their ties with Moscow and embark on the proverbial 'return to Europe' instead. There was little nostalgia for the decades of communist rule and accompanying Soviet domination, and so the former Soviet satellite states and even several former Soviet republics lost little time in setting their sights on Brussels and embarking on the dual process of political and economic transformation. For Ukraine, however, the situation was somewhat different. The country declared its independence rather unexpectedly in the dying days of the Soviet Union and in the 26 years that have since passed, the Ukrainian elites have proven themselves to be not only of an oligarchic nature, but also quite incapable of pursuing a clear and cohesive foreign and security policy.

In the 1990s, both the first president of independent Ukraine, Leonid Kravchuk, and his successor, Leonid Kuchma, did a poor job with regard to the country's transition from communism to democracy (Kubicek 2009, p. 324). As former members of the communist elite and as *apparatchiks* who had made careers when Ukraine was still a Soviet republic, Kravchuk and Kuchma quickly got stuck in the process of democratization.

President Yushchenko – who had served as prime minister in the Kuchma administration – seemed determined to try and do better. He publicly declared his intention to show a 'genuinely different Ukraine [...] a noble European nation, one that embraces genuine democratic values' (Yushchenko 2004), but could not overcome the legacy of his predecessors (Kubicek, 2009, pp. 338–339). Hampered by endemic corruption and ongoing political infighting, Yushchenko turned out to be severely limited in his efforts to effect substantial change (Kuzio 2015). Under president Yanukovych, the state of democracy in Ukraine quickly took a turn for the worse. While Yanukovych came to office thanks to elections that were generally regarded as 'free' and 'fair',¹³ he quickly belied his democratic credentials by persecuting opposition leaders, by making a mockery of the rule of law, and by ordering a series of violent crackdowns on the *Euromaidan* protest movement (Kudelia 2014). For his part, current president Poroshenko too is struggling to put words into deeds when it comes to giving a fresh impetus to his country's stalled reform process. His refusal to sell his television station is a case in point as are the lackluster results of his fight against the corruption and continuous political infighting that have become almost permanent features of the Ukrainian political landscape (see, for instance, Stewart 2016).

From the yearly reports that the EU issues concerning the progress that Ukraine has made towards fulfilling the goals of the neighborhood policy, the picture that emerges is that of a country struggling with the consolidation of its democracy (High Representative of the European Union for Foreign Affairs and Security Policy 2012, p. 2; High Representative of the European Union for Foreign Affairs and Security Policy 2013, p. 2; High Representative of the European Union for Foreign Affairs and Security Policy 2014, p. 3; High Representative of the European Union

¹³ *The Washington Post*, February 9, 2010, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2010/02/08/AR2010020803583.html>, accessed August 5, 2016.

for Foreign Affairs and Security Policy 2015, p. 3). This impression is reinforced by the *Nations in Transit* reports that are published on a yearly basis by the Freedom House NGO, where in 2015 Ukraine scored a 4.75 on the state of its democracy, with 1 representing the best possible score and 7 the worst possible score (Freedom House 2015). This score was slightly up from the 4.93 it received in 2014 (Freedom House 2014), but still well below the 4.21 it received in 2006 (Freedom House 2006) – the best score it had received since 2003.¹⁴

In short, Ukraine's recent history has been largely characterized by regimes that struggled with, or were reluctant to engage in, political transformation. There have certainly been times when, undoubtedly influenced by the ardent desire for reform as expressed by the participants in the Orange Revolution and the *Euromaidan* protest movement, the country's successive presidents vowed to restart the stalled process of democratization, but with oligarchic elites who benefit from endemic corruption and continuous political infighting in positions of power, these attempts have not amounted to much. Under these circumstances the efforts of the EU – limited as they are anyway – can only have been of minor impact.

The country's difficulties in deciding upon a clear and cohesive foreign and security policy have not helped either. While one must take care to not be overly dramatic about Ukraine as a divided country, there is no denying the fact that – generally speaking – the western parts of the country are ethnically more homogenous and are considered to be more pro-European in outlook, whereas the eastern parts of the country are home to substantial groups of ethnic Russians or Russian speakers who can be said to be more prone to favor the RF (Fisher 2013; Kubicek 2000, pp. 273–274). Ukraine's successive presidents have responded to the challenges that this situation presents in different ways and have chosen a pro-European course, opted for a pro-Russian path, or developed some form of hybrid policy.

