

ENERGY RELATIONS BETWEEN RUSSIA AND UKRAINE AFTER THE EUROMAIDAN: TRAPPED BETWEEN THE CONTRACTUAL SPACE AND THE SPACE OF SPACES

Eric PARDO SAUVAGEOT*

Abstract

Russia-Ukraine energy relations have been mired in constant tension and contract renegotiations since the fall of the Soviet Union. Major examples of the conflict ridden character of mutual energy relations are the big disputes of January 2006 and January 2009 which translated into grave disruptions of energy flows to other European countries further west. The new period opening with the contract signed in January 2009 and later with Viktor Yanukovich's presidency seemed to have ushered Ukraine and Russia into a period of relative stability. That situation floundered with the onset of the Euromaidan, the ousting of Ukraine's President Viktor Yanukovich and the arrival in Kiev of new authorities which Moscow perceived as hostile. Energy relations were necessarily affected by a new context where both countries entered a period of armed confrontation. In this presentation, I will analyze energy relations between Russia and Ukraine since the Euromaidan using as analytical tools the characterization made by Katja Yafimava of four different spaces to understand how energy relations unfold in the post-Soviet space: regulatory space, space of flows, contractual space and space of places. This seems particularly warranted as in our case we find that particular changes (or lack thereof) in both the contractual space and the space of spaces determined to which degree energy relations between our two countries moved towards a pattern of conflict. This way, we may extract valuable lessons as for the way mutual relations are constructed and either politicized or de-politicized depending on the circumstances. This may provide a guide to consider how energy relations may evolve in the coming future, especially if diplomatic relations stay in their current stage since Russia decided to annex the Peninsula of Crimea and support separatist militias in the Donbass region.

Keywords: *Russia, Ukraine, Energy, Natural Gas, Contractual Space, Space of Places.*

1. Introduction

This paper endeavors to analyze the situation of crisis in mutual energy relations between Russia and Ukraine since the phenomenon known as Euromaidan took place from December 2013 and February 2014 in Ukraine, leading to Viktor Yanukovich's ouster as President as the final outcome. This political phenomenon led to a similar deterioration in relations between Russia and Ukraine as when the "Orange Revolution" averted Yanukovich's election in rigged presidential elections and allowed the election of the pro-Western Viktor Yushchenko.

As it happened then, this worsening of relations between the two neighbours led to deterioration in energy relations: the popularly known as "energy wars" of January 2006 and January 2009 were the manifest example of this state of affairs. It was expected that similar phenomena would happen after the Euromaidan. As we will see, energy disputes and sustained natural gas cut-offs happened indeed, but the outcomes were not quite as extreme as expected from the fact that Russia-Ukraine relations rapidly reached their nadir since the fall of the USSR: Russia swiftly annexed the Peninsula of Crimea and the City of Sebastopol and has been active supporting separatists in the Eastern

region of Donbass, with the self-proclaimed Republics of Donetsk and Lugansk sustaining themselves in part of the homonymous provinces.

As we will have the chance to explain in more detail below, geopolitical changes mentioned above did impact in a series of energy disputes that have been happening since 2014. This has happened in a more subtle way than through the crude use of the "energy weapon", as Russia's politicization and energy cut-offs have come to be popularly known. The general process of deterioration of mutual Russia-Ukraine relations enabled at a certain degree the appearance of energy disputes between both countries shortly after the fall of Yanukovich. However, at the same time, it limited the margin available to actors involved to escalate their disputes. Energy has not been used as a surrogate for war unfolding in parallel. Analyzing these episodes in energy disputes between our two actors will enable us to use this case-study as to determine as exactly as possible the level of politicization in their energy relations and its particular characteristics.

The importance of this study lies in the necessity of separating facts from propagandistic discourses that identify politicization in the post-Soviet Space and Russia's role therein under the category of energy weapon leaving aside due nuances that bring a clearer picture of how actors behave.

* Eric Pardo is Phd by the Universidad Complutense de Madrid and lecturer at Deusto University, Faculty of International Relations and Social Sciences, Bilbao, Vizcaya, Spain.

In order to provide a suitable answer as for the degree of politicization which occurred during the period of our case study (2014-15), we will use the theoretical framework devised by the researcher at the Oxford Institute for Energy Studies (OIES) Katja Yafimava. Yafimava distinguishes a set of four spaces that determine energy relations in a context of interdependence between energy producers, transit countries and consumers. These four spaces are: *space of flows*, *contractual space*, *regulatory space* and *space of places*.

Focusing on the *contractual space* and on the *space of places*, this article will make a positive contribution to the existing literature, both to that devoted to the complex reality of energy interdependence and energy disputes,¹ and to the issue of politicization and the use of energy as a weapon.²

2. The background

Russia-Ukraine relations have been fraught since the both countries reached independence, after the Soviet Union's fall. Marring mutual relations were geopolitical issues such as the status of Crimea and mainly, the status of the former Soviet Black Sea Fleet, based at the City of Sebastopol in the Peninsula.

However, the Administration by the second President of the Ukraine, Leonid Kuchma managed to find a modicum of stability with its neighbor: if rapprochement with the West remained an objective, it was subordinated to immediate interests, such as internal stability and to the maintaining good relations with Russia. This country as recognized as a necessary economic and political partner. Whenever relations with the US, the European Union or with financial institutions as the IMF soared, the awkward equidistance sought turned into a pro-Russian, even if cautious turn. This was particularly manifest at the last years of Kuchma's

administration, under the premiership of Viktor Yanukovich.³

This situation floundered as a result of the Orange Revolution, which, as already mentioned above, led to the failure of Yanukovich's attempt to become the new president; instead, his rival Viktor Yushchenko was elected when elections were repeated.⁴ With a new administration starting, Ukraine took a decidedly pro-Western turn in favor of EU and NATO membership. The Russian Federation could only react negatively to this political orientation. As we will mention below, this was the time of the "energy wars" of 2006 and 2009. However, the political challenge to Russia was mostly mitigated by the ineffectiveness of the new authorities, with President Yushchenko and his Prime Minister Yulia Timoshenko feuding and with political instability ensuing and putting a brake to their reformist zeal.⁵ The May 2008 NATO Summit in Bucharest, where Ukraine and Georgia were offered the perspective of membership, arguably played a significant role in the so called "Five Days War" of August 2008 between Russia and Georgia and was the farthest that Ukraine would get in its new pro-Western orientation. Then financial crisis hit Ukraine hard and the Presidential elections of 2009-2010 brought Viktor Yanukovich to power.

