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**Stumbling from incident to incident**  
**The systemic crisis of the post-Cold War order**

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**Abstract**

*The conflict between Russia and the Euro-Atlantic Community has taken the form of a systemic crisis, in which we face the risk of running from incident to incident. It is argued that the European post-Cold War order has undergone a norm-transforming, rather than norm-governed change. The normative framework and shared purpose on which it rests and which are essential to stabilise and perpetuate an international order have been eroded. The crisis is assessed on the basis of both the acts of violation and retreat by key ordering agents and their intersubjective assessment of the order. It is argued that normative pillars have gradually dissolved in four key areas: the principles of the Paris Charter on the indivisibility of security, the arms control regime, collective security and the European border regime. Tackling these issues is particularly complicated, because some, such as arms control, require today a global approach, involving China.*

**Introduction**

In an unlikely sequence of events and after years of mounting tensions, a deep crisis erupted between Russia and the West over Ukraine at the end of 2013, early 2014. Little has fundamentally changed since then. Both sides seem to be in a staring contest. Reciprocal sanctions remain in place and trust is at an all-time low since the end of the Cold War.

This paper raises the question whether relations between Russia and the Euro-Atlantic community have ended up in systemic crisis, in which we risk running from incident to incident. Drawing on John Gerard Ruggie's thinking on normative change (Ruggie 1982), it is argued that this is a profound and enduring crisis, because the normative framework that underpinned the

European post-Cold War order is crumbling and there is nothing to replace it. Four pivotal pillars of this order are detected as areas where key actors have either retreated or repeatedly violated crucial norms and have displayed negative attitudes or a low sense of commitment.

The article is structured as follows. The first section conceptualizes systemic crisis based on the concept of normative framework and the distinction between norm-governed and norm-transforming change. The second section expands on the criteria applied in the assessment of the crisis. It points to the centrality of the norms at stake and the significance of ordering agents. Norms are hereby understood as ‘collective expectations for the proper behavior of actors with a given identity’ (Katzenstein 1996, 5).<sup>1</sup> The section further distinguishes between the ‘objective’ acts of key players and their ‘intersubjective’ assessment of the order and whether those question only the application of norms or their validity. The subsequent section demonstrates that a profound erosion of norms has occurred in four crucial areas: the European post-Cold War norms on indivisibility, the arms control regime, collective security and the European border regime. This paves the way for an evaluation of the binary structures that have occurred today. Finally, some of the main internal and external challenges to the current impasse are outlined.

### **Systemic crisis**

The Ukraine crisis is the result of a ‘culmination of tensions’ (Haukkala 2015), following from a systematic crumbling of the European post-Cold War security order. Sakwa wrote: ‘The conflict in Ukraine that erupted in 2014 is the most vivid manifestation of the failure to create a stable and durable European security order, but ultimately it is only a symptom of that failure.’ (Sakwa 2015, 555) In other words, the Ukraine crisis resulted from years of gradual erosion of the post-Cold War order and foremost underlined how deeply it was in crisis. In this article, it is argued that the post-Cold War order in Europe is facing a profound crisis of the normative framework and underlying shared purpose, required to stabilise and perpetuate an order. Foundational norms lost their validity and are no longer able to constrain the behaviour of its more powerful participants effectively. As a result, the current crisis is not a temporary, cyclical one. It is a systemic crisis, because the condition for its perpetuation (shared purpose and norms) has been undermined, threatening in turn the very existence of the current security order in Europe. This implies that it is unlikely that a change in leadership or foreign policy of one of the key partners would solve the crisis in the longer term, as long as the underlying structural problems are not tackled. The specific criteria that support this statement and guide this research are outlined in the following section.

More specifically, this article distinguishes four vital normative pillars of the European post-Cold War security order. All four pillars have substantially dissolved, implying substantial norm transformation. This norm transformation does not happen as the result of an occasional violation, but occurs in a context where violations or non-adherence become rather systematic, therefore undermining the validity of the norms themselves. The crisis of a normative system easily expands once it starts disentangling, because the sense of obligation to comply with its central norms dwindles. Any settlement of issues or conflicts is therefore bound to be a temporary solution at best. The structural characteristics of the crisis are bound to reappear each time tensions build up over new issues.

The next section will develop the concept of norm transformation, drawing on the work of Ruggie. This paves the way for an analysis of the normative framework of the European post-Cold War order. It should be noted that the paper deliberately does not seek to assess the structural causes of or the responsibilities for this systemic crisis (see Casier 2016 for an analysis along those lines). Nor does it seek to analyse the foreign policies of the key actors. The objective is simply to evaluate the significance and nature of the normative crisis of the European security order.