Under president Kravchuk, the country opted for a course of neutrality (de Deugd 2007, p. 78). By not choosing sides, as many of the countries from Central and Eastern Europe had done when they were so quick to turn away from Moscow and move towards Brussels, Kravchuk sought to keep the peace in his divided country. By opting for what was known at the time as 'non-bloc status' he tried to steer clear of a pro-European path while simultaneously hoping to avoid being drawn back into the Russian orbit. Kravchuk's successor chose a somewhat different approach. While president Kuchma also wanted to avoid alienating parts of his population by making an outright choice between Ukraine's neighbors to the east and those to the west, he went about this in a slightly different way. Kuchma developed a multi-vector policy (Sherr 2002, p. 321) – the so-called 'return to Europe with Russia' (Ambrosio 2007, p. 245) – that aimed at the establishment of cooperative relations with the RF and the EU.

Things changed in the aftermath of the Orange Revolution. When Yushchenko became president, the country's foreign and security policy shifted westwards.

¹⁴ Freedom House began its annual survey of the state of democratic reform in former communist countries in Central and Eastern Europe, the Balkans, the Caucasus, and Central Asia in 1995. It has been using its present methodology since 2003.

Yushchenko realized that, for practical reasons if nothing else, he would need to maintain relations with the RF, but otherwise, his main aim was to put his country on a path towards membership of the EU. When Yushchenko was replaced by his adversary from the days of the Orange Revolution, Ukraine's foreign and security policy changed yet again. It has been argued that president Yanukovych returned to Kuchma's multi-vector policy (Korduban 2010) – advocating cooperation with the RF as well as with the EU. Due to Russian pressure, however, this policy gradually became unbalanced to the extent that Ukraine's relations with the west deteriorated at the same time calls from the east for closer ties intensified (Pifer 2012). The prime example of this is the fact that while Yanukovych did continue to negotiate with the EU regarding the conclusion of the AA, he backed out of the deal when it came down to the actual signing of the agreement.

The refusal by Yanukovych to sign the AA set in motion the *Euromaidan* protest movement and eventually resulted in the election of a president whose foreign and security policy is clearly pro-European. Poroshenko has been quick to sign the AA and once again put the issue of EU membership on the agenda. However, with the Russian annexation of the Crimean peninsula and the continuing unrest in the country's eastern Donbass region, Ukraine is hardly in a position to focus exclusively on Brussels instead of Moscow.

Ukraine or Malorossia: The Role of the Russian Federation

Moscow seeks to keep Kyiv securely within its own sphere of influence and has tried – to varying degrees of success – to counter the export of European norms to what it considers to be a vital part of its own 'near abroad'. An early expression of Moscow's desire to keep a firm grip on its neighbors can be found in a document that was issued on September 14, 1995 by then Russian president Boris Yeltsin. In the decree On Affirming the Strategic Course of the Russian Federation with the Member States of the CIS, Yeltsin defined the purpose of the Commonwealth of Independent States (CIS) as allowing for the creation of a 'politically and economically integrated group of states in which Russia's CIS partners should be persistently and consistently guided towards the elaboration of joint positions on international problems and the coordination of activity in the world arena' (Nahaylo 1999, p. 496).

It may well be argued that the opinion expressed by Yeltsin serves as a reflection of the RF's more general policy with regard to its neighbors. As a country that was – to say the least – reluctant to come to terms with the dissolution of the Soviet Union and to deal with the resultant loss of empire, the RF seemed unwilling to relinquish its hold over the various post-Soviet states in its neighborhood. If Russia was to regain its previous position of preponderance in the region, these newly independent countries should not be allowed to advance too far on the road from Moscow to Brussels (Alexandrova 1992, p. 14).

