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Energy Disputes between Russia and Ukraine Since 2014: a Tool of War by Other Means or Institutionally Constrained

Abstract

With the beginning of the Euromaidan, energy relations between Russia and Ukraine were necessarily affected by a new context of crisis which escalated to a non-declared armed conflict. This presents us with the arguably best situation to test the way energy relations have been constructed between both countries and their degree of politicization, an issue amply discussed in the literature devoted to energy in the post-soviet space. Starting from the hypothesis of whether Russia used energy as a weapon “by other means”, and informed by the school of constructivism I intend to contribute to the debate on the social construction of energy relations, testing to what degree energy relations moved between the war or market-based contractual constraints; intuitively, Russia would have been less constrained than in previous periods by the existing contractual framework. To provide a suitable answer, I will carry out a process tracing of energy disputes starting from 2014 as a case-study, linking each of the instances of suspension of natural gas deliveries with the process of escalation of the conflict both in the Crimean Peninsula and the Eastern Ukrainian region of Donbass and analyzing both countries’ arguments for either revising or maintaining the status quo of their energy relations in ever contentious item of natural gas. To guide our process-tracing, the use as analytical tools the characterization made by Katja Yafimava of four different spaces (regulatory space, space of flows, contractual space and space of places) seems particularly warranted, as we identify substantial changes in several of these during the chronological time-span under review.

NB: This is an article which is still in need of development as for the theoretical framework. As the reader will soon notice, the theoretical introduction does not integrate yet the element of institutionalism as pointed out to in the title. I apologize for not having had enough time to proceed further in this issue and I will be very thankful as for all the comments regarding how to link energy relations in the post-soviet space with the school of institutionalism and social constructivism, as I think that this might be a very promising avenue. Thank you very much!

1. Introduction

The role of natural gas in the post-Soviet space has received extensive treatment in academia. In particular, energy disputes within post-Soviet space and the relations between Gazprom and the Russian Federation (formerly the USSR) from the one side and the European Union (EU) from the other are the most relevant sub-topics (Högselius 2013, Yafimava 2011, Belyi & Goldthau 2015, Romanova 2016). During many years, especially in the turmoil period of 2006-2009, these two sub-topics were highly related, as the energy disputes involving natural gas from this period strongly affected Gazprom’s supply to third countries in the rest of Europe (Stern 2006, Pirani, Stern, Yafimava 2009, Pirani, Stern, Yafimava, 2010, Yafimava 2011, Stulberg 2012, Abdelal 2013, Lee 2017). As it is natural, the debate among academics has assumed very different perspectives depending on the role accorded to each of the actors involved; in this respect, the most controversial actor has been Russia, with most of the debates centering on whether Russia politicized

energy, to what degree and even if this was used bluntly as a “weapon”. Unfortunately, as Judge, Maltby and Sharples rightly point out, there is a high degree of reductionism in many analyses (2016)¹.

From the one side, a classical discourse portrays Russia as bent on using energy as a political weapon to punish hostile countries, be it within the post-Soviet space in order to force upon them foreign policy choices amenable to Moscow’s wishes or in order to blackmail the European Union (EU) in a policy of “divide and conquer” (Baran 2007, Nygren 2008, Smith 2010, Umbach 2010, Newnham 2011, 2013)². Other authors, however, contextualize this, pointing to the interdependence in EU-Russia relations as consumer-provider (Noël 2008, Kropatcheva 2011, Casier 2011, Locatelli 2015) or even between Russia and transit countries within the post-Soviet space. To this reality where Russia or Gazprom’s power is lesser than it might be initially suspected, other factors have to be added, without which it is not possible to understand a pattern of relations where power relations are very much diminished, starting from the difficulties of Gazprom to diversify to markets alternative to Europe (Sharples 2016) or the improved context for Europe since the development of an increasingly diversified and integrated LNG market (Ericson 2012, Stulberg 2015, 2017, Casier 2016). In a similar line, some other authors reject or at least strongly nuance the alleged politicization of energy resources from the side of Russia, pointing to market-based motivations (Ortting-Overland 2011).