Yanukovich's Administration has come closer to the balance that was sought after during Kuchma's Administration. However, certain tension remained in relations with Russia. Integration within the EU-promoted Association Agreement (AA) elaborated in the frame of the Eastern Partnership,⁶ competed with Russia's project of Eurasian Union, for which Ukraine was an essential potential partner. Kiev, while cooperating with the IMF, longed for the

¹ See, among others: Katja Yafimava, *The Transit Dimension of EU Energy Security* (Oxford, New York: Oxford University Press, 2011); Simon Pirani, Jonathan Stern, Katja Yafimava, "The April 2010 Russo-Ukrainian gas agreement and its implications for Europe", *Oxford Institute for Energy Studies* (2010), at <http://www.oxfordenergy.org/pdfs/NG42.pdf>; Simon Pirani, Jonathan Stern and Katja Yafimava, "The Russo-Ukrainian gas dispute of January 2009: a comprehensive assessment", *Oxford Institute for Energy Studies* (2009), www.oxfordenergy.org/wpcms/wp-content/uploads/2010/11/NG27; Jonathan Stern, "The Russian-Ukrainian gas crisis of January 2006", *Oxford Institute for Energy Studies* (2006), <http://www.avim.org.tr/icerik/energy-gas.pdf>

² Zeyno Baran, "EU energy security: time to end Russian leverage", *Washington Quarterly* 30 (2007): 131-144; Karen Smith Stegen, "Deconstructing the "energy weapon": Russia's threat to Europe as case study", *Energy Policy* 39 (2011): 6505-6513; Stacy Closson, "A comparative analysis on energy subsidies in Soviet and Russian policy", *Communist and Post-Communist Studies* 44 (2011): 343-356; Nina Poussenkova, "The global expansion of Russia's energy giants", *Journal of International Affairs* 63 (2010): 103-124; Adam Stulberg, "Out of Gas?: Russia, Ukraine, Europe, and the Changing Geopolitics of Natural Gas", *Problems of Post-Communism* 62 (2015): 112-130.

³ The revelation that Ukraine had sold air-defense radars to Iraq, as revealed in 2002, in violation of UN resolutions, necessarily cooled relations with the US (See: Fred Weir, "Ukraine may have sold air-defense radar to Iraq", *The CS Monitor*, October 17, 2002, <http://www.csmonitor.com/2002/1017/p01s03-woeu.html>)

⁴ See: Andrew Wilson, *Ukraine's Orange Revolution* (London: Yale University Press, 2005); Paul J D'Anieri and Taras Kuzio, *Aspects of the Orange Revolution. Democratization and election in post-Communist Ukraine* (Stuttgart: ibidem-Verlag, 2014); Taras Kuzio, *Democratic revolution in Ukraine: from Kuchmagate to Orange Revolution* (London; New York: Routledge, 2009).

⁵ There was even an "interregnum" where Viktor Yanukovich was elected as Prime Minister as a result of the Orange coalition's inability to agree on a new government after the March 2006 parliamentary elections: Prime Minister Timoshenko had been sacked in October 2005 by the President and the Socialist Party decided to switch sides, so Yanukovich would be elected in October 2006; as a result of new elections in November 2007, Timoshenko came back to power.

⁶ The Eastern Partnership seeks to deepen relations with a set of post-Soviet countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. See: http://www.eas.europa.eu/eastern/index_en.htm

benefits of Free-Trade that the AA offered.⁷ The signature of the AA was foreseen for the Eastern Partnership Summit in Vilnius to take place on the 28th and 29th of November 2013. However, either exclusively because of pressure from the Russian side or due to inducements later offered by Moscow, the decision was taken on the 21st to postpone the signature. This fateful decision sealed Yanukovich's destiny, as it triggered a new revolution, the Euromaidan,⁸ meant to topple him.

The Euromaidan pushed at least half of the country⁹ in clear confrontation with an Administration whose authoritarian and corrupt leanings had become unbearable to large swaths of the population; the poor economic performance during the last two years did not help to endear the Ukrainian population with its rulers. The first citizens to show up at the demonstrations in Kiev's Central Square, the Maidan, where mostly pro-European youths disappointed at the President's U-turn; however, the more repressive the government's response turned, the more people grew indignant and took to the streets to protest against Yanukovich. The civil movement increasingly came to be structured around a vanguard of ultra-nationalist and extreme-right paramilitary militias that managed to both face and provoke the dreaded Berkut until the final and bloody stage from the 18th to the 20th of February, an episode still nowadays shrouded in mystery as for its ultimate responsibility.¹⁰ The pressure from paramilitary sectors from the opposition in the street, probably in combination with a loss of support from certain parts of the Administration's business interests (aka oligarchs) led to Yanukovich's flight and a new parliamentary alignment of forces, so the former opposition came to rule; Petro Poroshenko was elected President in May 2014 in the first round.

As had happened with the Orange Revolution, this led again to a staunchly pro-EU orientation, so the AA was finally signed. However, Russia's reaction was this time much harsher, in parallel with the more violent character of the revolution this time: few days after Yanukovich had fled the Russian Federation led an undercover operation to swiftly occupy the Peninsula of Crimea and to secure control of the Base of Sebastopol, where the Russian Federation's Black Sea Fleet is based.¹¹ By the 21st of March, the Peninsula of Crimea had been annexed

to the Russian Federation. Then during April, pro-Russian militias mushroomed in the Eastern region of the Donbass, again with undercover Russian support. As a result, the conflict in Eastern Ukraine has evolved into a classical post-Soviet frozen conflict, with the self-proclaimed Donetsk and Lugansk People's Republics (DPR and LPR) ruling parts of the homonymous provinces.