### **International order and normative framework**

Richard Ned Lebow defines order as ‘a hierarchical arrangement, supported by most of its members, that fosters security, self-esteem, and social contact, encourages solidarity, and results in legible, predictable behavior’ (Lebow 2018, 8). The latter, predictable behaviour, can only exist because it happens ‘in accord with recognized norms’ (Lebow 2018, 7), placing norms at the heart of international order.

According to John Gerard Ruggie, the institutions that govern an international order<sup>2</sup> - have a ‘relative autonomy’ because they rely on an ‘intersubjective framework of meaning’ (Ruggie 1982, 380). In other words, they do not only depend on the distribution of power, but also on legitimate social purpose.<sup>3</sup> The institutions ‘stabilising and perpetuating’ an international order (Cox 1981, 136)<sup>4</sup>, are characterised by ‘normative frameworks’ (Ruggie 1982, 384), based on shared and ‘legitimate social purpose’ (Ruggie 1982, 382). This intersubjective framework is of key importance, because it is against this background that ‘deviation will be determined’ (Ruggie 1992, 405). It should be noted that the idea of shared purpose and common norms as essential to stabilise an order, is not exclusive to constructivist approaches. Also for Realists international

order assumes community and shared conventions (Lebow 2016, 35 and 41). Morgenthau, for example, referred to a 'moral and political community' at the basis of order (Morgenthau 1948, 405-406).

Ruggie's approach suggests there are two possible ways in which international orders can change: through 'norm-governed change' or through 'norm-transforming change' (Ruggie 1982, 384 and 405). In the case of 'norm-governed change', the normative framework and shared purpose are held constant and change may occur in the instruments used (the rules and procedures), but not in the normative framework (principles and norms) (Ruggie 1982, 384). In the case of 'norm-transforming change' the normative framework itself is changing. This implies a more fundamental rupture and structural change.<sup>5</sup>

This essay suggests that the current change in the European security order is 'norm - transforming' rather than 'norm-governed'. In other words, we are facing a collapse of the core norms and principles of this order and a dramatic decline in the commitment to the shared purpose that underpinned it, rather than simply a change in rules and procedures.

Norm transformation does not simply occur when norms are violated. The occasional violation of norms does not mean per definition that the norms lose their validity. Indeed, the intersubjective expectation that actors should behave according to the normative framework continues to exist. Lebow argues that order and disorder are not binaries: 'disorder is inherent in order' (2018, 15). Any order is characterised by violations. A well-established order can easily tolerate a degree of deviance from its norms. Even more, in line with Durkheim, a degree of deviance is necessary because it 'defines moral boundaries, teaches people the difference between right and wrong' (Lebow 2018, 312). Lebow speaks of 'productive disorder' (2018, 310). How then may orders dissolve? On the basis of the above, observing a degree of violation of norms is not sufficient to conclude that an order is collapsing. Lebow sees two ways in which orders get threatened: when the 'accepted principles of justice' are challenged or when 'the discrepancy between them and practice become apparent and unacceptable' (Lebow 2018, 9).

To determine how this can be operationalised, we need to understand what these accepted principles of justice mean. Ruggie, in his reflections on multilateralism as an 'organising principle', presents three characteristics of a multilateral order. The first is indivisibility (Ruggie, 1992, 571). The indivisibility, for example of security, is in Ruggie's approach a social construction, not a pre-given. It is the fact that states accept the indivisibility of security (i.e. 'the security of every participating State is inseparably linked to that of all the others', CSCE 1990, 5) and behave accordingly, that in itself generates the indivisibility. A second element is the diffuse reciprocity

that characterises multilateralism: there is ‘a rough equivalence of benefits in the aggregate and over time’ (Ruggie, 1992, 571). The third characteristic is that states behave according to ‘generalised principles of conduct’ (Ruggie, 1992, 571). There are ‘principles which specify appropriate conduct for a class of actions, without regard to the particularistic interests of the parties or the strategic exigencies that may exist in any specific occurrence’ (Ruggie, 1992, 571).

