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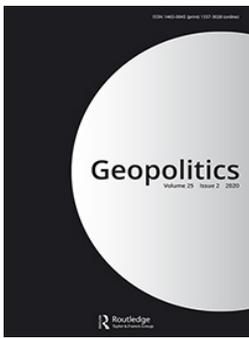
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## The Actorness of the EU's State-Building in Ukraine - Before and after Crimea

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### ABSTRACT

In the aftermath of the EU's diplomatic mission to resolve the Orange Revolution in 2004, several Russian policy makers perceived the EU as an aggressive actor which sought to undermine Russia's influence in the post-Soviet space. About a decade later, Russian policy makers are mocking the EU's limited abilities in the ongoing Ukraine crisis. The purpose of this article is to explain the reasons for this change of the EU's abilities by focusing on its state-building in Ukraine. The article examines the EU's state-building initiatives in Ukraine between November 2013 and July 2015. The article assesses the factors which shape the EU's state-building in Ukraine. It argues that the EU's state-building was hampered by two interrelated factors. First, the EU did not possess the policy tools to counter-balance Russia's affirmative foreign policy towards Ukraine which was reflected in Crimea's annexation to Russia. Second, as a consequence, this annexation turned Ukraine into a case of contested statehood.

After the EU's diplomatic intervention to resolve the Orange Revolution in Ukraine in 2004, several Russian policy makers perceived the EU as an 'aggressive organisation', which was seeking to undermine Russia's influence over the post-Soviet space (Kondrashov 2005). Almost a decade later, Russian policy makers are mocking the EU's limited abilities in the continuing Ukraine crisis.

The purpose of this article is to elucidate the reasons for this change of the EU's capacities by focusing on state-building in Ukraine between November 2013 and July 2015. November witnessed the Ukrainian President's decision to refrain from signing the EU-Ukrainian Association Agreement, whereas July marked the establishment of the EU advisory civilian mission to Ukraine, considered in this special issue as one of the EU's key tools in state-building. This article focuses on the following research question: Which factors shaped the EU's state-building initiatives in Ukraine? This article understands state-building as a process referring to the 'set of actions undertaken by [the EU] to establish, reform and strengthen

state institutions where these have been seriously eroded or are missing' (Menocal 2011, 1732). It argues that the EU's state-building in Ukraine was undermined by two interrelated factors. First, the EU did not have the policy tools at its disposal to counter-balance Russia's affirmative foreign policy agenda towards Ukraine as epitomised by Crimea's annexation to Russia. Second, as a consequence, this annexation turned Ukraine into a case of contested statehood. In this article contested statehood is understood as a state of affairs where 'an internationally recognised state authority (as expressed by full membership of the UN) [...] cannot maintain effective control over their respective territory (or parts of) [...] as a result of an ongoing conflict [...]' (Papadimitriou and Petrov 2012, 749). Bouris' research on EU state-building in the Occupied Palestinian Territories as compared to other cases of state-building concludes that it was 'mainly' in cases of contested statehood that the 'EU managed to adopt a direct state-building role' (2014, 24). In its broader framework, this article seeks to identify if Bouris' conclusion is also applicable with regard to Crimea's annexation to Russia, which turned Ukraine into a case of contested statehood

This article contributes to two strands of scholarship. Firstly, it adds to scholarly debates on EU state-building. In 2002, Sasse characterised Crimea as 'a key test for Ukrainian state-building and democratic transition' (p. 20). This statement is still valid twelve years later after Crimea's annexation to Russia. Despite a treaty of 1999, ratified by Russia and Ukraine acknowledging that Crimea and Sevastopol belong to Ukraine (p.19), Crimea's annexation to Russia took place; thus, necessitating a re-examination of state-building in Ukraine.

Secondly, this article contributes to literature on actorness, which is a conceptual tool aimed at assessing the EU's capacities as an actor in international politics. This article employs Bretherton and Vogler's definition of 'actorness', which evolves around three characteristics: First, opportunity 'denotes the context [which] shapes the EU's action or inaction' in international relations (2006). Second, presence assesses the EU's ability to exert influence externally by shaping 'perceptions, expectations and behaviors of other actors in international politics' (Bretherton and Vogler 2006). Third, capability delineates the EU's 'ability to exploit' those aspects of EU policy, which constrain or foster its external action in taking advantage of opportunities (Bretherton and Vogler 2006). This article extends the initial scope of this concept by also applying it to conceptualise Russia's actions in Ukraine. Thus, the parameters opportunity, presence and capabilities by Bretherton and Vogler's conceptualisation will also be applied to examine Russia's actorness.

The article uses policy analysis combined with process-tracing to examine both the evolution and shifts in the EU's state-building initiatives towards Ukraine. Policy documents by the EU and the OECD are used as primary

sources. Secondary sources used in this article are academic publications and articles from internationally renowned newspapers.

The article begins with explaining the conceptual framework and methodology. It proceeds with a concise description of the evolution of the Ukraine conflict as a symbol for EU-Russian contestation and EU state-building initiatives in juxtaposition to Russia's actorness. It examines the EU's state-building in Ukraine in light of Russia's actorness before assessing the EU's peace- and state-building in Ukraine before Crimea's annexation to Russia. The last section assesses EU state-building in the aftermath of the annexation.