The latest natural gas dispute between Russia and Ukraine happened in the aftermath of the triumph of the Euromaidan and the ensuing change of government in Ukraine. It started in April 2014 with a price renegotiation, eventually leading to the first suspension of deliveries in June of the same year. The most conspicuous element of this latest episode is neither arguably the length in the suspension of deliveries, which still persists at the time of writing, nor the fact that the dispute has not affected transit through Ukraine. On the contrary, it is surely the fact that this dispute was taking place while the Russian military was intervening in Ukraine. Due to its recent occurrence and most likely, by its uneventful character, it has not been dealt as much attention in the academic literature as it was the case of 2006 and 2009 between Russia and Ukraine or 2004, 2007 and 2010 between Russia and Belarus. However, the fact that this latest dispute was happening in parallel with the first military aggression of the Russian Federation to the independent Ukraine has obviously prompted some interpretations. An obvious one has been that the energy dispute and the eventual delivery suspension were a classical natural gas cut-off aimed at Ukraine motivated for strictly political reasons (New York Times 2015). Others, as Adam Stulberg (2015, 2017) identified on the contrary that the dispute’s “puzzle” was to explain Russia’s “restraint amid warfare” (Stulberg 2015: 72-75) (as well as Ukraine’s) during this period, as in sharp contrast to the energy disputes of 2006 and 2009, when these strongly affected natural gas transit through Ukraine to the rest of Europe.

The debate, thus, is again whether Gazprom and the Russian Federation had used the so-called “energy weapon”, namely, whether we were assisting to an instance of crude politicization. The term itself of politicization being in itself very broad, we may intuitively see the term as referring to the introduction of factors not strictly based on market governance. In the realm of post-soviet energy relations, politicization has usually been associated with patterns of energy subsidization which translated into the producer’s acceptance of prices lower than those determined by market prices, be it in order to obtain political favors or to avoid undue unrest with transit countries. The “cruder” form which is typically identified under the

¹ As the authors highlight, reductionism is typically found under three variants: reductionism of power politics; reductionism of ignoring other actors than governmental ones; and geopolitical readings of energy security (pp. 754-756).

² For an extended list, see: Casier 2016: ftn. 4.

label of “energy weapon” can be found under supplies cut-offs as measures of retaliation³. However, as Karen Smith Stegen has been able to develop in her article devoted to the issue (Smith Stegen 2011), this proves a contentious and theoretically undeveloped term, usually used to blame Russia for every gas cut-off where Gazprom is involved, without deeply discussing not only political but also economic reasons from both sides of the dispute.⁴ The simplification we find in the existing debate warrants that we would further test the degree of this form of politicization of energy, especially when warfare has been occurring in parallel to an energy dispute. This stems from the supposition that whatever restraint to use energy as a political tool would be diminished in a context when two countries have reached the stage of warfare, arguably the most radical political phenomenon in international relations.

Thus, the analysis in the present article will precisely avoid the pitfalls of easily self-explaining terms that instead of applying clarity, blur the causal mechanisms of a complex phenomenon as energy disputes in the post-soviet space. Therefore, our analysis will follow the different stages of the energy dispute which evolved between Russia and Ukraine and match them with the different stages of the political crisis and the process of warfare, as well as the reasons put forward by Gazprom and the Russian Federation for revising the existing contracts and for ceasing supplies of natural gas. This should provide us with clear answers regarding the degree of politicization of energy relations during the period of analysis and to critically engage with the current term of “energy weapon”. In order to proceed with the analysis, the analytical tools by Katja Yafimava, who distinguishes four spaces: *space of flows*, *contractual space*, *regulatory space* and *space of places*,⁵ will be used. Of particular relevance for us is the *contractual space* and on *the space of places*: tracking the evolution in these two *spaces* will help us 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. In essence, what is intended here is 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.