The above signifies that, when the normative framework underpinning the European post-Cold War security order is crumbling in a critical way, the expectations concerning the conduct of the other are equally changing. Importantly, what this implies is that the eroding normative framework is not simply the result of increased tensions and competition, but that its erosion itself engenders further tensions and deepens the confrontation. It weakens the ‘force of obligation’ (Kowert 2012, 47). Normativity does not simply consist of beliefs about obligation. ‘To function normatively, beliefs require evaluative, emotional force. Put more simply, normativity depends on creating feelings of obligation.’, ‘a will or commitment to act in a certain way’ (Kowert 2012, 37).

Against this theoretical background, four criteria are key to determine at which point the normative framework of the post-Cold War order has entered the stage of systemic crisis.

First, the centrality of the norm matters. The more crucial the norm is for the international order, the more problematic it becomes when it is not complied with. As will be argued in the next section, the norms that have been eroded in this case are not marginal, but foundational norms. They are the key pillars of the post-Cold War normative framework, relating to indivisibility, collective security, arms control and sovereignty.

Second, the acts, attitudes and beliefs of key actors are of the greatest significance. If they systematically violate core norms or stop believing in their validity, this will undermine the legitimacy and shared purpose of an international order substantially. Even if many other, less central actors, keep on respecting the central norms of the order, its survival becomes unlikely. The key actors could be identified as the ‘ordering agents’: great powers that have ‘the capacity, ability and willingness to establish, uphold and project (sub-)systemwide ordering structures and practices—institutions, norms, values and principles—and as a consequence, to have intended/desired ordering effects.’ (Haukkala 2020, 3-4). Haukkala determines the ordering agents of post-Cold War Europe as the United States, Russia and the EU (2020, 3). In the field of security arrangements, however, the latter played a secondary role only.

Third, we need to establish what makes an international order and its normative framework 'robust'. Deitelhoff and Zimmermann speak of 'norm robustness' 'when a norm enjoys widespread acceptance by norm addressees and when its claims guide the actions of addressees by and large' (2020, 53). This implies one has to look at two elements: the 'shared intersubjective acceptance' of the norms and 'their factual enforcement' (Deitelhoff and Zimmermann 2020, 53). Lebow makes a similar distinction, stating that robustness is 'as much a state of mind as it is a reality' and therefore requires looking both at 'actual robustness' and its 'assessment by actors' (2018, 15). As a result, a 'widespread belief that order is robust may help make that belief self-fulfilling, just as the belief that it is near collapse can lead to behavior that pushes it over the edge.' (2018, 15). Both the 'objective' criteria (acts of violation and retreat) and the intersubjective assessment (beliefs and sense of obligation) will guide the analysis of the robustness of the European post-Cold War order below.

A final important distinction relates to whether the acts and beliefs of key actors question the validity of the norm concerned (is it righteous?) or only its application (does a norm apply in a specific context?) (Deitelhoff and Zimmermann 2020, 56-57). When the validity of a norm is put into question, this is much more threatening for its robustness.

It goes without saying that there is no yardstick to measure when a normative order has lost its robustness and when its structural problems imply its demise. Yet, on the basis of the criteria above, we consider the normative framework of an international order to face a systemic crisis, when central norms are at stake, when there is repeated deviance from those norms by ordering agents and when their intersubjective assessment of the validity of the order and its normative framework becomes dismissive. On the basis of the above, the next section will analyse how four key pillars of the post-Cold War normative framework have eroded.

### **The erosion of the post-Cold War normative framework for Europe**

The end of the Cold War was accompanied by the establishment of a new normative framework to create an undivided Europe based on cooperation and new security mechanisms. This order rested on four vital normative pillars: new principles for relations in an undivided Europe 'founded on respect and co-operation' (CSCE 1990, 3) and on the indivisibility of security; the ambition to create new collective security mechanisms; an enhanced arms control regime; and the confirmation of the European border regime.