### **Conceptualising the EU's State Building in Ukraine – Actorness**

This article operationalises the EU's state-building in Ukraine between November 2013 and July 2015, by employing the concept of actorness by Bretherton and Vogler (2006). The concepts' components of opportunities, presence and capabilities enables to define the EU's agency in state-building in Ukraine. Simultaneously, these three tenets of actorness also enable to assess Russia's politics in Ukraine. A juxtaposition of Russia's actions to the EU's policies in Ukraine will contribute to a better understanding of the EU's strengths and shortcomings in its state-building in Ukraine in light of Russia's actorness before and after Crimea's annexation.

What is the conceptual link between actorness and state-building? Like Bretherton and Vogler's conceptualisation of the EU's efficiency to act by distinguishing between presence, opportunities and capabilities, Bouris identified benchmarks to measure the EU's effectiveness in state-building. He refers to the 'generation of legitimacy, coherence and regulation of violence/ability of enforcement' (Bouris 2014, 39) as parameters for testifying the EU's effectiveness in this policy domain. First, legitimacy is concerned with the actions the EU has undertaken to be perceived as a 'legitimate actor' in the state which is sought to be built. In this context, the role of potential alternative actors seeking legitimation comes into play; a role which is assumed by Russia in the case of Ukraine. Second, coherence, according to Bouris, is related to the EU's long-term vision and its 'internal coherence' regarding the 'final desired outcome' (41). Russia's affirmative policy in Ukraine jeopardised the EU's vision of a Ukrainian state. This as such does not reflect an imminent failure of the EU's policy towards Ukraine but is related to the century long-controversy in the pursuit of building a Ukrainian nation (Sakwa 2017). Third, the regulation of violence is regarded by Bouris as the 'most crucial' criterion in 'a state-building project' (2014, 41). The underlying dynamic of the ousting of the Ukrainian president in February 2014 enabled the EU to contribute to the regulation of violence by establishing a peace plan. However, according to Samokhvalov, the EU's role in Ukraine between November 2013 and February 2014 'should not [...] be overestimated' (Samokhvalov 2015, 1374.) Before the Vilnius summit

rallies by proponents and opponents of Ukraine's European integration culminated in protests of about 70.000 people on Kiev's independence square. Samokhvalov considers that the rationale of this 'Ukrainian democratic revolution' was rather an opposition against the Yanukovich government than support regarding the EU-Ukrainian integration (Samokhvalov 2015). Both the inability to reconcile the opposing political camps and the sudden eruption of civil war, enhanced by Russia's support of separatists in Eastern Ukraine, undermined the EU's attempts at regulating violence.

This article demonstrates that legitimacy, coherence and the regulation of violence, as identified by Bouris as parameters for measuring the EU's state-building effectiveness, were not fulfilled in the case of Ukraine due to Russia's 'actorness'. In this way, this article supports the argument by Verena Fritz that the 'consolidation of a political regime facilitates state-building, whereas political contestation will tend to impede it' (2007, 63). In a contested political regime or one of power fragmentation 'attention [is] focused on contesting, gaining, or holding on to power' (p.64). Contestation 'implies that [...] multiple actors seek to increase their respective share of power outside of mutually agreed rules' (Fritz 2007, 63). In the case of Ukraine, a contestation between the EU and Russia evolved. Consolidation, on the other hand, reflects Linz and Stepan's definition of a 'consolidated democracy', which is a political regime where democracy reflects a system of institutions, rules, and patterned incentives and disincentives' (1996). The latter implies that no 'significant national, social, economic, political or institutional actor spend significant resources attempting to achieve their objectives by creating a nondemocratic regime or by seceding from the state (Linz and Stepan 1996).<sup>1</sup>

Despite the analytical merit of operationalising the EU's state-building in Ukraine by employing actorness, its contested nature needs to be acknowledged. Some scholars questioned the necessity for this conceptual framework in light of their doubts about the EU's ability to operate in global politics (Ekengren and Engelbrekt 2006, 19). These critics have also dismissed alternative definitions of actorness by stating that they were founded on a state-centric assumption. David Allen and Michael Smith, for example, used 'presence' as an alternative concept to explain the European Community's role in international politics (1990). They defined 'presence' as the EU's capability to exert influence on non-members, which did not suggest 'purposive international action' but could be the result of internal processes and policies (Allen and Smith 1990). According to Bretherton and Vogler, presence 'denotes latent actorness' because it may stipulate response from non-EU member states (Ginsberg 2001, 46). For Allen and Smith, the EU's presence in international politics could manifest itself if it played a role as an initiator, shaper and barrier. The initiator gave the impetus to certain actions and was often associated with specific institutions or organisations, whereas the shaper molded the actions of participants on a given issue. The barrier, on the other hand, provided disincentives to actions and might impose costs or

punishments on actors (Allen and Smith 1990, 22). As this article will demonstrate, Russia proved to be a barrier in the EU's state-building in Ukraine.

Another criticism that could be made regarding actorness as defined by Bretherton and Vogler is that due to its inception in 1999, it could be considered to be obsolete in seeking to describe some facets of the EU's current engagement with third states. The EU has significantly emerged as an actor since the development of Bretherton's and Vogler's concept. However, to counter-balance this criticism, the benchmarks of presence and opportunities as embodied in Bretherton's and Vogler's definition are still applicable as parameters in seeking to delineate not only the EU's actorness but also shed light on Russia's actorness towards Ukraine between November 2013 and July 2015.