The energy relations between Russia and Ukraine have in great part followed political events. Whenever Ukraine has come to be ruled by politicians antagonistic to, or deemed to be so by, the Russian Federation, energy relations have clearly worsened. This was the case during Yushchenko's Administration and is equally the case now under Poroshenko. However, energy relations have also followed their own dynamics due to intrinsic elements that have tended to draw both countries apart from each other. In general, energy relations have been clearly more contentious than other aspects in their mutual relations.

At the center of this reality lies the protracted, and during long time failed, energy transition from the subsidized model of the Soviet Union towards a market based energy market upon independence. Far from moving into this direction, as most countries in the former Eastern Bloc did, many post-Soviet countries tried to keep subsidies in order to maintain competitiveness of their obsolete industrial sector and to guarantee cheap energy supply to an impoverished population. This was clearly the case with Ukraine. The problem lay in the fact that subsidies would either translate into either excessive state debt for Ukraine (usually monetized and thus feeding inflation) or would force producers such as Turkmenistan and the Russian Federation to assume the costs themselves. This latest option, for obvious reasons, was the one preferred by Kiev.

Unfortunately, this usually gave way to constant fights between Ukraine and its suppliers to maintain under-market prices. A transition towards market prices was performed for oil. However, natural gas was a different story: with the metallurgical industry and district heating for the population dependent on this source, Ukraine could

⁷ One of the main obstacles for signing the AA was the fact that former Prime Minister Yulia Tymoshenko was jailed for abuse of power when signing energy agreements with Russia in January 2009. This clearly appeared as a politically induced trial to get rid of one dangerous opponent. However, after lengthy negotiations, the road towards signature seemed open by late 2013.

⁸ See: Richard Sakwa, *Frontline Ukraine: crisis in the borderlands* (London; New York: I.B. Tauris, 2015); Andrew Wilson, *Ukraine crisis: what it means for the West* (New Haven: Yale University Press, 2014); Rajan Menon and Eugene B. Rumer, *Conflict in Ukraine: the unwinding of the post-cold war order* (Cambridge, MA: The MIT Press, 2015).

⁹ This division is geographical, with the Western half more Ukrainian-speaking, nationalistic and pro-European than the Eastern half of Ukraine, mainly Russian speaking and more supporting of Yanukovich's Party of Regions.

¹⁰ While many believe the responsibility lies in government hired snipers, there are several accounts that point to Maidan related militants. For arguably the most elaborate account in this direction to date, see: Ivan Katchanovski, "The 'Snipers' Massacre' on the Maidan in Ukraine", unpublished paper, http://www.academia.edu/8776021/The_Snipers_Massacre_on_the_Maidan_in_Ukraine.

¹¹ After several years of negotiations, it was decided in 1997 that the former Soviet Black Sea Fleet would be divided, with Russia retaining the largest part and leasing the port of Sebastopol, under Ukrainian sovereignty.

hardly afford to pay market prices. This translated into accumulated debts and subsequent gas cut-offs from Russia and Turkmenistan. Ukraine often responded with unsanctioned offtakes of natural gas that transited its territory; in this respect, Ukraine took advantage of its position: besides being a consumer of natural gas, it was transit country for supplies sold further West in Europe. This made an escape of gas cut-offs possible, whenever this happened. Thus “energy wars” involving natural gas were recurrent during the decade of the 90s. With the onset of Yushchenko’s government from 1999 to 2001,¹² the perverse spiral of indebtedness, cutoffs and unsanctioned offtakes came to an end. There was even agreement in 2003 for a project to build a natural gas consortium between the Russian and Ukrainian monopolies, Gazprom and Naftogaz and which would enable Moscow to better control the flow of natural gas through Ukraine.

All this period of “peace” came to an end with the onset of the Orange Revolution. During the last administration of Kuchma, prices agreed for Ukraine had not ceased to fall in relative terms: usual market formulae to determine natural gas prices are based on international oil prices. With these skyrocketing since the start of the decade, the cost of opportunity of not revising energy prices grew; Ukraine was again enjoying subsidies. The fact is that whereas that might have been relatively acceptable under Kuchma and under promises of establishing an energy consortium, it was not the case anymore under Yushchenko. It was the Ukrainian side who started to demand revision of the transit tariffs¹³ and Gazprom responded in kind concerning supply prices; during the same time, Turkmenistan also supplied natural gas to Ukraine and started to demand higher prices too. This led to a fatal cocktail as disagreements led to Gazprom cutting off supplies on the 1st January. An agreement was reached on the 4th January by which Ukraine accepted higher prices; prices would be subsequently revised in 2007 and 2008. However, a new dispute erupted in January 2009 due to new price disagreements and to debts that Naftogaz had started to accumulate again under the pressure of higher prices. The energy dispute of January 2009 led to a sustained cut-off or nearly three weeks which translated into flows through Ukraine being cut off too. This time, the new agreements signed forced Ukraine to accept energy prices linked to international oil prices, under a formula which was particularly burdensome for Naftogaz.

Fortunately for Ukraine, as seen above, the political tide changed with the arrival of Yanukovich at the Presidency. This enabled Ukraine to strike a

new agreement in April 2010 with Russia which introduced a price discount in the formula agreed one year earlier: in exchange for extending the lease contract for its Black Sea Fleet in Sebastopol, Russia offered a discount of 30% in natural gas prices. Politicization of energy relations came again to favor Ukraine in the midst of the Euromaidan: in “reward” for having postponed the signature of the AA with the EU, Putin offered his Ukrainian counterpart a 33% reduction in prices of natural gas; Russia was choosing again to subsidize Ukraine’s natural gas in exchange for political benefits. These two discounts would become significant in the next months to understand the new deterioration of energy relations between Russia and Ukraine after the Euromaidan.