2. The Background⁶

By the end of 2013, Viktor Yanukovich’s Administration was in need of striking a delicate balance between two exclusive geopolitical imperatives, provoking by the way a big deal of tension with the Russian Federation: from the one side, Ukraine was pursuing closer integration with the EU within the framework

³ 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.

⁴ 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 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).

⁵ 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 (Yafimava, *The Transit Dimension*, 35).

⁶ 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).

of the Eastern Partnership⁷; Brussels was promoting an Association Agreement (AA) which would entail a prospective Deep and Comprehensive Free Trade Area (DCFTA). From the other side, the Russian Federation pressured for Ukraine to become a member of the Moscow-promoted Eurasian Economic Union (EEU); Kiev's membership seemed vital to provide the EEU with sufficient weight. The exclusivity of both projects put Kiev in a quandary: if the suitability of the AA with the EU over the EEU seemed obvious, the truth is that apart from suffering from a prospective commercial war with Moscow, Yanukovich would have to swallow the hard pill of the political conditionality of the AA⁸. At the same time, the AA could hardly solve short-term economic imperatives for which only the IMF was in a position to intervene; however, a loan from the IMF carried economic conditionality which Yanukovich feared for its dangerous political consequences.

Finally, faced with the dilemma, Yanukovich decided to postpone the signature of the AA that was to take place in the Summit of the Eastern Partnership Summit in Vilnius (28th and 29th of November 2013). Some days later, on the 17th December, most likely as a "reward" for this latest turn of events, Moscow offered a credit line of as much as US\$15 billion and a substantial discount on the prices of natural gas (to be analyzed below). However, Kiev's U-turn provoked the ire of a substantial part of the Ukrainian population, incensed at the postponement of the signature of the AA and frustrated in their pro-European aspirations, taking as a consequence to the street. This triggered the known as Euromaidan (Wilson 2014, Sakwa 2015, Menon & Rumer 2015, Ruiz Ramas 2016) which eventually toppled Yanukovich, brought about a breakdown of the former parliamentary pro-presidential majority (enabling a new government led by the former opposition) and the eventual election of a new president, Petro Poroshenko, in May 2014, decisively on the pro-European camp. Most importantly, as a response to the political change the Russian Federation annexed in a swift move Sebastopol and the Crimean Peninsula and lent its support to separatist insurgencies in the region of the Donbass.

3. The energy dispute during 2014 and 2015

While relations between Russia and Ukraine fatally soured to the point of reaching a war stage (see below), a latest energy dispute was happening in parallel. This dispute was characterized by the two usual points of contention, debts and pricing of natural gas: as the president of the Russian Federation, Vladimir Putin pointed to in an open letter to the European leaders on the 10th of April (Tass 2014), Ukraine had been accumulating an increasing debt since November 2013; according to the Russian side, this debt stood at US\$1451.5 billion already by December 2013 (Tass 2014) and had steadily been building up during the next months. By late May 2014, Ukraine would have transferred US\$786 billion for debt accumulated in February and March (RT 2014), but the debt seemed to reach still as much as US\$4,4 billion by June (Euractiv). The reasons for the exceptional increase in the debt of Ukraine were precisely linked to the disagreement on prices; this impacted in two ways: first, due to the disagreement, Ukraine refused to pay for Gazprom's natural gas since April 2014 because it did not accept the price revision imposed by the Russian monopoly, that is US\$485tcm; second, Gazprom calculated the price Naftogaz owed to its Russian counterpart according to, naturally, the price it was demanding, whereas Naftogaz would only agree to pay

⁷ The Eastern Partnership seeks to deepen relations with a set of post-Soviet countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. See: http://www.eeas.europa.eu/eastern/index_en.htm.

⁸ One of the main obstacles for signing the AA was the fact that former Prime Minister Yulia Tymoshenko was jailed for alleged 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.

the debt according to much lower prices, US\$265tcm as agreed in December 2013. Apart from that, it seems that Naftogaz's consumption of natural gas increased compared to the similar period in previous years, most likely in order to accumulate reserves in the event of a suspension of deliveries.