No less important than actorness is the concept of state-building in this article. In state-building, an engagement between citizens and the state when seeking to identify 'mutual demands, obligations and expectations' is a crucial component in addition to 'supporting the legitimacy and accountability of states by addressing issues of democratic governance, human rights, civil society engagement and peace-building' (Menocal 2011, 1732). In this context legitimacy entails 'the normative belief of a political community that a rule or institution ought to be obeyed; states are legitimate when key political elites and the public accept the rules regulating the exercise of power and the distribution of wealth as proper and binding' (Menocal 2011, 1721). Legitimacy as a core component of state-building activities is undermined in the case of Ukraine due to its internal division. According to Sasse, the 'regional political polarization' of Ukraine is not a phenomenon shaped by the ongoing Ukraine crisis, but already started to be formed by the Orange Revolution in 2004 (2013, 564). At the time of the Orange Revolution, the crisis in Ukraine was compounded by revolt against the ruling elite, the Kremlin's concern regarding coloured revolutions in the post-Soviet space during 2003 and 2005 (Horvath, 2013, 1) as well as the Russian government's condemnation of the EU's diplomatic intervention during this revolution (Maass 2017). The latter resulted in Russia's perception of the EU as an 'aggressive organisation' seeking to interfere in the post-Soviet space to the detriment of the Kremlin's interests (Kondrashov 2005). During the ongoing Ukraine crisis, Russian policy makers belittled the EU's capacities in dealing with the Ukraine crisis. The following section critically examines the EU's state-building initiatives in Ukraine in light of both Russia's continuously affirmative policy and the intensification of the conflict.

### **The EU's Presence and Opportunities in Ukraine versus Russia's Actorness**

The Ukraine crisis was 'symptomatic of the larger failure to establish both the institutions and the process that could have fostered trust and genuine interdependence between Russia and the EU. This is a classic case of failed region-building

' (Sakwa 2017, 25). Instead of trust, the EU and Russia developed rivaling integration concepts with Kiev. The EU envisaged signing an Association Agreement with Kiev at the Eastern Partnership (EaP) summit in Vilnius on November 28 and 29 2013. This ambition for enhanced political and economic integration between Ukraine and the EU dates back to the aftermath of the Orange Revolution in 2004 following the rigged presidential elections. The EU's diplomatic mission to Kiev contributed to repeated elections resulting in the electoral victory of the pro-Western candidate. The Ukrainian political elite's aspirations for closer integration with the EU were merely reciprocated with a lukewarm response by EU officials. The Commissioner for EU enlargement, at the time, Günther Verheugen stated that neither the EU nor Ukraine were ready for Ukraine's accession (Maass 2017). The EU's rhetoric containing objections towards further enlargement, became an official policy discourse in 2015 when it was announced that the EU would not continue to enlarge further until 2020 (Maass 2017).

The Kremlin's aspirations for Ukraine were polar opposite to the EU's and Ukraine's. Its objective to maintain close relations with Ukraine continued and manifested itself in its aspiration to integrate Ukraine into the Eurasian Economic Union, a Customs Union among Belarus, Ukraine, Kazakhstan and Russia. Ukraine's intended signing of the Association Agreement at the Vilnius summit would have rendered its accession to the Eurasian Economic Union impossible due to the incompatibility of tax provisions. As a consequence, President Putin was strongly opposed to closer EU-Ukrainian integration and demanded Yanukovich to 'freeze' this Association Agreement and to commence *trilateral* negotiations on the agreements' potential adoption between the EU, Russia and Ukraine instead (EurActiv 2013a).

Several Russian politicians joined Putin's chorus of criticism. The chairman of the Council on Foreign and Defense Policy Fyodor Lukyanov denounced the signing of the Association Agreement of being 'very risky. [...] [S]erious economic losses related with the change in the model of trade with Russia and a highly probable socio-economic crisis in this case will come literally tomorrow' (Itar Tass 2013a). Three days before the summit in Vilnius, Sergei Glazyev, Putin's adviser on regional economic integration called on Ukraine to resist EU 'blackmail' and join the Eurasian Economic Union (BBC Monitoring 2013).

The European Commission's President Barroso and the European Council's President Van Rompuy criticised the Kremlin's pressure on the Ukrainian government. They 'strongly disapprov[ed] of the Russian position' (BBC Monitoring 2013). In an indirect reference to Putin's pressure on Yanukovich, Van Rompuy and Barroso expressed that 'while being aware of the external pressure that Ukraine is experiencing', it should be able to choose its future political orientation independently (Europa 2013). Barroso's and Van Rompuy's

statement was rejected by President Putin, who asked '[his] personal good friends to refrain from strong criticism' (Itar Tass 2013b).