3. Theoretical framework and hypothesis

As we have had the chance to see in the section above, the Euromaidan ushered Russia-Ukraine relations into a new period of political deterioration. The short background reviewed in this article has highlighted that there is a close link between the political situation and the state of energy relations. It is fair to assume that a high degree of politicization takes place between Russia and Ukraine when it comes to energy issues. However, to establish this fact does not in itself provides us with a clear picture of what characteristics this politicization has and what degree it reaches within the different categories it assumes. Unfortunately, as already mentioned in our introduction, this state of lack of definition either in the public debate or even worse, in the academic realm, has become a source of deficiency as for what respects the needed rigor regarding energy issues in the post-Soviet space.

When it comes to politicization, it must be considered that this phenomenon has several dimensions within the realm of energy relations. In itself, the term might be simply understood as the introduction of non-economic factors into a set of relations, in this case, energy, which cease henceforth to be based strictly on economic terms. In our particular object of study, politicization has usually assumed a clear form, which is that of subsidization through the producer’s acceptance of lower than market prices. This may have happened in exchange for political favors or as a concession in order to avoid undue unrest. The most contentious form of politicization is that which derives in energy disputes where problems of either supply or transit happen. It is this form of politicization that has spawned the term “energy weapon”, a term that has arguably become the catch-all word to subsume the

¹² The same who would challenge Kuchma’s anointed heir, Viktor Yanukovich, and eventually become his successor, had been in fact his Prime Minister during this period. The most likely reasons for his being sacked were that.

¹³ Besides payment for supplies from Russia, Russia had to pay Ukraine for all the volumes of gas that used its transportation system; in compensation for subsidized prices for natural gas, Russia faced low transit tariffs.

most conflictive dimensions of energy relations in the post-Soviet space in general and between Russia in particular.¹⁴ The usual idea conveyed by the idea of energy weapon is that Russia uses energy cutoffs as a way to blackmail opponents into submission, whatever the exact political goal may be. As energy disputes, such as that of January 2006 and especially, January 2009 translated into energy cutoffs for Central and Western European countries, it has been usual to identify these countries as Russia's target.¹⁵ However, for obvious reasons, it is Ukraine that is most often characterized as the "victim" of Russia.

The complex interplay into the "tap weapon" and "transit weapon" that each of the countries enjoy will not be analyzed here, but it is undeniable that Russia has gone as far as to use cutoffs in energy disputes, be it for strictly economic reasons or under influence of political factors too. To clarify the impact of politicization and to see whether anything such as an energy weapon happens to exist, it is useful to focus as a case study on the period immediately after the Euromaidan. The reason for this is simple: as Russia-Ukraine relations have reached a stage of military confrontation, it would be reasonable to assume that energy will be used as a weapon if such motivation exists; the inhibition to recur to the so-called "tap weapon" should have reached its minimum when the inhibition to recur to war has disappeared, which has clearly been the case since Russia supported and intervened in Crimea and the Donbass.

Contrary to this obvious conclusion, we will here apply the categories developed by Katja Yafimava to identify relevant *spaces* to understand in which measure the level of energy-related conflicts which happened after the Euromaidan and which will be studied below was related to the political context. Yafimava identifies four spaces that determine the state of energy relations between a set of producers, transit countries and consumers: the *space of flows*, the *contractual space*, which can be seen as those two directly relating to the actors' energy relations exist alongside two other important spaces, the *space of places* and the *legal/regulatory space*.¹⁶ The *space of flows* does not require much explanation: it is the physical reality of energy and its related cash flowing from the point of production to the last supply point, transiting quite often through

third countries. As for the *contractual space*, it is equally intuitive and is the legal expression of the space of flows: bilateral contracts between producers and consumers or transit countries make possible the space of flows; its breakdown, as happened twice between 2006 and 2009 necessarily came to affect the health of the space of flows. The *legal* or *regulatory space* in our case refers to the set of institutions that determine governance of energy relations, depending on the membership of the countries involved. Finally, we find the *space of places*. Here we find the countries that compose the space within which a determined energy relation unfolds. This space is of particular importance as relations between state actors may affect the integrity of both the contractual space and the space of flows.

We intend to find out in what measure manifest changes in the *space of places* between Russia and Ukraine as a result of the Euromaidan combined with the existing *contractual space* and how their interplay influenced in how the space of flows was interrupted during the months after the fall of Yanukovich. The *legal* or *regulatory space* will not be considered here as no changes happened that may make it the object of our study as probable cause for certain changes taking place during this period. Our hypothesis is that tensions in energy relations between Russia and Ukraine were determined by the room left by the *contractual space* and by elements within the *space of places* that had a direct impact on aspects related to energy. We do not expect to see the use of the "energy weapon" in total linkage with developments in the *space of spaces* unless these bore directly on energy issues. Namely, we do not expect to see energy turned into an instrument of Russia's foreign and security policy during the said period independently of the intrinsic relevance that changes in the space of spaces may have had with energy.

4. Analysis of energy relations since the euromaidan

As we already mentioned, changes happening as a consequence of the Euromaidan set Ukraine into a course similar as that under the Orange Revolution. However, the parallels stop there. Whereas the protests during the Orange Revolution represented a clearly civic movement opposed to an unabashed

¹⁴ Karen Smith Stegen has devoted an article to analyze the term and has come to the conclusion that the term can hardly be used in a rigorous way (See: Smith Stegen, "Deconstructing the 'energy weapon'"). It is interesting to read the following comment by Tim Boersma considering this same term (Tim Boersma, "The end of the Russian energy weapon (that arguably was never there)", *Brookings*, March 5, 2015, accessed March 16, 2016): as he highlights, the price differential between different Gazprom's costumers has been usually included into this category, dismissing the fact that this may be explained by strictly economic factors of market availability or lack thereof.