Before looking at the gradual erosion of these four pillars, the case must be made that the post-Cold War arrangements for a new European order can indeed be qualified as a normative framework. As conceptualised in the previous section, a normative framework is made up of norms and principles, based on a shared legitimate purpose (Ruggie 1982). The idea of a common purpose of the post-Cold War security order was central to the Charter of Paris for a New Europe in 1990. It was also expressed, at global level, in the terminology of a new world order, used by Soviet leader Gorbachev in his speech for the UN General Assembly in 1988 (Gorbachev 1988). The term referred to the objective of creating a new peaceful world order based on cooperation between the superpowers and de-ideologization. It was reinforced by the announcement of an unusual, far-reaching unilateral disarmament initiative. The term was recycled to become a key concept of American foreign policy under George H.W. Bush, when he launched the concept of a 'new world order' in a speech for Congress in 1990, describing it as 'a world where the rule of law, not the law of the jungle, governs the conduct of nations' (Bush 1990). This time the concept became interwoven with US leadership. More important than these declarations, is that the shared purpose of a new cooperative order was reflected in a series of ground breaking treaties, in particular in the field of arms control. It was equally visible in the change of international organisations, such as the transformation of the Conference on Security and Co-operation in Europe (CSCE) into the Organization for Security and Co-operation in Europe (OSCE) or Russia joining the Council of Europe in 1996, submitting itself to the jurisdiction of the European Court of Human Rights. The most fundamental norms were also reflected in a wide array of other treaties, such as the Partnership and Cooperation Agreement between the EU and Russia, signed in 1994, or the NATO-Russia Founding Act of 1997, stressing the 'unity of purpose' (NATO 1997). The norms and principles were thus translated into a dense network of treaties providing for specific norms and rules, generating intersubjective expectations about each other's behaviour. Several of these treaties, in the field of arms control, provided for unseen monitoring mechanisms, such as on-site inspections or satellite surveillance. In 1992 the Open Skies Treaty was signed, allowing for unarmed observation flights over each other's territory, aiming at transparency and confidence building.<sup>6</sup> All these monitoring measures allowed for far-reaching interference into domestic affairs, in a way that would have been unthinkable before.

This dense network of treaties, setting new norms, accompanied by specific implementation mechanisms and procedures formed the spine of the new normative framework that took shape in the early 1990s. It generated a sense of obligation and mutual expectations to respect the agreed principles of conduct. It is worth emphasising here that this order was not imposed on



Russia. As Tuomas Forsberg states: ‘Russia was not only taking, but also making the international order in the years immediately following the end of the Cold War’ (2019, 167). This is also reflected in the ambition of Russia’s first post-communist Foreign Affairs minister, Kozyrev, to make Russia ‘a normal great power’ (Kozyrev 1992, 10). Russia’s foreign policy was for a large part of the 1990s based predominantly on a ‘social mobility’ strategy, seeking to be recognised as part of the Western community of states (Larson and Shevchenko 2014).

Yet, the claim that a new normative framework was established, with general principles and specific norms, as well as mutual expectations, neither meant that the norms were always respected nor that relations were always cooperative. However, it would take until late in the 1990s before some of the fundamental norms started to be questioned, at a time when tensions grew, *inter alia* over NATO enlargement and the war in Kosovo. While this was definitely a mental turning point, it would take many more years of gradual erosion of the normative framework, before we can speak of a systemic crisis.

The rest of this section presents the four key pillars of the normative order of the post-Cold War security order in Europe and explores the erosion they underwent on the basis of objective criteria (acts of violation and retreat) and of intersubjective criteria (beliefs and sense of obligation). First, the ‘Charter of Paris for a New Europe’ of 1990 formed the key political document introducing the basic **principles of the post-Cold War order** in Europe. It put forward the shared purpose of indivisibility of security and a Europe free of dividing lines (Charter of Paris, 1990, 5 and 6). ‘Security is indivisible and the security of every participating State is inseparably linked to that of all the others.’ (1990, 5). It declared the end of an ‘era of confrontation and division of Europe’ and called for a ‘Europe whole and free’, building relations on the basis of ‘respect and co-operation’ and seeking to expand ‘cooperation in all fields’ (1990, 2-6). The charter confirmed the commitment of the signatories to democracy, human rights and the rule of law but also to economic cooperation on the basis of a market economy (1990, 1 and 9). In the field of security, it confirmed the duty of all states ‘to refrain from the threat or use of force’ but also ‘the freedom of states to choose their own security arrangements’ (1990, 6 and 8). It expressed the determination ‘to co-operate in defending democratic institutions against activities which violate the independence, sovereign equality or territorial integrity of the participating States’ (1990, 8). Little of this is left. Richard Sakwa speaks of the ‘exhaustion of aspirations codified in the Charter of Paris for a new Europe’ (2015, 553). Dividing lines have returned to Europe and there is all but a shared view of indivisible security. Relations have become highly competitive and antagonistic instead of being based on respect and cooperation. Diverging institutional security structures have appeared on both sides and the eastward