Despite the Kremlin's fierce rejection of the argument that pressure was issued against Ukraine, the EaP summit in Vilnius revealed Russia's capabilities in influencing Yanukovich's decision to refrain from signing the Association Agreement. At the summit's plenary session, Yanukovich reflected Putin's wish to continue the EU-Ukrainian integration efforts in a trilateral format by including Russia. Yanukovich responded that he would be 'grateful for [Putin's] support in the issue of initiating respective cooperation in the format Ukraine-EU-Russia' (Press office Victor Yanukovich 2013). Given that this was a direct reference to Putin's request provides support for the widely held assumption that Ukraine's foreign policy decisions could not always be taken autonomously from the Kremlin's orbit. No sooner had Yanukovich rejected the signature of the Association Agreement after this summit, than the European Commissioner for the European Neighbourhood Policy and enlargement Stefan Füle, emphasised that the economic benefits of this agreement for Ukraine could still outweigh the costs of non-action, since 'association provides a blueprint for future oriented, European-Union-oriented reforms in Ukraine' (Natorski 2017, 181). Füle's statement reflects the principle of conditionality, as understood in this article as the EU's foreign policy tool of projecting its ideational power to partner countries by creating incentives for a series of reforms in turn for an eventual accession to the EU. However, membership in the EaP does not envisage accession to the EU. As a consequence, the EU's application of the principle of conditionality is severely weakened in its policy towards Ukraine, because EU policy makers cannot use the prospect of potential EU membership as an incentive for the Ukrainian government to introduce reforms contributing to state-building. The initiation of reforms and other policies are further limited by the EU's hesitant stance in light of Russia's increasingly affirmative foreign policy towards Ukraine.

In what could be considered to be a potential attempt in seeking to avoid a confrontation with Russia over Ukraine, the European Commission announced its lack of involvement in the emerging Ukraine crisis. Prior to the High Representative's Catherine Ashton's visit to Kiev, the Commission's spokesperson Pia Ahrenkilde Hansen declared that it was not 'our role to be specific about actions taken on the ground [but] to support the freedom of the people of Ukraine to express their European aspirations (EurActiv 2013b). This declaration by the Commission carried some weight when bearing in mind that the EU's carefully planned diplomatic mission aimed at the resolution of the Orange Revolution in 2004 resulted in the first political crisis between the EU and Russia since 1999 (Maass 2017). The Kremlin accused the EU of having deliberately attempted to steer Ukraine's policy away from Russia to enhance its influence in the post-Soviet space. During the Orange Revolution, the chairman of the State Duma Committee on Foreign Affairs, Konstantin

Kosachev condemned the EU's interference in the resolution of the political crisis in Ukraine which had 'turned the EU into an 'aggressive organisation' (Kondrashov 2005). His statement would have been unthinkable at the time of the Kosovo war in 1999 when Russian policy makers perceived the US and NATO as aggressors whilst the EU was its antithesis as a result of its lacking capacities in its foreign policy (Maass 2017). Kondrashov thus acknowledged the EU's presence and its capabilities in the Ukraine conflict in the aftermath of the Orange Revolution. Over a decade later, the European Commission's announced refrain from the EU's interference in the Ukraine crisis was both appreciated and belittled by Lukyanov, the Chairman of the Council for Foreign and Defence Policy. He stated that 'as compared with the activities during the Orange Revolution, their impact on the current events in the country is much more moderate' (Zamyatina 2013).

Lukyanov juxtaposed Russia's capabilities with the EU's inability as a regional actor in the EaP. According to Lukyanov, in 2013 when 'the [EU] tried to draw Ukraine into its sphere of influence [...] Russia withstood Western pressures with limited effort, relying exclusively on the power of persuasion and a moderate financial injection' (Lukyanov 2014). In an affirmation of the actorness the EU possessed in 2004 in its relations with Ukraine, Lukyanov stated 'if Russia had been as passive or of as limited capability as it was at the start of the last decade, [a reference to the EU's role in resolving Ukraine's political crisis in 2004], the EU might perhaps have succeeded in tethering Kiev, Yerevan, and others to itself even without any promises. But Moscow has regained its qualities as a serious player and is recklessly making up for lost time. Rivalry has erupted with new force' (Rossiyskaya Gazeta 2014).

The following section will examine the EU's and Russia's quest for their presence and capabilities in Ukraine, as understood by Bretherton and Vogler, to examine the EU's state-building whilst facing the Kremlin's heavy-handed intervention as a rival jeopardising the EU's efforts in Ukraine.

### **The EU's Peace- and State-Building in Ukraine before Crimea's Annexation to Russia**

When the situation in Ukraine got most violent and many protestors lost their lives on Kiev's Maidan in February 2014, the EU was forced to react. It sought to broker a peace deal, but continuing tensions between proponents and opponents to Yanukovich's regime severely challenged the sustainable attainment of the objectives of this peace plan. After the EU's High Representative Ashton agreed to send a mediation mission consisting of the Foreign Ministers of Germany, France and Poland to Kiev, negotiations between Yanukovich and the opposition began. The President of the European Parliament, Martin Schulz, lobbied for the imposition of credible

targeted sanctions against those involved in human rights violations' (Statement by EU leaders on Ukraine 2014). The EU's responsibility to react to this crisis was reflected in the European Council's conclusions on Ukraine. Being 'appalled and deeply dismayed by the deteriorating situation in Ukraine', the Council urged that those people responsible for violating human rights should be brought to justice' (Council of the European Union 2014). The Council has 'introduced targeted sanctions including asset freeze and visa ban against those responsible for human rights violations, violence and use of excessive force' (Council of the European Union 2014). Even though the imposition of sanctions at a time when the EU was internally divided regarding the application of restrictive measures (Maass 2017, 171) demonstrated the EU's presence in Ukraine by seeking to coerce Russia's behaviour, the sanctions did not have these intended effects.