During this period the European Commission hosted trilateral meetings in order to find a suitable solution and to avoid cut-offs that might affect the transit flow westwards towards Europe. These talks were not fruitful enough as to avoid a suspension of deliveries on the 16th June 2014. The European Commissar for Energy, Günther Oettinger had proposed that a first batch of US\$2 billion would be paid by 30th of May and US\$500 million by the 7th of June, corresponding to the debt accumulated until March and to start discussions on prices for April onward thereafter, while Gazprom would commit to continue supplies for the month of June without demanding prepayment (European Commission). From its side, Gazprom had set the 2nd of June as the time limit, to be extended to the 9th of June as a result of Naftogaz's payment of the aforementioned US\$786 billion (Euractiv). Finally, Gazprom accepted to establish a final deadline, the 16th of June demanding that Naftogaz would have paid US\$1451 billion that corresponded to the debt for the period from November to December and US\$500 million for part of the debt accumulated since April (Eurasianet.es). Despite this last hour margin offered by Gazprom, no agreement whatsoever could be found and deliveries were effectively stopped on the said date, with the debt accumulating, in Gazprom's price calculation, as much as US\$5.3 billion (Gazeta).

The natural gas cut-off lasted for an unprecedented time of several months, until supplies were reestablished in on the 2nd of December.⁹ Helped by the EU intermediation, a first agreement had been reached by the 26th of September, which still took several months to be put into practice. According to the known as "winter package", Gazprom would supply as much as 5 bcm of natural gas from October 2014 to March 2015 (Eurasianet.es) in order to make up for the deficit Ukraine was not able to cover from accumulated reserves and from alternative supplies from Central Europe. Regarding the outstanding debt, Gazprom accepted to receive exclusively US\$3.1 billion in two batches: US\$2 billion by October and the rest by the end of the year; this corresponded to what Naftogaz considered to be its debt according to the prices it claimed; the outstanding US\$2.1 billion would be frozen until the Arbitration Court of Stockholm would decide, as both Gazprom and Naftogaz had recurred (Interfax Ukraine 2014). The provisional price for the "winter package" would be set at US\$385tcm as a compromise between the US\$265tcm that Naftogaz demanded and the US\$485tcm Gazprom had been insisting since April 2014 (Ekonomichna Pravda 2014). Supplies would be resumed as soon as the first batch of debt was transferred, along with a prepayment of US\$1,9billion for the 5 bcm of natural gas to be supplied (TASS 2014). Disagreements persisted, as Ukraine balked at the pre-payment mode (TASS 2014), as well as remaining unsatisfied by the compromise price. Thus, a new agreement was reached after tripartite meetings with the EU on the 31st of October, introducing some modifications: prices would be recalculated to US\$378tcm for the last quarter of 2014 and US\$365tcm for the first quarter of 2015 (Gazeta 2014); this revision was natural, as it followed the fall in the price of oil. Instead of 5bcm, Ukraine would consume now only 4bcm for the period covered by the "winter package", due to the latest date foreseen for the resumption of supplies, while the EU along

⁹ 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 (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>).

with the IMF would provide financial assistance to help Ukraine face debt repayments (TASS 2014). On the 5th of November, Gazprom confirmed that a payment of US\$1.45 billion had been made by Naftogaz, corresponding to part of its debt (Tass 2014). However, prepayments did not ensue immediately, so supply was not reestablished until the 2nd of December.