expansion of NATO has become the focus of Russian acrimony. The Russian assessment was clearly one of 'redistribution of spheres of influence' (Putin, 2017). 'Today, we are seeing new efforts to fragment the world, draw new dividing lines' (Putin, 2014b). This expanded to the way Russia assessed the EU's policies in its common neighbourhood, with Foreign Minister Lavrov calling the Eastern Partnership 'an attempt to extend the EU's sphere of influence' (EU Observer 2009). Similar assessments could be noted on the Western side. Secretary of State Hillary Clinton referred to Russia-led Eurasian integration as 'a move to re-Sovietize the region' (RFE/RL 2012). The view from the US was one of unquestioned normative hegemony. Mearsheimer claims: from Washington's perspective the 'United States was not only the "indispensable nation," as Secretary of State Madeleine Albright put it; it was also a benign hegemon and thus unlikely to be viewed as a threat in Moscow. The aim, in essence, was to make the entire continent look like western Europe' (Mearsheimer 2014, 7).

When it comes to the norms of democracy, the commitment is definitely no longer universal. Russia, as well as many other signatories of the Paris Charter, have to different degrees developed in an authoritarian direction. The Kremlin has repeatedly questioned the validity of some critical 'liberal' norms of the Paris Charter (and reproduced in a dense network of treaties), which were seen as nothing but an attempt to impose a 'unilateral Diktat' (Putin, 2014b) and 'an instrument for ensuring the growth of an elite club of countries and its domination over everyone else' (Lavrov 2017). As a result, the intersubjective assessment of the post-Cold War order became very negative and burdened with heavy mutual distrust. From a Russian perspective, Putin formulated it this way: 'Our most serious mistake in relations with the West is that we trusted you too much. And your mistake is that you took that trust as weakness and abused it' (Putin, 2017). The draft European Security Treaty, proposed by Medvedev in 2009 (which is mentioned in more detail below), was a fruitless attempt to restore the key norm of indivisibility of security in Europe, central to the Paris Charter.

A second pillar of the post-Cold War order was the comprehensive **arms control regime** that took shape mainly in the late Gorbachev years and in the early years after the end of the Cold War. The scope of this regime goes well beyond Europe but is of particular importance for the continent. The arms control regime rested on four key treaties. The Anti-Ballistic Missile Treaty (ABM, dating back to 1972) aimed to prevent the development of a nation-wide missile defence system, in order to avoid the disruption of the deterrence balance. The Strategic Arms Reductions Treaty (START I treaty of 1991, renewed in 2010, known as the 'New START') sets limits to strategic nuclear weapons of the US and Russia and provides for a far-reaching inspection mechanism. It expires in 2021 and a one year extension was under negotiation at the

time of writing. The Intermediate-range Nuclear Forces Treaty (INF 1987) bans the possession and production of missiles with a range of 500 to 5500 km, thus banning a whole category of weapons. The Conventional Forces in Europe Treaty (CFE, 1990) sets equal limits on conventional weapons among NATO and former Warsaw Pact member states. Except for the new START agreement, all of these pillars of the post-Cold War arms control regime have collapsed. The United States withdrew from the ABM treaty in 2002, allowing the country to deploy its anti-missile shield – much contested by Russia. Alleging Russian violations of the treaty and claiming they could not stay with consequences (White house, 2019), the Trump administration announced the intention to withdraw from the INF Treaty in February 2019 within six months (followed by a similar Russian declaration shortly thereafter), sparking the ‘most severe crisis in nuclear arms control since the 1980s’.<sup>7</sup> The US formally withdrew on 2 August 2019 (Arms Control Association 2019). The CFE Treaty faced problems from an early stage on and the adapted CFE agreement of 1999 was not ratified by all parties. Russia announced the suspension of the treaty in 2007; the US came up with a similar statement in 2011. Furthermore, in May 2020 President Trump announced the withdrawal of the US from the Open Skies Treaty, one of the key surveillance treaties. As a result, very little is left of a range of ambitious treaties or even the shared purpose of arms control itself. Simultaneously, the institutionalised procedures of monitoring and surveillance – key to trust-building – have to a great extent disappeared.

Third, the European security architecture has been suffering from **ineffective collective security mechanisms**. The Organisation for Security and Cooperation in Europe (OSCE), has not been able to perform this role effectively, being constrained by its consensus decision-making and lack of resources (Freire and Simão, 2018, 165). The OSCE has operated in the shadow of NATO, as dominant and expanding collective defence organisation, preventing European security to be redesigned ‘in an inclusive logic’ (Freire and Simão 2018, 160). Disagreement on the role of the OSCE is not new. Despite recommitting to the principle of common and comprehensive European security at the OSCE Istanbul summit of 1999, the summit became a ‘watershed in Russian attitudes towards the OSCE’ (Smith 2018, 383), whereby Russia criticised the organisation for using double standards.