In February 2014, the EU undertook the first steps towards peace- and state-building in Ukraine. Although it is insightful to consider peace- and state-building as analytically distinct processes, these policies need to be examined together in the case of Ukraine. Given that a conflict is still ongoing in Ukraine, the EU's gradual state-building necessitates initial peace-building efforts. Some scholars consider a correlation between peace-building and state-building. Paris and Sisk consider state-building to be a 'particular approach to peace-building, premised on the recognition that achieving security and development in societies emerging from civil war partly depends on the existence of capable, autonomous and legitimate governmental institutions' (Paris and Sisk 2009, 4). The EU's first attempt at peace-building in Ukraine was the deployment of a diplomatic mission of three foreign ministers to Kiev. The German chancellor Angela Merkel informed Putin that the Foreign Minister Steinmeier, his French and Polish counterparts Fabius and Sikorski would travel to Kiev on 20 February to mediate between the opposition and President Yanukovich (Auswärtiges Amt 2014).

The result of the Foreign Minister's mediation efforts was a preliminary five-point plan signed by the Ukrainian government and the opposition aimed at peace-building. It urged to re-establish the Ukrainian constitution from 2004, to create and shape a national government, ten days after the plan's signature. Constitutional reform, an equilibrium of power between the president, the government and the parliament should be completed by September 2014. At the same time, the presidential election should be held as soon as possible whilst acts of violence should be investigated and prohibited. Furthermore, the Ukrainian authorities should not impose a state of emergency. These conditions for establishing peace reflect elements of Paris and Sisk's definition of state-building, such as achieving security through shaping the creation of 'capable, autonomous and legitimate governmental institutions' in societies emerging from a civil war (2009, 4). In the case of Ukraine, a civil war had not taken place but the Ukrainian elites' and peoples'

contrasting aspirations regarding their country's future political alignment with either the EU or Russia, in addition to the growing opposition to the Ukrainian government, were factors which could bring about a civil war.

A major challenge in creating the conditions for peace and state-building at this moment in Ukraine was the fact that the country had not yet emerged from civil war but was still in a condition, which can be likened to such a state. This condition reflects the type of state-building in a society still in conflict. Due to both Russia's pressure on the Ukrainian government and the country's internal divergence over its future political orientation, the EU's state-building was severely challenged, which was reflected in the EU's inability to implement the main mechanisms in state-building. One of the mechanisms is the drafting of peace agreements, which the EU sought to initiate in Ukraine. In addition to state-building in a society still in conflict, two other forms of state-building, namely military state-building and post-conflict state-building exist. The former aims at 'regime change rather than state-building' as exemplified by the wars in Iraq and Afghanistan (Bouris 2014, 13). Post-conflict state-building entails the implementation of state-building initiatives in a country where a conflict has already been resolved and violence ended. The cases of Namibia or Bosnia exemplify this type of state-building where means for facilitating both liberal peace and market democracy have been employed (Bouris 2014, 14).

Despite the peace plan's adoption, its negotiators remained sceptical about its success. Germany's Foreign Minister Steinmeier declared that 'we will keep an eye that the agreement which was made here will be implemented' (Auswärtiges Amt 2014). He did neither specify how he intended to do so, nor which measures would be implemented in case of non-compliance with the agreement. No less critical about the agreement's success was Steinmeier's negotiating partner Fabius, who stated that safeguarding Ukraine's integrity required to avoid the country's polarisation between the EU and Russia.

In an obvious allusion to Germany's role in the negotiations of the peace agreement, the chairman of the Russian Council on Foreign and Defence Policy stated that 'Germany, for example, has a desire to show its newly acquired taste for European leadership' (Lukyanov 2014a). He added that the 'ideal scenario would be if Russia and the EU could agree on an informal protectorate [...] guarantee[ing] the preservation of Ukraine within its present borders and take on some of the responsibilities that the current state institutions seem unable to manage' (Lukyanov 2014). Lykyanov's reference to the EU's preservation of Ukraine in the absence of functioning state institutions alludes to elements of state-building. According to the OECD's Development Assistance Committee, state-building refers to an 'action to develop the capacity, institutions and legitimacy of the state in relation to an effective political process for negotiating the mutual demands between states and societal groups' (OECD DAC 2008, 14). The main tools the EU employs in state-building are peacekeeping operations, peace processes and

reconciliation efforts, strengthening good governance and the rule of law, democratisation, reform of the judicial system, seeking to enforce human rights, the deployment of civilian missions as well as the building of institutions (Europa. EU 2013). However, the Kremlin's uncompromising policy towards Ukraine incapacitated the EU in its response to the Ukraine crisis since the referendum shaping the way towards Crimea's annexation to Russia. Consequently, the EU adopted the role of a passive bystander. In addition to tools the EU employs for state-building, the EU also 'generates incentives in order to build states that have specific, liberal-oriented characteristics' (Europa. EU 2013). The EU's abilities in implementing reforms were hampered because of the deterioration of the Ukraine crisis epitomised by Crimea's annexation by Russia.