At the expiration of the “winter package” in April 2015, it was provisionally renewed for the second semester of 2015, until the month of July. As oil prices were crumbling, prices were recalculated accordingly, so Ukraine would end up paying only US\$247.18/tcm (TASS 2015). Before that, Russia-Ukraine energy relations had suffered a complex test when Naftogaz cut off the supply of natural gas to the break-away DPR and LPR between the 18th or the 19th of February (TASS, Kommersant 2015). The official reason provided by Naftogaz was the alleged war damage inflicted upon the infrastructures (Kommersant 2015). Gazprom reacted through direct supplies that would save the self-proclaimed republics from an energy crisis, given the lack of reserves to withstand a protracted cut-off (TASS 2015). Then, on the 23rd of February, Naftogaz reported that it had received only 43tcm of daily supply instead of the 114tcm as requested for the eve (Vedomosti 2015), while only an additional 39tcm had been received that same day (TASS 2015). Gazprom linked this to the fact that the maximum of natural gas contracted was about to expire and demanded a pre-payment before the 26th of February if Naftogaz wanted to see its supplies renewed (El País 2015). Any cut-off was eventually averted and both companies adapted to the new status quo of making the break-away republics clients of Gazprom instead of Naftogaz.

A new suspension of deliveries could not be averted for the third quarter of the year, as new disagreements on pricing surfaced: Gazprom put forward that as natural gas prices would go below US\$330/tcm, the discount that Gazprom offered since 2010 (more on this below) would be reduced (TASS 2015); in essence, despite the continued reduction in international oil prices that would have brought about lower prices, Gazprom was offering the same price as in the second quarter, that is, US\$247.18/tcm (Ekonomichna Pravda). As a reaction, Naftogaz refused to pay for new supplies under such conditions and supplies were naturally stopped (Naftogaz 2015). The new suspension of deliveries lasted again several months, covering the whole third quarter of the year. Further negotiations bore fruit by late September and pricing conditions applying to the fourth quarter of 2015 were agreed: Naftogaz expected that the price would amount to US\$227.36/tcm (TASS 2015), while it was reported that it would stand at around US\$230/tcm (TASS 2015). The supplies resumed on the 12th of October (TASS 2015). However, Naftogaz suspended requests for further supplies on the 25th of November 2015 (Naftogaz 2016). Since then, Ukraine has not resumed imports, as it has been able to find alternative sources¹⁰.

4. The evolution of the space of places between Russia and Ukraine and Russia’s armed intervention

The escalation of the political conflict provoked by the Euromaidan came immediately after the crisis had been solved in favor of the opposition with the ousting and subsequent fleeing of Yanukovich from Ukraine. In a parallel evolution as that which had happened during the first stage, sectors of the population in several towns of Eastern and Southern Ukraine, with a high proportion of Russian speaking population took

¹⁰ 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. 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 (Naftogaz Ukraine, accessed 18 March, 2016 (See <http://www.naftogaz.com/www/3/nakweben.nsf/>)).

to the streets, soon to be joined by para-military elements and with a lesser or higher covert implication by the Russian Federation. In this respect, we may identify two main scenarios where a pattern of insurgency and Russian military involvement took place: Crimea and the Donbass region. The two main differences are that the involvement of the Russian Federation was massive in the case of Crimea (Howard & Pukhov 2015), leading to a swift occupation and eventual annexation, whereas in the case of the Donbass, the involvement of the Russian Federation has been more punctual, leaving the self-proclaimed People's Republics of Donetsk and Lugansk (PRD and PRL) in a state of frozen conflict, while the Ukrainian armed forces have been unable to retake full control. This is not the space to analyze in detail the military process in Ukraine. However, we may easily identify different periods characterized by stalemate or escalation and that can be potentially correlated to the own process of escalation of the energy dispute that would happen in parallel with the civil *cum* undeclared war between Ukraine and the Russian Federation:

The first period is obviously represented by the insurgency and occupation of Sebastopol and the Peninsula of Crimea. This first episode is easy both to identify and to isolate from subsequent episodes in Southern and Eastern Ukraine, due to its geographical limitation and to the fast conclusion enabled by the utter failure of the Ukrainian armed forces to oppose resistance to the swift Russian maneuvers. While the first disturbances happened few days after the end of the Euromaidan on the 21st of February, the first Russian moves took place on the 27th and by the 18th of March the new authorities in Crimea were signing the treaty of adherence to the Russian Federation (Ruiz Ramas 2016: 109).