Despite attempts at reform (such as the Corfu process, launched after the 2008 Russia-Georgia war), the OSCE has been unable to play a significant role and is characterised by sharp divisions, largely centring around a profound normative divergence of visions between the ‘indivisibility of security’ and ‘the equality of security’ (OSCE 2016). With the marginalization of the OSCE, Russia itself was marginalized as a partner in European security processes (Freire and Simão,

2018, 166). The Ukraine crisis made painfully clear that Europe was lacking an effective collective security mechanism.<sup>8</sup> Ambassador Fred Tanner, then Senior Adviser to the Secretary General of the OSCE, argued that ‘all aspects of the core mandate of the OSCE have been affected’ by the crisis over Ukraine (Tanner 2016, 241). The organisation was not empowered by its member states to take early action and was paralysed by a ‘political stalemate’ within the organisation (Tanner 2016, 249). Alternative ad hoc formats, such as the Normandy Contact Group (with Ukraine, Russia, Germany and France) were used for crisis management consultation over Eastern Ukraine. A new attempt at reform was undertaken with the ‘Panel of Eminent Persons’. However, the final report of the panel only underlined the difference in views and lack of trust. Illustrating the profoundly negative assessment of the OSCE’s collective security role, the Russian representative, Sergey Karaganov, added a letter of disagreement to the report, stating: ‘The paper is basically an old Western one in substance, in logic and in recommendations ... The text also is not aimed at prevention of a new structural military-political confrontation ... Its main emphasis is on making such a confrontation “safer”’ (OSCE 2015, 18). On the American side, Trump’s contempt for international institutions (Mearsheimer 2019, 29) has all but helped to overcome the OSCE’s weakness as platform for common European security.

The final pillar which has been eroded is the **European border regime**, in particular the principle of the inviolability of frontiers and the territorial integrity of states (laid down inter alia in the 1975 Helsinki Final Act, 1.III and 1.IV), which represent pivotal foundations of sovereignty. Russia’s argument has been that the US-UK led NATO intervention in Kosovo of 1999 constituted a precedent. It happened without mandate of the United Nations Security Council and led to the independence of Kosovo. Putin refers to this as ‘the well-known Kosovo precedent – a precedent our western colleagues created with their own hands in a very similar situation, when they agreed that the unilateral separation of Kosovo from Serbia, exactly what Crimea is doing now, was legitimate and did not require any permission from the country’s central authorities’ (Putin 2014a). The precedential argument was used to legitimise how Russia, in the confusion of the protests and regime change in Kyiv, took control of the Crimean Peninsula and integrated it into its territory.

How should this annexation be understood in terms of International Law? Two relevant principles concerning self-determination should be mentioned. First self-determination cannot be the result of (military) aggression (Tancredi 2014a and 2014b; Marxsen 2014). This was also the line taken in Resolution 68/262 adopted by the UN General Assembly, recalling that the acquisition of territory by a state should not be the result of ‘the threat or use of force’ (UN 2014)<sup>9</sup>. Secondly, a referendum is not a sufficient condition for self-determination, though it is

increasingly considered as a necessary condition (Tancredi 2014b). For these reasons and aggravated by the circumstances under which the referendum took place (Escudero Espinosa 2017, 183), the annexation of Crimea by the Russian Federation can be regarded as unlawful. It clashes with article 2 of the UN Charter (prohibiting the threat or use of force against the territorial integrity of a state), with the Helsinki Final Act of 1975 and the Budapest Memorandum of 1994. Also, the Venice Commission concluded in its Opinion that this was not a lawful secession, but ‘an annexation of territory which is prohibited under international law’ (Venice Commission quoted in Escudero Espinosa 2017, 184).

How about Kosovo’s declaration of independence in 2008? When considering the first principle that self-determination cannot be the result of the use of force, Kosovo’s independence is indeed illegal under international law as well. For this reason, the Kosovo case has been defended by US Secretary of State Condoleezza Rice and others as ‘sui generis’ and thus not setting a precedent, on the basis of the principle that when massive violations prevent exercising autonomy, people may opt for secession (Tancredi 2018).<sup>10</sup> The International Court of Justice, from its side, in its advisory opinion on Kosovo’s declaration of independence stated that the latter did not violate international law, because ‘the principle of territorial integrity only applies in the relations between states’ (Marxsen 2014, 383). Yet, this has not stopped Russian leaders to refer to Kosovo’s secession as a precedent. This leads Marxsen to conclude:

One can say that there is no right to secession in favor of Crimea. The fact, however, that Russia can invoke prior legal practice that apparently supports its claims – at least within the sketchy and instrumental language of public addresses and press releases – is partly attributable to prior politics of Western states. By further blurring the concept of self-determination Western states bear their share of responsibility for the fact that Russia can make at least a political argument for a right to self-determination of Crimea under international law, even if that argument does not hold a thorough legal analysis (2014, 389).