### **The EU's State-Building in the Aftermath of Crimea's Annexation**

State-building can include either the EU's involvement in the management of independence claims or in building or re-designing of institutions in contested statehood claims. As a consequence of Crimea's annexation by Russia in March 2014, which turned Ukraine into a case of contested statehood, the EU's state-building capacities were very limited in both respects. The pre-text to the annexation was two-fold. First, a referendum which enabled 'Russia [to] seize control over Crimea, [...] recognize its independence and then incorporate it within its own territory' (Tsygankov 2015, 285). Second, according to Natorski, 'the demise of Yanukovich's regime precipitated the annexation of Crimea [...] and the war in Eastern Ukraine against pro-Russian rebels [as well as] Russian armed forces (Natorski. 2017, 188). For President Putin much was at stake in Ukraine. According to the Russian academic Tsygankov, Putin is 'signalling to the outside world that Russia remains capable of defending its position even if this leads to undermining Ukrainian statehood. Despite its weaknesses and vulnerabilities, Russia continues to hold major advantages in Eurasia and will not stop at exploiting these when its core values and interests are at stake' (Tsygankov 2015, 298).

The EU became a passive bystander witnessing Crimea's annexation by Russia rather than being an agenda setter in peace and state-building in Ukraine. According to Sakwa, 'the EU is not organisationally geared up for geopolitical contestation [with Russia], and thus during the Ukraine crisis it soon took the back seat to a power that is precisely configured to wage geopolitical struggles on a global scale' (2015, 575). Sakwa's reference to the EU taking the back seat in light of Russia's actorness reflects the EU's limitations in its state-building in Ukraine, which became most visible after Crimea's annexation.

The EU's internal deliberations on how to respond to the worsening of the crisis were marked by discrepancies undermining its ability to develop

an affirmative political stance. According to the Prime Minister of Luxembourg Xavier Bettel ‘among the 28 [EU Member States] there are very wide gaps. There are countries that have very different positions’ (Neuger, Wishart, Sterans 2014). This was the latest in a series of examples, which demonstrated the EU’s lack of a unitary stance undermining the EU’s acquisition of actorness in its foreign policy towards Ukraine. The European Council repeatedly asserted that it refrained from accepting Crimea’s annexation. The High Representative of the Common Foreign and Security Policy (CFSP) Catherine Ashton announced that ‘we do regret that Russia has so far not engaged in negotiations with Ukraine [...] we have today decided to introduce additional [...] restrictive measures against 21 individuals responsible for actions which undermine or threaten the territorial integrity, sovereignty and independence of Ukraine seeking to ‘send the strongest possible signals to Russia’ (European External Action Service 2014). In a probable attempt to rebuff criticism by Russian policy makers regarding the imposition of restrictive measures, the President of the European Council Van Rompuy declared that ‘sanctions are not a question of retaliation; they are a foreign policy tool – not a goal in themselves, but a means to an end. Our goal is to stop Russian action against Ukraine, to restore Ukraine’s sovereignty – and to achieve this we need a negotiated solution (Council 2014b).

The EU’s abilities to act were limited due to the lacking political means in response to the annexation. Its aftermath sparked internal deliberations regarding the impositions of sanctions against Russia. Heads of states and government of EU member states as well as representatives of EU institutions were divided into proponents and opponents of restrictive measures (Maass 2017). The EU’s capabilities in its response to the Ukraine crisis were undermined by the lacking effect of the restrictive measures to either coerce Russia’s policy or contribute to peace-building. Giumelli argued that assessing sanctions merely in terms of their coercive effects ‘does not do justice to the complexity of this foreign policy instrument’ (2015, 1). In a different vein, other Western scholars remain sceptical about the effects of sanctions as they consider Russia to be ‘highly resilient because the many non-globalised sectors of its economy co-exist with more export-dependent sectors, such as energy (Aalto and Forsberg 2016). This view is shared by the Russian academic Tsygankov, who states that sanctions could ‘strengthen the potential for anti-Western nationalism inside Russia, thereby pushing Putin toward more hawkish and provocative actions with regard to Ukraine or other Eastern European nations. Sanctions and pressures on Russia mask the West’s lack of vision regarding the stabilization of Ukraine and the larger region’ (2015, 299). The risk for provocative responses resulting in retaliation by Russia is an additional underlying tension in the already more than conflictual relations between Russia, the EU and Ukraine. In light of this risk, an abstention from imposing sanctions against Russia would have not

guaranteed a shift towards Russia's more moderate foreign policy agenda in the post-Soviet space (Giumelli). Simultaneously, the lack of imposing restrictive measures could have ultimately resulted in the US government's critique of the EU's inability to safeguard security in its Eastern neighbourhood (Giumelli).

Crimea's annexation turned Ukraine into a case of 'contested statehood', which marginalised the EU's initial efforts for both peace- and state-building. Contested statehood best captures the situation in Ukraine where authorities failed to maintain control over the country's territory, which is exemplified by Russia's annexation of Crimea. Despite the political, economic and humanitarian shortfalls in the aftermath of the Euromaidan protests, the annexation of Crimea and the military confrontation with Russia, the EU continuously promoted transformative domestic reforms in Ukraine. The signing of the Association Agreement set the programme of reforms in line with EU standards and norms' in June 2014 (Natorski 2017, 178). Three months later, the completion of the Association Agreement with the Deep and Comprehensive Free Trade Agreement in June symbolised the EU's 'support for political, economic and social transformation in Ukraine' (Natorski 2017, 178).