The second scenario started with full blown insurgencies in the Donbass. Here, however, we face a much more complex scenario, as the conflict which remains frozen to date has been much more protracted. The first stage took place arguably during the second half of March, when demonstrations followed by the occupation of administrative buildings by obscure militants took place, mainly in Donetsk, Lugansk and Kharkiv; these, however were soon controlled by the Ukrainian authorities. A new wave of militant activity took place in April, successful this time in the face of the failed direct involvement of the Ukrainian army, unable to retake territory lost to the insurgents through its Anti-Terrorist Operation (ATO); this led to the progressive institutionalization of the PRD and PRL. The next clearly identifiable stage of war in the upcoming months can be found in the period from the election of Poroshenko as president of Ukraine in late May 2015 until late July. During this period, the first talks between Ukrainian and separatist authorities took place, with no progress whatsoever until they fully broke down as a result of the downing of the MH17, attributed to the pro-Russian militias. Thereafter, in a change of tendency, a successful Ukrainian counter-offensive intensified in late July to be eventually stopped and partly rolled back by the active involvement of Russian armed forces in late August 2014. A stalemate ensued, represented by the Minsk agreements of September 2014 and substituted by the Minsk II agreements after a new flare-up in February 2015 around the city of Debaltsevo.

5. The contractual space between Russia and Ukraine

As opposed to the turmoil period from 2006 to 2009, the contractual space between both countries was clearly determined by the contract signed between Gazprom and Naftogaz on the 19th January 2009, valid for ten years. Whereas from 2005 to 2009 the Russian Federation had struggled to revise prices as agreed in 2001: from the one side, these were completely detached both from the evolution of international prices, while from the other, the pressure increased to reflect the annual revisions forced on Gazprom for supplies purchased in Central Asia (mainly Turkmenistan) and which were also consumed by Ukraine. The

contract of 2009 was based on the Groningen model of long-term contracts, with minima of supply and consumption to guarantee both supply and demand security and prices linked to the international course of oil, with a time lag of 6 to 9 months and a quarterly revision.

The contract of 2009 was not the only contractual element that determined contractual relations between Naftogaz and Gazprom when the energy dispute started in 2014. In addition, the Russia Federation had granted two discounts that reduced the price Ukraine was paying since January 2009: the first discount stemmed from the “Kharkov Agreements” of April 2010. In these agreements, Moscow granted a discount amounting to 30% of the price for the second quarter of 2010 and which translated into a reduction of US\$100 through the exemption to Gazprom of export duties. This discount thus came to substitute the lesser one of 20% contained in the contract of the previous year and that would apply only to the year 2009, probably devised to secure for a gradual transition to market prices for Ukraine, accustomed for several years to prices below the world standards. There was a clear political linkage in this concession by Moscow, as Kiev granted in exchange an extension of the contract for Russia’s Black Sea Fleet, based in the city of Sebastopol in the Peninsula of Crimea. That agreement, which would have expired in 2017 was extended into 2042-47. The second discount came on the 17th December 2013 when the Russian Federation offered along with US\$15 billion of loans a rebate of 33% in the price of natural gas: this reduced the price of US\$385tcm that Ukraine would have paid for the first quarter of 2014 to only US\$268.5tcm.

6. Analysis of the energy dispute: the degree of politicization and influence of the different spaces

As we already mentioned in the introduction, there has been a strong coincidence between the energy dispute and the Russian intervention in the Ukrainian territory, in what we could term as the breakdown of *the space of places* between Kiev and Moscow. However, when we see the first steps taken by Russia by late February and in the first half of March, energy relations are not affected. In fact, one of the chief elements of *the contractual space* holds, that is, the quarterly revision of prices: Until the first of April, Naftogaz continues to import natural gas from Gazprom priced at the highly advantageous price of US\$268.5tcm. Thus, the new authorities, against whom the Russian Federation reacted through the occupation and annexation of Sebastopol and the Peninsula of Crimea continued to enjoy the most explicit element of politicization since the contract of 2009 had been signed, that is, the reduction in one third in the price of natural gas. Still, the price revision on which the debt accumulation and eventual cessation of supplies was based came early after the start of the war, with the second quarter of 2014 starting with in April. The price revision was twofold and concerned the two discounts that the Russian Federation had granted so far:

The first revision was announced on the very 1st of April and applied to the discount from December 2013. By its very nature, rather than being linked to the actions in Crimea or as a prelude to insurgency in the Donbass this was simply linked to the change of government in February 2014 and came later by the intermediation of the *contractual space* and its quarter-based price revisions. The decision, which brought prices back to US\$385tcm was in itself fully political and could not be related to market changes whatsoever. However, being the discount in itself political in its very origin, its cessation brought mutual energy relations closer to the *contractual space* and the status quo ex-ante. More controversial was the second price revision that was announced on the 4th of April by which Gazprom would hike prices to as

much as US\$485tcm. In a similar fashion as with the discount of December 2013, this resulted from the cancellation of the other discount approved in the “Kharkov Agreements” in April 2010 concerning the contract of the Black Sea Fleet based in Sebastopol. Although this brought the pattern of mutual energy relations to the full *contractual space* as agreed in January 2009, this paradoxical restoration was nevertheless explicitly linked to the new *space of places*: since the Russian Federation considered that Sebastopol was now an autonomous subject of its Federation, it considered automatically nullified the lease-contract of the base renewed and extended in April 2010. It goes beyond saying that in the light of the most elemental International Law, this was illegitimate as a result of the violation of Ukraine’s sovereignty. However, we need to pay heed to the fact that the arbitrariness was still determined by the content of the *contractual space* itself since 2010. As we will see below, no such price revisions were motivated by the opening of the second war scenario.

During the time period between April and the suspension of deliveries on the 16th of June, the debt, as explained above, accumulated while Gazprom continued to supply natural gas. In the face of such situation, *the contractual space* allowed a suspension of deliveries, as determined by the contract of January 2009: following the article 5.1 of the said contract, payments for deliveries were due at latest for the 7th of the next month (Ukrainska Pravda 2009). If this condition was not fulfilled, Gazprom was then entitled in the virtue of article 5.8 of the contract to demand Naftogaz to switch to a pre-payment mode (Ukrainska Pravda 2009). If Naftogaz refused, then article 5.3 allowed Gazprom to suspend deliveries of natural gas supplies (Ukrainska Pravda 2009).¹¹ As we also had the occasion to see above, this period was coincidental with the second scenario where the region of Donbass was plagued by pro-Russian insurgency to which the Russian Federation lent an increasingly manifest support. Given the margin given by the contractual space, some have highlighted the surprising restraint from the part of Gazprom and the Russian administration (Stulberg 2015, 2017). Indeed, while the situation increasingly deteriorated in the Donbass, tripartite conversations hosted by the EU continued and Gazprom postponed the date for delivery suspensions. This makes it hard to establish any linkage to the progress of war and the use of the “energy weapon” to apply further pressure on Ukraine beyond the elements already highlighted. In fact, the date of the suspension, the 16th of June took place while there where discreet contacts between the Ukrainian authorities and the self-proclaimed republics. In addition to this, it must be highlighted that the exact date chosen did not seem arbitrary: the 16th of each month was the date when Gazprom presented the bill for the next month in case of switching to pre-payment mode (Ukrainska Pravda 2009), something rejected head-on by Naftogaz.

As stated earlier, the suspension of deliveries lasted until the 2nd of December. The talks and subsequent agreements in September and October were taking place during a period of lull, determined by the Minsk Agreements that set a fragile stalemate. It is tempting to draw a parallelism between this lull of the *space of places* and progresses in restoring energy relations which led to a renewal of supplies in December. However, it is also true that other elements might have had a stronger influence, as the full implication of the EU and the fact that winter was approaching and both Russia and Ukraine wanted to avoid disturbances that might have affected the rest of natural gas flowing towards the West, as had happened in 2006 and 2009. The truth is that when new tensions flared-up in February, energy relations remained largely unaffected; the only occasion that might have brought up a direct linkage between the tensions in the *space of places* and energy relations came from the episode explained above when Ukraine understandably cut off energy relations to the self-proclaimed republics, with Gazprom partially redirecting

¹¹ “Газовое соглашение”.

its natural gas supplies directly to the LPR and DPR. The *space of places* had a clear influence in a modification of the *space of flows*; however, excepting for the new regime of direct supplies to the self-proclaimed republics, the *contractual space*, as agreed some months ago and on the more or less implicit basis of the existing contract, stood unaffected.