¹⁵ A recent example is the following article in the Washington Post: *For years, Russia's ability to choke off energy shipments any time tensions spiked with the West was a potent threat, one that could force much of Europe to shiver during the wintertime* (Michael Birbaum, "Russia used to have a powerful weapon in its energy sector. Not anymore", *The Washington Post*, August 18, 2015, accessed March 16, 2016, https://www.washingtonpost.com/world/russia-used-to-have-a-powerful-weapon-in-its-energy-sector-not-anymore/2015/08/17/b58f314c-4043-11e5-b2c4-af4c6183b8b4_story.html)

¹⁶ Yafimava, *The Transit Dimension*, 35.

attempt to rig elections, this time the process was murkier: the Euromaidan had a clearly violent dimension, which was in great part related to the government's own violence. Still, this time Yanukovich could clearly pose himself as the legitimate ruler of Ukraine after he had won clean elections three years earlier in 2010. Besides this, while the responsibility for the bulk of the victims in the fateful period from the 18th to the 20th February has not been clarified, the process of impeachment of Yanukovich after he fled did not adjust to the procedure prescribed by the Constitution; most importantly, the vote did not reach the minimum required by the Constitution, even if it represented a large number of the Rada's representatives. We may say that as a compensation of the illegality of the process, the next Prime Minister, Arsenii' Yatseniuk was voted with an even larger majority few days later. Whatever the vices of origin that may have existed, the fact is that the dissolution of the former Party of Regions (Yanukovich's party) and the election in the first round of Petro Poroshenko as president in May established a firm ground for a new course in Ukraine's politics. That was bad news for Russia and it did not anticipate good news either for energy relations.

The framework of energy relations was determined by three major elements that constitute the existing *contractual space* between Russia and Ukraine at the time when our analysis starts:

1) The contract between Russia and Ukraine for delivery of natural gas and for the payment of the transit tariff had been agreed on the 19th January 2009 and was valid for 10 years. There was therefore no contractual void at the time.

2) In addition to the contract, there had been agreement in April 2010 in the co-called "Kharkov Agreements" to establish a discount equivalent at the time to 30% of the current price of 100US\$; this discount substituted the discount of 20% that had been approved for 2009 in order to alleviate the impact of market prices. It was a clear "intervention" of the *space of places* as it was the direct consequence of Yanukovich's arrival. The political linkage was manifest: the discount was approved in exchange for the extension of the lease-contract for Russia's Black Sea Fleet in Sebastopol, Crimea that was to expire in 2017.¹⁷ Henceforth, the contract was extended into 2042, with the possibility to further extend it into 2047. It must be highlighted that this political discount compensated a previous arguable intervention of the *space of places* into the contract of 2009: the complex formula to calculate how prices were determined for each quarter of the year yielded abnormally high prices for Ukraine (in occasions higher than those for Germany) in what a political

retaliation may be seen after the dispute of January 2009.

3) Finally, changes in the *space of places* had become manifest again on the 17th December 2013 in the midst of frantic negotiations between the EU and Russia to attract Ukraine into their respective projects of integration. Energy relations were the object of a new episode of politicization in the form of energy subsidies granted by Russia after Ukraine had postponed the signature of the AA with the EU: instead of US\$385tcm as Ukraine was supposed to pay for the first quarter of 2014, it would pay a much more reduced price of US\$268.5tcm. Although there was no explicit political linkage, the circumstances made clear the reasons for Russian largesse.

The *contractual space* provides us with information about the contractual nature of energy relations between Russia and Ukraine and therefore helps us understand in which moment changes in the *space of places* which had happened with the Euromaidan could intervene: according to the contract of 2009, prices are pegged to international oil prices and are revised each quarter of the year. When the discount had been offered in December 2013, prices had been calculated according to the first quarter of 2014, so they would be functioning for that period as a minimum. Thus, when April was approaching, Russia announced that the discount would cease to be applied, so the influence of those radical changes in the *space of places* happened during that time: prices would go back to the status quo ex ante with natural gas back to US\$385tcm; in this case, the *space of places* cancelled the advantage it had generated before.

However, as we already know changes much more significant than just a cooling down of mutual relations between Russia and Ukraine and the refusal of subsidies granted before when these were good enough were happening:

1) In the first place, Russia swiftly occupied and annexed the Peninsula of Crimea. This was the biggest change in the space of places that had ever taken place since independence, as it was the first time that Russia used force (even if restrain from the Ukrainian side made the whole process a mostly bloodless one) against Ukraine. This aggressive movement from the side of Russia was consequential indeed: it brought a radical change in the borders between both countries reducing Ukraine's access to the Black Sea as well as depriving it of future exploitation of mineral resources located offshore.

However, despite the fact that Russia was using military force, this does not seem to have pushed Russia to use the "energy weapon" as an additional pressure in order to succeed in its military

¹⁷ In 2008, coinciding with the war that Russia waged against Georgia and that led to the former's occupation and recognition of the already de-facto independent republics of Abkhazia and Southern Ossetia, Yushchenko had threatened to hamper Russia's Fleet freedom of movement; ensuring that the agreement did not expire after 2017 was therefore of capital importance for Russia.

objectives; the inhibition to use energy this way remained while Crimea was being occupied.

2) Few weeks after the occupation and annexation of Crimea had succeeded, a new military front opened in Eastern Ukraine, in the region of the Donbass. In a similar pattern as when Russia intervened, everything started with armed militants subverting the legal order and occupying key administrative buildings, under cover of demonstrations which made police and military interventions the more difficult. First attempts in April were eventually smothered without much effort. However, the tide did not subside and new attempts happened in May which led to the establishment of a permanent basis for the Russia supported militants and to the proclamation of the Donetsk and Lugansk People's Republics of (DPR and LPR). Even if consequences were not as radical as in the case of Crimea in what respects borders, due to the fact that Russia has refused the annexation of the two self-proclaimed republics, initially united in the Republic of Novorossiia (it was dissolved in October 2015), it has been much worse given the state of war and the loss of lives that has been taking place there since the beginning of the insurrection with the full-scale intervention of the Ukrainian army and voluntary battalions.¹⁸

The violence of this part of the conflict would easily lead to think that this time Russia would have used energy as a complement in the war it was carrying out. Russia has always shied away from acknowledging its direct intervention, even if it has not remained silent in its critics of the Ukrainian side and its moral support of the militants, while making clear it would not stop the flow of voluntaries coming from Russia to help fellow militants. It is true that Russia was avert to expose itself, something that the use of the "energy weapon" might have made explicit, but it could nevertheless have exerted pressure as a way to demand restraint from the Ukrainian side, as its support of the militants in the Donbass has always been manifest. As we will see below, the fact is that while war has been happening to date since shortly after the Euromaidan succeeded, natural gas supplies have been suspended several times and for extended periods. Still, it is hard to see any explicit linkage between the war and energy disputes. The inner dynamics of these events will be analyzed shortly below to see how, instead of influenced by the *space of places*, it is rather the *contractual space* that bore a most significant influence.