Despite the EU's attempts to foster reforms, its efforts seemed marginal in light of the conflict's deterioration epitomised by the downing of flight MH 17 in July 2014. In response to the downing, German Foreign Minister Steinmeier stated that 'a serious and independent resolution of this crime' was needed (Auswärtiges Amt 2014b). In what can be considered a call for action, he stated that 'sanctions are neither a means just for the sake of it, nor a cure against everything, but without any doubt, the Russian leadership did not do enough in the past weeks to contain separatists. [...] [W]e are ready to increase the pressure against Moscow [...] to force Russia to change its behavior and to take part in de-escalation' (Auswärtiges Amt 2014b). Steinmeier's words carried weight. A week after his statement, the EU implemented an arms embargo, a ban on export of sensitive technologies and on the sales of bonds as well as equities by Russian banks in European markets (Deutsche Welle 2014).

Four months after the downing of MH 17, EU-Ukrainian integration efforts culminated in the provisional implementation of remaining parts of the Association Agreement. According to Natorski, this signing of this agreement 'was another symbol of support for Ukraine' [and] 'a key instrument for carrying out the much-needed reforms in Ukraine in the years to come, underpinned by the EU's support on its path towards a modern European democracy' (2017, 182). Seeking to fulfil the objectives of reform, the European Commission established a Support Group for Ukraine, which assisted Ukrainian authorities with implementing a range of reforms.

The establishment of a 'civilian capacity-building CSDP mission' supporting Ukraine's police and judicial system (Nováky 2015, 251) is the latest example of the

EU's continuing state-building efforts. Poland, Sweden and the UK proposed launching the mission, which was established in November 2014 and became operational on July 1 2015 (Zarembó 2017, 197). These member states were in charge of the mission, which enabled a prompter action than the Commission could have provided in the event of changing dynamics on the ground, due to its remote location (Nováky 2015, 252). This EU Advisory Mission (EUAM) aims at advising 'relevant Ukrainian bodies in the elaboration of renewed security strategies and the consequent implementation of relevant comprehensive and cohesive reform efforts' (Nováky 2015, 252). It supports Ukrainian authorities in the 'reform of the civilian security sector through strategic advice and hands-on support for specific reform measures based on EU standards [as well as on] international principles of good governance and human rights' (European Union External Action 2018). This mission was launched upon request by the Ukrainian government (Bátora and Navrátil 2016, 28), which had not defined the type of mission it envisaged but merely specified that it sought assistance in border monitoring, border control and the prevention of trafficking (Zarembó 2017, 197). The mission's 200 staff members mainly based in its headquarters in Kiev, as well as in Lviv and Kharkiv are responsible for the implementation of the mission's mandate.

The rather generic explanation of the missions' objectives necessitates an examination of its success. CSDP missions are usually evaluated every two years. However, an initial internal review of the EUAM already took place a year after its inception, reflecting some limitations of the mission. Officials working in the mission criticised it for its lack of vision (Zarembó 2017, 200). In an evaluation in the second year since the mission's establishment, this criticism was not repeated; thus, alluding to what presumably were initial pitfalls reflected in the first evaluation. In an attempt to eliminate some of the missions' shortcomings, its objectives were broadened by including trainings and technical provisions (Zarembó 2017, 202). It remains questionable whether an extension instead of a limitation of objectives by deepening some resources, was an appropriate strategy seeking to address some of the mission's defaults. According to the EUAM, several shortcomings such as 'unwillingness and resistance to change, gaps in legislation, insufficient funding, unsatisfactory professional standards, a lack of coordination between agencies and the prevalence of corruption prevail' (EUAM Ukraine 2018) despite the adjustment of the mission's objectives.

Despite the aforementioned impairments of the EUAM, it can be acknowledged that the mission exemplified the EU's presence. Presence, according to Bretherton and Vogler, implies the EU's ability to exert influence by shaping either perceptions, expectations or behaviours of other actors, was fulfilled by the mere existence of the EUAM, which could shape Ukrainian elite's perceptions of the EU as a state-builder and could raise expectations in this regard. This presence also contributed to an 'expectation' that neither Russia nor Ukrainian

separatists will 'question those territorial markings. If they do then presumably the EU has certain means in mind that it will use to punish them. Therefore, it follows that the broader a mission's regional outreach, the better its visibility and by extension the stronger its deterrence effect' (Nováky 2015, 258). However, as Nováky rightly disclaims, in light of Russia's affirmative foreign policy towards Ukraine, the EUAM's outreach capabilities as a non-executive mission should not be overestimated. Increasing tensions of Russian or Ukrainian separatists in regions of the EUAM's presence would reflect the EU's lack of capabilities and opportunities. According to Nováky, the EU's lacking capacities due to an absence of hard policies proportionate to the tensions could result in kidnapping of the EUAM's personnel, which previously happened to OSCE election observers in Ukraine in 2014 (Nováky 2015, 252). At the same time, it is more than doubtful that Russia's foreign policy towards Ukraine would be coerced by the opportunity of the EU's action as reflected in both the establishment of this mission and its outreach. An example of President Putin's continuing affirmative and unpredictable policy towards Ukraine is the opening of a bridge connecting Russia with Crimea on May 17 2018

(Radio Free Europe 2018), about a week after his inauguration of his fourth term in office. The latest example of Russia's uncompromising policy is its open confrontation with Ukraine which took place in the Sea of Azov in November 2018 (Zeit 2018).