Finally came the spat concerning the re-negotiation of prices for the third quarter of 2015 where the Russian Federation pretended to unilaterally interpret the discount that Ukraine had been granted since 2010 and which Gazprom had maintained in the winter package, despite its initial attempts at nullifying it due to the occupation of Sebastopol and the Peninsula of Crimea. This change in the *space of places* and which, as already explained, justified in the eyes of Moscow a change in the *contractual space*, had not modified it but had nevertheless weakened it, as the discount that Naftogaz enjoyed since 2010 remained not in virtue of mutual agreement, but to a trilateral transitory agreement whose expiration opened the ground to further renegotiation. The interpretation by which Moscow was now unilaterally reducing the discount in order not to reflect changes in the international market that favored Kiev was not justified on the basis of the economic principles acknowledged in the latest reference of the *contractual space*, the winter package. This arguably was a clear instance of politization, derived from the terrible mutual relations between the two countries and which only found a solution for the fourth quarter, when mutually acceptable prices were agreed to. Why would Moscow have chosen that precise moment to worsen energy relations is hard to answer, although it is warranted to guess that the fact that this was during summer, when the risks of flow disturbances are lower reduced for Moscow the dangers of provoking a new crisis, favored this hardening of Moscow's position.

7. Conclusions

The Euromaidan ushered energy relations between Russia and Ukraine into a new dimension, with warfare exploding and political relations reaching therefore an unprecedented low. As we have had the chance to see above, energy relations were affected as a more or less direct consequence. In a pattern similar to previous instances of energy dispute, as during the period of Viktor Yushchenko's presidency disagreements on the pricing of natural gas and debt accumulation eventually led to supply cut-offs. The coincidence with a period of intense political tension represents an optimal occasion for discussing the use of energy for political purposes and for testing the hypothesis of the "energy weapon".

In a first view, it seems warranted to suspect the blunt use of energy from the part of Gazprom, due to the general time correlation between the political crisis and military conflict. However a careful analysis of this period, both in the exact correlation of each of the episodes or the content itself of the price revisions throws a much more nuanced picture as for what concerns the causal process: political changes in the *space of places* did impact, and we may say that strongly, on energy relations. Still, this did not happen in the blunt fashion conveyed by the term of "energy weapon"; if a careful analysis of the correlation between the *space of places* and the *space of flows* does not seem to point to the use of energy as war by other means, neither the contractual revision which happened during this period was detached from the preexisting *contractual space*. The most conspicuous change in the *space of places*, which was the annexation of the city of Sebastopol and the Peninsula of Crimea had an effect on the *contractual space*. However, this did not happen in an arbitrary fashion (even if annexation in itself was): the status of the Fleet of the Black Sea, radically modified since the annexation was directly related to the discount of 2010 (see above).

The usefulness of the findings in this article lies in the fact that we have been able to present a more complex picture than often portrayed under the label of “energy weapon”. Whereas politicization was present in the form of positive incentives, as it was evident in the discounts of 2010 and 2013 the use of the “tap weapon” was not used in detachment from the institution of the contractual framework in which both Naftogaz and Gazprom circumscribed their energy relations. This is a useful lesson for anyone studying energy relations in the post-Soviet Space as for what concerns the exact role that the actors involved in energy disputes end up playing. Beyond a mere application of the unrestrained logic of power relations in the realm of energy relations, it seems obvious in this case study that energy politics by the Russian Federation was, at least in a certain degree, mediated by contractual constraints.

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