That said, there is a particular aspect, which far from being irrelevant, shows a linkage between the *space of places* and the development of energy

disputes. This relates to the annexation of the Peninsula of Crimea which we already mentioned: as we may remember, the *space of places* had already influenced in favor of Ukraine with the concession of a discount linked to the extension of the lease-contract of Russia's Black Sea Fleet. It becomes manifest in what respect the annexation of Crimea radically changed the basis for the "Kharkov Agreements": even if Russia's actions clearly ran counter to the very spirit of International Law, Moscow could justify on the basis of a "de facto" situation that it no longer had to pay for using a territory that now belonged to the Russian Federation. This had an immediate translation and represents the most direct influence of the new space of places that unfolded during this period:

On the first April, as Gazprom had previously announced, the discount granted in December was cancelled, so prices bounced back to US\$385tcm. However, on the 4th April, Gazprom came back with a new announcement: real prices to be charged henceforth would be US\$485tcm; this was the consequence of cancelling the US\$100tcm from 2010 and the Russian side clearly linked it to the new status of Crimea. If the *space of places* had led in 2010 to a political discount, politicization of energy relations as a result of war in this same space meant that the ruling *contractual space* would be that from the January 2009 contract without any further influence of any additional factors. Here, war in the *space of places* had had a clear influence in the realm of energy relations.

The energy disputes that resulted as an outcome of the process shortly reviewed above yielded the longest natural gas cutoffs registered to date. Intuitively, it seems warranted to believe that the presence of war explains this reality. However, from the interplay of contractual space and space of places seen above, we can conclude that the genesis of the dispute was only partly related to the deterioration in the *space of places* and war within it was only one aspect among others. Once that politicization of energy relations in favor of Ukraine had been wiped out by a process of counteracting re-politicization, the problem we will find is that of seeing how Ukraine is confronted to detrimental aspects of the *contractual space*. In the first place, the price of US\$485 was not determined arbitrarily by Gazprom. Instead, it derived from the spirit of the contract, once it had been "de/re-politicized".

During the months from April to June 2014, an odd situation developed, as Ukraine continued to receive supplies of natural gas from Gazprom but refused to pay for it as long as an acceptable price had not been agreed. The result of accumulated

¹⁸ According to the UN, by late 2015, there had been more than 9000 victims (See: "Despite less fighting, eastern Ukraine still 'highly flammable,' UN reports, as death toll tops 9,000", *UN News Center*, December 9, 2015, accessed March 17, 2016, <http://www.un.org/apps/news/story.asp?NewsID=52771#.VuqdbOLhDIU>).

changes based on the *space of places* had led to a divergence as for the correct price to be supplied: Russia demanded US\$485tcm whereas Ukraine wanted to keep US\$268.5tcm. It may seem quite opportunistic from the part of Ukraine to demand a price that had been granted to the current political establishment's chief enemy, Yanukovich; the justification put forward from the Ukrainian side was that this would be the real price Ukraine would pay if distortions in the original contract were annulled.¹⁹ As we see, the shadow of the *space of places* when the *contractual space* was agreed in 2009 did not fade unless this would be modified.

Finally, on the 16th June Gazprom decided to stop supplies to Naftogaz due to the debt accumulated during the past months: Gazprom had been supplying natural gas since April without receiving payments and the final debt which had accumulated reached US\$4.4bill.²⁰ The gas cutoff that happened did not happen in a void, as we have seen previously, as Gazprom could rely on several aspects of the *contractual space* to justify its move: according to article 5.1 of the contract payments had to be made by the 7th of each month for deliveries applying to the previous month.²¹ Failing this, Gazprom could ask Naftogaz to move to a pre-payment system (article 5.8).²² Finally, if none of the previous payment modalities were fulfilled, again following the contract, Gazprom could unilaterally decide to cease supplies (article 5.3).²³ Gazprom's decision was therefore in full accordance with the *contractual space* and it cannot be considered this broke down as a result of the outcome.²⁴

The period when deliveries were suspended coincided with summer. During this period, as opposed to high consumption during winter, supplies are naturally lesser, so tense situations of undersupply as those happening back in January 2006 and January 2009 could be avoided. In addition, it must be highlighted that Ukraine consumed much less natural gas during this time as compared to previous years and its reserves were full

at the time when gas was cut off as it had imported large volumes of Russian gas during the spring. Two other important elements that must be highlighted are the following: 1) since the construction of Nord Stream pipeline through the Baltic Sea, Gazprom's supply to Europe through Ukraine had been reduced, so instead of 80% as it had been in the past, only around 42% of Gazprom's gas to Europe should have transited this country; 2) In 2014 Ukraine resumed imports of natural gas from Central Europe that had started in 2013 (around 2.1bcm) but which had been suspended after Ukraine had been granted December's discount: Ukraine would eventually import as much as 5bcm of natural gas from this region in 2014.²⁵

The cutoff happening from June 16th to December the 2nd was the longest cutoff since gas problems started in the decade of the 90s. However, for the reasons explained in the paragraph above, it was the most uneventful gas dispute, with Ukraine suffering no supply problems and with the rest of Gazprom's European costumers being delivered contracted volumes without disruptions, it barely reached the headlines. A solution was found on the 26th September when a trilateral agreement was reached between Gazprom, Naftogaz and the European Commission. Thus, an agenda was established to repay debts and to resume supplies under an agreed price formula: although this was not made explicit, the formula was based on the status quo ante December 2013. This means that the suppression of December's discount would be accepted from the Ukrainian side whereas Russia would still consider as if conditions had not changed in order to apply the discount of 2010 in exchange for the lease-contract's extension in Crimea. Momentous changes in the *space of places* had to be made flexible in order to reach an agreement. As Ukraine did not want to accept these prices yet, it was necessary to confirm the agreement with slight changes on the 31st October. Supplies did not start until the 2nd December under agreed prices of