As a result, the cases of Kosovo and Crimea constitute more than just an occasional violation of the core principles on territorial integrity in the UN Charter and Helsinki Final Act but indicate an erosion of the vital principle of the inviolability of borders. As the recognition of borders is a key pillar of the European security order, this creative political use of legal principles has important implications in terms of the expected ‘generalised principles of conduct’. Moreover, invoking norms like self-determination in this context raises a different issue. The validity of a norm may be eroded because of its selective and parodic use. Burai outlines how Russia’s ‘parodic appropriation of normative language has a destabilizing normative impact’, exposing the Western normative discourse by problematizing the ‘contingent nature of normative

contextualisation' (Burai 2016, 76-77). In other words, they confront Western actors with the inconsistent and biased application of their own norms. Furthermore, it should be noted that the constant interference and perception of interference into domestic affairs (Russian hacking or disinformation from a Euro-Atlantic perspective, Western democracy promotion from a Russian perspective) is a further sign of the weakening of norms of sovereignty and non-interference, as well as a sign of unpredictable behaviour and profound distrust.

## **Binary Europe**

The previous section outlined both the retreat of and recurrent violations of ordering agents in four key normative areas of the European post-Cold War order, as well as their negative assessment of this order and its founding norms. The parodic use of norms and lack of belief in the order testify of the decline in sense of obligation. Against this background, this section evaluates the significance of the order's dissolution. To do so, it revisits Ruggie's criteria of multilateral order. Afterward, it explores how binary structures of governance in (greater) Europe entrench normative divergencies. Yet, these divergencies do not mean that we are confronted with a linear division between norm defenders and norm contesters. As will be demonstrated, the norm competition is much more ambiguous.

### ***Evaluating the erosion of the post-Cold War normative framework***

The above has demonstrated that little is left of a congruence of purpose between Russia and the Euro-Atlantic community. Revisiting Ruggie's core principles of multilateral order (indivisibility, diffuse reciprocity, generalised principles of conduct), the following can be concluded. First, as the indivisibility of security is intersubjective, it is the lack of recognition and commitment of this norm by states and other actors, that has corroded the norm. A test case for this commitment came with President Dmitry Medvedev's attempt to relaunch the principle of indivisibility of security in his draft European Security Treaty in 2009. Article 1 stated that 'the Parties shall cooperate with each other on the basis of the principles of indivisible, equal and undiminished security' (European Security Treaty 2009). This diplomatic initiative, however, did not manage in any way to reconstruct consensus over the principle. The disappearance of this intersubjective norm of indivisibility implied the dissolution of common standards against which the other's behaviour and intentions could be evaluated and deviation determined. Instead we have entered a 'logic of competition' whereby actors rationalise their own behaviour, while attributing negative intentions to their counterpart (Casier 2016). This logic came to characterise the years or even decade preceding the Ukraine crisis and became an important driver of the deteriorating

dynamics of relations between Russia and the Euro-Atlantic community. Within this logic of competition, deviation from the post-Cold War normative framework is seen the exclusive result of the malicious intentions of the other party, an inherent part of their nature, instead of being ‘determined by the "intersubjective" evaluation of the intentionality and consequences of acts within the broader normative framework and prevailing circumstances’ (Ruggie 1982, 405).

Second, diffuse reciprocity has been drastically reduced. There is no overarching feeling that the current structures benefit all parties in a diffuse but equal way. In Russia there is a dominant perception that the West has abused its position to impose its norms on others. This has led Russia to place itself on an anti-hegemonic position, rejecting the normative hegemony of the West. Russian leaders accuse the EU and the West of pursuing a policy of neo-containment (Putin 2014a) and of imposing its ‘unilateral Diktat’ (Putin 2014b) on other countries.