This line of reasoning probably applies most strongly with regard to Ukraine, one of the largest former Soviet republics and an important economic partner, not least because a substantial part of the infrastructure that is needed to transit Russian gas and oil to consumer markets in the EU runs through Ukrainian territory. What is more, in view of the many historical, ethnic, linguistic, religious, and cultural ties that exist between Russia and Ukraine, the former tends to regard the latter as *Малороссия* or *Malorossiiia*, which means little Russia (Subtelny 1994, p. 141). On the basis of a way of thinking that dates back to the time when Ukraine was still an integral part of the Russian empire, the Russians were supposed to guide the Ukrainians – their ‘younger brothers’ (Lieven 1999, p. 151). Put differently, instead of being regarded as an equal member of the international community, Ukraine is seen as an integral part of the Russian ‘near abroad’. Analogous to the way in which the United States applied the Monroe Doctrine¹⁵ in its relations with the countries of Latin America, the RF apparently hopes to treat its neighbor as a zone of special interest (de Deugd 2007, pp. 71–72).

During the presidencies of Kravchuk and Kuchma, when Ukraine was either advocating non-alignment or a multi-vector approach, there was not much danger of Kyiv leaving Moscow’s orbit. Perhaps Ukraine was not necessarily an enthusiastic member of the CIS, but at least it did not aspire to EU membership either. The fact that both Kravchuk and Kuchma struggled to translate their promises about democratization into actual political transformation implied that Ukraine was not exactly absorbing the EU’s core principles anyway. Besides, the ties that bound the two former Soviet republics together could not be unentangled so quickly. Amongst other things, Ukraine and Russia had to work together with regard to the transfer of nuclear weapons from Ukrainian soil to Russian territory, the division of the Black Sea Fleet, and the granting of basing rights to the Russian part of the fleet in the Ukrainian naval port of Sevastopol (de Deugd 2007, pp. 72–76). All in all, from the Kremlin’s point of view, there was no imminent danger of European values making inroads into Russia’s ‘near abroad’ nor of the EU chipping away at Russia’s predominant position in the area.

In that sense, the Color Revolutions that took place in the first decade of the twenty-first century threatened to be a game changer for the RF and were regarded as a grave threat to Russian interests (Ambrosio 2007, p. 237). This sentiment was felt most acutely with regard to Ukraine’s 2004 Orange Revolution. According to Thomas Ambrosio in his 2007 article, the events that took place in the winter of 2004/2005 were perhaps Moscow’s ‘greatest foreign policy defeat since the end of the Cold War’ (p. 245). Yet, all was not lost. Soon after the election of president Yushchenko, the RF embarked on a course of what Ambrosio calls ‘subversion’ (ibid.). By undermining Yushchenko’s government and discrediting his actions, the RF was able to create enough instability in Ukraine to prevent both a successful rapprochement with the EU and sustainable political transformation.

¹⁵ The Monroe Doctrine was introduced by American president James Monroe in December 1823. It declared that, while the United States was entitled to interfere in the internal affairs of the countries in the western hemisphere, other countries were not.

The instruments that the Kremlin had at its disposal were varied. By hugely increasing the price that Ukraine had to pay for its imports of natural gas – a move to which Ukraine responded by halting the transfer of gas from Russia to consumers in the EU – the country was plunged into the gas crises of 2006 and 2009, both of which resulted in unrest among the Ukrainian population and helped fuel distrust of the Orange Coalition (Ambrosio 2007, pp. 246–247). Also, an alliance was formed between Putin's United Russia party and Yanukovich's Party of the Regions – an alliance that was designed to help the latter do well in the 2006 parliamentary elections, as well as to provide the former with the means to keep an eye on Ukrainian politics (ibid., pp. 245–246). As faith in Yushchenko started to evaporate, the popularity of Yanukovich grew, eventually leading to Yanukovich's return to the heart of Ukrainian politics as prime minister in the Yushchenko administration (ibid., p. 247). This new alliance between the two adversaries from the days of the Orange Revolution was of course an uneasy one – thus adding to the complexities of Ukraine's already complicated political landscape.

The subsequent election of Yanukovich must have been a relief to the RF. As evidenced by the formation of an alliance between United Russia and the Party of the Regions, Ukraine's new president was more than willing to cooperate with the RF. While Yanukovich did not officially denounce his country's European path nor its attempts to consolidate democracy, his term in office was characterized by a move away from democracy to a more authoritarian style of government, difficult negotiations with the EU over the AA, and, above all, increasingly close ties with Moscow. Moscow preferred Kyiv to join the Eurasian Economic Union, a Russian-led form of economic cooperation that also included Armenia, Belarus, Kazakhstan, and Kyrgyzstan, instead of opting for closer ties with the EU in the form of the AA (Popescu 2014, p. 27). And as it turned out, Russia had the means – and not to mention the political will to use those means – to pressure Ukraine into doing its bidding. On the one hand, Russia made it very clear that it would not shy away from imposing sanctions; sanctions that would cripple the already weak Ukrainian economy.¹⁶ On the other hand, once the deal with the EU was off, Moscow supplied Kyiv with a substantial aid package. In December 2013, president Putin promised to buy Ukrainian government bonds up to a sum of 15 billion dollars and to lower gas prices.¹⁷