¹⁹ For an explanation in this direction, see: Volodimir Omel'chenko, "Основний план Путіна зривався, ціна на газ є помстою", Tsentr Razumkov, March 4, 2014, accessed March 18, 2016, http://www.razumkov.org.ua/ukr/article.php?news_id=1104. Boris Nemtsov, former energy minister from Russia deemed that the real price should be US\$300tcm (See: "Україне нашіли новий долг и дешевый газ", *Nezavisimaia Gazeta* June 16, 2014, accessed March 18, 2016, http://www.ng.ru/economics/2014-06-17/100_obzor170614.html), while other analysts as Mikhail Korchemkin (See: Alexei Topalov and Anatolii Azarenko, "Киев копит долги", *Gazeta*, July 9, 2014, accessed March 18, 2016, <http://www.gazeta.ru/business/2014/07/08/6106457.shtml>) and Simon Pirani (See: Evan Ostryzniuk, "Living without Russian gas: Hard, but possible", *Kyiv Post*, June 26, 2014, accessed March 18, 2016, <http://www.kyivpost.com/article/content/business/living-without-russian-gas-hard-but-possible-353515.html>) considered US\$330tcm as the most likely.

²⁰ "Russia and Ukraine achieve progress in gas talks", *Euractiv*, June 3, 2014, accessed March 18, 2016, <http://www.euractiv.com/section/europe-s-east/news/russia-and-ukraine-achieve-progress-in-gas-talks/>

²¹ See: "Газовое соглашение Тимошенко-Путіна. Полный текст", *Ukrainska Pravda*, January 22, 2009, accessed March 18, 2016, <http://www.pravda.com.ua/rus/articles/2009/01/22/4462671/>

²² "Газовое соглашение".

²³ "Газовое соглашение".

²⁴ In fact, it cannot be considered to be a coincidence that the cutoff happened on the 16th June: the 16th of each month is when Gazprom should present the bill for the next month's payment in case it was decided to move to point 5.8 of the contract. Gazprom felt legitimized to proceed this way as point 5.1 had been repeatedly unfulfilled. As Ukraine manifested it would not accept the bill under the current conditions, then we may understand that Gazprom chose that day as the day to cut deliveries.

²⁵ See: "Ukraine purchased 63% of its imported gas in Europe in 2015", Naftogaz, accessed March 18, 2016, <http://www.naftogaz.com/www/3/nakweben.nsf/0/8FD7A9A348A0844DC2257F4C005802FD?OpenDocument>

US\$378tcm for the last quarter of 2014 and US\$365tcm for the first quarter of 2015; owing to variations in the international oil market, these were lower than former prices of US\$385tcm by late 2013.

The so-called winter package was to be substituted by March 2015 by another agreement. Even if this package had reestablished energy relations on the *contractual space* functioning between April 2010 and December 2013, it was subjected to a more arbitrary situation since the *space of places* had been shattered as a result of the Euromaidan and the annexation of Crimea; the *contractual space* in this period was therefore much more unstable. As a result of this situation, Russia-Ukraine relations eventually moved towards a new situation of suspension as a new dispute in prices became unavoidable: the winter package was renewed for the second quarter of 2015 but troubles appeared when it came to agree prices for the third quarter: Ukraine refused to pay the same price as in the second quarter, US\$247.18tcm as it reasonably expected to see natural gas prices below that former price following oil prices which had been crumbling since late 2014. Gazprom, on the contrary, wanted to compensate these lower prices unilaterally reducing the discount to only US\$40tcm.²⁶ This margin of unilaterality was the consequence of the weakening of the *contractual space* due to the process seen above. Supplies were resumed in October, but shortly thereafter, supplies ceased again, due to Ukraine's not needing Gazprom's natural gas due to an extraordinary increase in supplies from Central Europe: if these amounted to 5bcm in 2014, they would jump to 10,3bcm one year after, dwarfing Gazprom's supplies which reached a nadir of 6,1bcm.²⁷ As Naftogaz's own website proudly announces at the time of writing (18 March 2016), the company has not been importing Gazprom's natural gas since 112 days.²⁸

5. Conclusions

The appearance of the Euromaidan ushered Russia-Ukraine energy relations into a new period of

instability. As it might have been expected, the radical worsening of political relations and the military aggressions from the Russian Federation into Ukrainian territory affected energy relations. Discussions regarding pricing and debt accumulation led to supply cutoffs as it had already happened in the past, especially during the period of Viktor Yushchenko's presidency, after the Orange Revolution. The coincidence with a period of intense political tension might arguably serve as a basis for discussing the possibility of a use of energy for political purposes and test the hypothesis of the "energy weapon".

However, a careful analysis of the details of that period throw a much more nuanced picture. Using as a theoretical framework the different categories established by Katja Yafimava and focusing on two of them, the *contractual space* and the *space of places*, has helped us to understand the extent of politicization and to know whether energy was used as a political weapon.

We may confirm that political effects of radical changes in the *space of places* impinged on energy relations. However, this did not happen as the "energy weapon" discourse would have us think; namely, energy was not used as a surrogate of aggression. This reasoning is somehow intuitive bearing in mind that inhibition for using armed force against Ukraine had disappeared during this period. On the contrary, changes in the *space of places* had an effect only whenever these changes involved intrinsic features related to aspects of the *contractual space* built in the past years. These changes led to the suppression of a set of political discounts that had modified the *contractual space*; once these disappeared, the point of reference remained the *contractual space*, so whatever attempt to politicize could hardly move beyond it.

As a general conclusion, we may state that a crude use of the "energy weapon" was absent, whereas politicization of energy relations happened in a limited way depending of the aspects that changed during a period where political relations were reaching their nadir.