## Conclusion

This article identified several factors shaping the EU's state-building initiatives in Ukraine between November 2013 and July 2015. The nature of the EU's state-building before the annexation of Crimea differed from its policies in the appropriation's aftermath. Prior to Crimea's annexation, the EU primarily engaged in Ukraine in conflict management and peace-building in light of the severe protests regarding the country's future political orientation. The EU's peace-building attempts were exemplified by the drafting of a peace plan by the French, the German and the Polish Foreign Ministers, who were sent to Kiev on behalf of the High Representative of the CFSP, thus giving their peace-building efforts the clout of an EU mission.

Crimea's annexation to Russia resulted in the EU's continuous efforts at state-building in Ukraine. The signing of political provisions of the Association Agreement, a fortnight after the annexation, was an incentive for the implementation of further political and economic reforms. The establishment of a CSDP mission focusing on the civilian security sector additionally contributed to reform processes. It can thus be concluded that prior to Crimea's annexation the EU primarily focused on conflict management. By contrast, in the annexation's aftermath, the EU employed both hard and soft policy tools in the form of sanctions, the completion of the

Association Agreement with Ukraine as well as using one of the key tools in state-building, namely the launch of a civilian mission in Kiev.

However, as this article demonstrated, the EU's capacities in state-building were shaped by the deterioration of the Ukrainian conflict, the annexation of Crimea and Russia's rivaling actorness in Ukraine. Bouris argued that the 'EU managed to adopt a direct state-building role' 'mainly' in cases of contested statehood (2014, 24). In the case of Ukraine, the EU could not acquire a 'direct state-building role' because of Russia's conflicting, unilateral foreign policy strategy towards Ukraine. Russia possessed opportunity shaping its action in Ukraine. Simultaneously it acquired presence by its ability to exert influence through shaping perceptions and behaviours of other actors. Its presence was exemplified by the Ukrainian president's abstention from signing the Association Agreement and its vociferous condemnation of EU-Ukrainian integration. Russia's capabilities are characterised by its policies constraining the EU's actions in Ukraine by taking advantage of opportunities. This capability is reflected in Crimea's annexation where Russia did not take advantage of an existing opportunity but created the opportunity itself. The rationale of this policy agenda was explained by a former special advisor to President Putin, Lukyanov, who stated that since 2007 Russian foreign policy was characterised by 'a concept according to which Russia should retain the freedom of action and seek the consolidation of its independent position on all issues' (Lukyanov 2008, 1116). According to Sakwa, this assessment of Russia's 'greater self-reliance in international affairs and [...] confidence in the country's ability to solve its problems on its own terms' is one of the main reasons for EU-Russian clashes (2008, 882). Due to Russia's self-confidence, the EU could not acquire an actorness adequate to coerce Russia's foreign policy towards Ukraine, as it was able to after the Orange Revolution in 2004 when the EU's diplomatic mission to Kiev contributed to resolving the domestic political crisis, to the detriment of the Kremlin's interests.

What do the EU's peace- and state-building initiatives in Ukraine before and after Crimea's annexation reflect about the EU's actorness? The examination of peace and state-building efforts revealed that the EU did not possess presence, capabilities and opportunities, all facets of actorness at the same time. Before the annexation of Crimea, the Ukraine crisis provided an opportunity for the EU to act as both a conflict manager and a peace-builder, but the dynamic development of the crisis constrained the EU's capabilities. Even though the EU did not possess presence at the time of the adoption of the peace plan as was reflected in its inability to 'exert influence [...] by shaping perceptions, expectations and behaviours of other actors' (Bretherton and Vogler 2006), its presence resonated with the Ukrainian political elite. The latter requested the EU to launch a civilian mission. In the aftermath of Crimea's annexation, the EU's presence and its capabilities are difficult to assess at this moment, due to the lacking progress

reports of the EUAM on the one hand and the need to measure the effects of the sanctions. Even though they contributed neither to the crisis' de-escalation nor to the coercion of Russia's foreign policy towards Ukraine, their effects are likely to be more complex; thus, requiring future research.

It has to be acknowledged that the Ukrainian government contributes to institutional reforms nurturing state-building capacities initiated by the EU. The assessment of domestic, endogenous and exogenous factors contributing to the EU's state-building will be at the core of future research on peace and state-building in Ukraine. The latter will also depend on the decision pending whether or not to deploy UN peace-keepers in Eastern Ukraine (BBC Monitoring 2018) after a meeting between German Foreign Minister Maas, his French, Russian and Ukrainian counterparts in Berlin on June 11 2018 (UNIAN 2018) did not reach a conclusion. Furthermore, actions of the US, the UN and a close examination of the role of member states in charge of the EUAM need to be at the core of future research to contrast the analysis of a rather Eurocentric assessment on state-building at the core of this special issue.

## Note

1. In addition to a consolidated democracy, Linz and Stepan argue that other criteria, such as a free civil society, autonomous political society, rule of law, a functioning bureaucracy and an 'institutionalised economic society' must exist for the creation of a consolidated democracy.

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