Yet, what neither Yanukovich nor Putin had seen coming was the reaction from the part of the Ukrainian population to their president's decision. The *Euromaidan* protest movement turned out to be the undoing of Yanukovich, and with the subsequent election of Poroshenko, Putin lost his most important ally in Kyiv. Still, even with Russia's direct influence over Ukraine gone, the Russian annexation of the Crimean peninsula and the ongoing unrest in the Donbass region in eastern Ukraine continue to trouble the country. In view of the fact that Ukrainian politics are a

¹⁶ *The Economist*, November 22, 2013, available at: <http://www.economist.com/blogs/easternapproaches/2013/11/ukraine-and-eu-0>, accessed April 26, 2016.

¹⁷ *The Guardian*, December 18, 2013, available at: <http://www.theguardian.com/world/2013/dec/17/ukraine-russia-leaders-talks-kremlin-loan-deal>, accessed April 26, 2016.

difficult game to play even under the best of circumstances, the perpetual instability only serves to further hinder the pursuit of a European path and the adoption of the values of democracy, respect for the rule of law, human rights, and fundamental freedoms. What is more, as the conflict in the eastern part of Ukraine is beginning to resemble a frozen conflict, EU membership is now an even more distant prospect than it already was.

All in all, notwithstanding the high hopes of the Ukrainian population in the wake of the Orange Revolution and the *Euromaidan* protest movement, the country's transition from communism to democracy remains incomplete and it still hovers between the EU and the RF. In this situation, the capacity of the EU – limited as it is anyway – to act as a changer of norms should not be overestimated. And the vigorous attempts of the RF to keep Ukraine securely within its own sphere of influence – or at the very least prevent Kyiv from gravitating towards Brussels' orbit – have not helped either. Ukraine may no longer be a contented member of the Russian 'near abroad', but its future as a part of the EU's 'ring of friends' continues to be an uncertain one.

Conclusion

The apparent gap between the professed goals of the EU-Ukraine relationship and the actual results on the ground raises important questions about the possibilities of democracy transfer. This chapter argues that the normative power of the EU *vis-à-vis* Ukraine is limited due to a combination of several factors. First of all, there are difficulties that beset the EU when it translates policy to practice. While the EU's involvement with its eastern neighbor has increased steadily over time, there is no denying the fact that Brussels has refrained from using the most effective tool at its disposal when it comes to changing norms – namely 'strong' conditionality. By not offering a clear path to membership and by resorting to 'weak' conditionality, the EU has little leverage over Ukraine. Secondly, the intricacies of Ukrainian domestic politics and the particular cultural filter that is at work in the reception of the norms that the EU has been trying to send further hinders democracy transfer. Oligarchic elites in combination with wavering foreign and security policies have stood in the way of a concerted effort to pursue a European path and to adopt the values of democracy, respect for the rule of law, human rights, and fundamental freedoms. Thirdly, the RF has played a significant role in disrupting norm diffusion both directly, *i.e.* with regard to Moscow's attempts to keep a firm grip on Kyiv, and indirectly, *i.e.* concerning the broader topic of European-Russian relations. On the one hand, Moscow seeks to keep Kyiv securely within its own sphere of influence and has tried – to varying degrees of success – to counter the export of European norms to what it considers to be a vital part of its 'near abroad'. On the other hand, Brussels needs Moscow as a partner on the international stage, implying that the EU cannot afford to alienate the RF by putting too much emphasis on the establishment of close ties with Ukraine.

While one case-study is certainly not sufficient to warrant an overhaul of the 'Europe as a normative power' concept, the underlying chapter does lead one to question the role of the EU as a changer of norms in the international system – especially when the EU is failing to make the most of its normative power to begin with, when the domestic circumstances in the country under consideration are less than ideal anyway, and when there is a third country that is both willing and able to counteract the EU.

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