References:

- Baran, Zeyno. "EU energy security: time to end Russian leverage", *Washington Quarterly* 30 (2007): 131-144;
- Michael Birnbaum, "Russia used to have a powerful weapon in its energy sector. Not anymore", *The Washington Post*, August 18, 2011, accessed March 16, 2016, https://www.washingtonpost.com/world/russia-used-to-have-a-powerful-weapon-in-its-energy-sector-not-anymore/2015/08/17/b58f314c-4043-11e5-b2c4-af4c6183b8b4_story.html
- Boersma, Tim. "The end of the Russian energy weapon (that arguably was never there)", *Brookings*, March 5, 2015;
- Closson, Stacy. "A comparative analysis on energy subsidies in Soviet and Russian policy", *Communist and Post-Communist Studies* 44 (2011): 343-356;

²⁶ Alexei Topalov, "Россия объявила Киеву цену", *Gazeta*, June 29, 2015, accessed March 18, 2016, <http://www.gazeta.ru/business/2015/06/29/6860489.shtml>

²⁷ "Ukraine purchased 63%".

²⁸ Naftogaz Ukraine, accessed 18 March, 2016, <http://www.naftogaz.com/www/3/nakweben.nsf/>

- Despite less fighting, eastern Ukraine still ‘highly flammable,’ UN reports, as death toll tops 9,000, UN News Center, December 9, 2015, accessed March 17, 2016;
- <http://www.un.org/apps/news/story.asp?NewsID=52771#.VuqdbOLhDIU>
- D’Anieri, Paul J. and Kuzio, Taras. *Aspects of the Orange Revolution. Democratization and election in post-Communist Ukraine*. Stuttgart: ibidem-Verlag, 2014;
- Газовое соглашение Тимошенко-Путина. Полный текст. *Ukrainska Pravda*, January 22, 2009, accessed March 18, 2016, <http://www.pravda.com.ua/rus/articles/2009/01/22/4462671/>;
- Katchanovski, Ivan. “The “Snipers’ Massacre” on the Maidan in Ukraine”, unpublished paper, http://www.academia.edu/8776021/The_Snipers_Massacre_on_the_Maidan_in_Ukraine;
- Pirani, Simon; Stern, Jonathan; Yafimava, Katja: “The April 2010 Russo-Ukrainian gas agreement and its implications for Europe”, Oxford Institute for Energy Studies (2010), at <http://www.oxfordenergy.org/pdfs/NG42.pdf>
- Pirani, Simon; Stern, Jonathan, and Yafimava, Katja. “The Russo-Ukrainian gas dispute of January 2009: a comprehensive assessment”, Oxford Institute for Energy Studies (2009), www.oxfordenergy.org/wpcms/wp-content/uploads/2010/11/NG27;
- Omel’chenko, Volodimir. “Основний план Путіна зірвався, ціна на газ є помстою”, *Tsentr Razumkov*, March 4, 2014;
- http://www.razumkov.org.ua/ukr/article.php?news_id=1104
- Ostryzniuk, Evan. “Living without Russian gas: Hard, but possible”, *Kyiv Post*, June 26, 2014, accessed March 18, 2016, <http://www.kyivpost.com/article/content/business/living-without-russian-gas-hard-but-possible-353515.html>
- Poussenkova, Nina. “The global expansion of Russia’s energy giants”, *Journal of international Affairs* 63 (2010): 103-124;
- Russia and Ukraine achieve progress in gas talks, *Euractiv*, June 3, 2014, accessed March 18, 2016, <http://www.euractiv.com/section/europe-s-east/news/russia-and-ukraine-achieve-progress-in-gas-talks/>
- Sakwa, Richard. *Frontline Ukraine: crisis in the borderlands*. London; New York: I.B. Tauris, 2015;
- Smith Stegen, Karen. “Deconstructing the “energy weapon”: Russia’s threat to Europe as case study”, *Energy Policy* 39 (2011): 6505-6513;
- Stern, Jonathan. “The Russian-Ukrainian gas crisis of January 2006”, Oxford Institute for Energy Studies (2006), <http://www.avim.org.tr/icerik/energy-gas.pdf>
- Stulberg, Adam. “Out of Gas?: Russia, Ukraine, Europe, and the Changing Geopolitics of Natural Gas”, *Problems of Post-Communism* 62 (2015): 112-130;
- Topalov, Alexei’. “Россия объявила Киеву цену”, *Gazeta*, June 29, 2015;
- <http://www.gazeta.ru/business/2015/06/29/6860489.shtml>
- Topalov, Alexei’ and Azarenko, Anatolii’. “Киев копит долги”, *Gazeta*, July 9, 2014, accessed March 18, 2016;
- <http://www.gazeta.ru/business/2014/07/08/6106457.shtml>
- “Ukraine purchased 63% of its imported gas in Europe in 2015”, *Naftogaz*,
- <http://www.naftogaz.com/www/3/nakweben.nsf/0/8FD7A9A348A0844DC2257F4C005802FD?OpenDocument>
- Україне нашіли новий долг и дешевый газ, *Nezavisimaia Gazeta*, June 16, 2014;
- http://www.ng.ru/economics/2014-06-17/100_obzor170614.html
- Weir, Fred. “Ukraine may have sold air-defense radar to Iraq”, *The CS Monitor*, October 17, 2002, <http://www.csmonitor.com/2002/1017/p01s03-woeu.html>
- Wilson, Andrew. *Ukraine’s Orange Revolution*. London: Yale University Press, 2005;
- Wilson, Andrew. *Ukraine crisis: what it means for the West*. New Haven: Yale University Press, 2014;
- Yafimava, Katja. *The Transit Dimension of EU Energy Security*. Oxford, New York: Oxford University Press, 2011;
- Kuzio, Taras. *Democratic revolution in Ukraine: from Kuchmagate to Orange Revolution*. London; New York: Routledge, 2009;
- Menon, Rajan and Rumer, Eugene B. *Conflict in Ukraine : the unwinding of the post-cold war order*. Cambridge, MA: The MIT Press, 2015.