Third, generalised principles of conduct are supposed to exist independently from ‘strategic exigencies’ (Ruggie 1992, 571). The rules of the post-Cold War European security order are progressively disappearing and with them are the monitoring mechanisms aimed at establishing confidence by excluding the possibility of freeriding. Particularistic interests of the former ordering agents are clearly overriding generalised principles. As Lebow argues, the ‘defection at the top’ is the most serious threat to orders, as it ‘reduces the incentive others have for playing by the rules and can set in motion a vicious cycle that significantly weakens the order in question.’ (2018, 148).

### ***Entrenching normative divergencies***

At the heart of relations between Russia and the West today is competition *over* norms rather than *within* a shared normative framework. The competition over norms has been fostered by the binary structures that have arisen in post-Cold War Europe with different security organisations on both sides (NATO versus the Russia-centred Collective Security Treaty Organisation, CSTO) and incompatible integration initiatives (the EU and its Eastern Partnership versus the Eurasian Economic Union). These institutions provide platforms for the development of separate normative frameworks, that may foster a binary Europe, whereby the choice of belonging to one or the other becomes mutually exclusive. The fact that normative choices get institutionalised, entrenches normative divergencies and reinforces the structural characteristics of the current crisis. In other words, this institutional entrenchment of normative divergencies risks turning the policy choices of any country in between Russia and the Euro-Atlantic Community into an apparent exclusive geopolitical choice – as the eruption of the Ukraine crisis made obvious. This

contributes to the systemic nature of the crisis, as this creates continuous potential for new incidents.

This binarisation of Europe's post-Cold War normative framework, however, is not linear in the sense that we do not have a neat division between the defenders of the normative framework and those contesting it. The reality is more complex: both sides claim to be the true defenders of some of the given key norms of the post-Cold War normative framework. Russia's position is particularly interesting in this regard. It cannot be said to be simply a challenger of the status quo normative framework. It profiles itself as the genuine defender of the indivisibility of security in Europe (for example in the case of the draft European Security Treaty, mentioned above). It has done the same when it comes to broader international norms such as sovereignty and non-interference (despite clearly violating the norm in the case of Crimea). In these areas, Russia presents itself as the defender of the agreed norms and positions itself within the status quo normative community, despite the fact that its ambiguous attitude may undermine its credibility.

In other areas, it profiles itself clearly against the status quo norms. This is mainly the case when it comes to liberal norms, which are dismissed as a pretext for maintaining Western dominance. It is in this field that Russia presents itself as defender of 'genuine' European norms, de facto a disparate set of illiberal norms. The distinction is important. When it comes to norms like the indivisibility of security, Russia's contestation is 'applicatory' (Deitelhoff and Zimmermann 2020): it refers to how and when the norm should be applied. When Russia challenges liberal norms, on the other hand, it questions the validity of the norm itself and may thus weaken its robustness (Deitelhoff and Zimmermann 2020, 56). At the same time, the US does not appear as the traditional defender of several key norms, whether related to collective security or the indivisibility of security in Europe. Having withdrawn from several key arms control treaties, in particular but not solely under President Trump, it has not appeared as a defender of the status quo either. As to the question to what extent the US is still backing up the liberal international order, there is discussion whether Trump's undermining of this order is reflecting a fundamental, structural change (Mearsheimer 2019) or only a temporary aberration (Ikenberry 2018). In conclusion, the representation of Russia as a full-blown norm contestator or challenger of the status quo is at least a simplification. The post-Cold War normative framework is disentangling for the reasons described above, rather than being the stake between norm challengers and defenders.

It goes without saying that the competition over norms is not a cosmetic feature of the power struggle between Russia and the West. On the contrary, it is at the heart of the power competition. Social Identity Theory (Larson 2012, Ward 2017) suggests that changing norms can



result from changing status-markers in a competition over status. If an actor is unable to gain status within the dominant normative framework, it may seek to change the evaluative criteria, i.e. the norms against which its behaviour and leadership are measured. Given that Russia perceives the international order ‘as fundamentally unjust and detrimental to their country’s interests, but also profoundly destabilising’ (Krickovic 2017, 309), it becomes key to change the norms against which its behaviour is measured, when these norms withhold status (e.g. political liberal norms), and to defend the norms that protect it from the interference by that international order (e.g. sovereignty, non-interference).<sup>11</sup> From a different theoretical perspective, Acharya reaches a similar conclusion. He refers to norm subsidiarity as the process whereby actors create norms ‘with a view to preserve their autonomy from dominance, neglect, violation, or abuse by more powerful central actors.’ (Acharya 2011, 97). It is important that, through subsidiary norms, actors may either challenge or support global norms. In other words, they will selectively promote certain international norms (e.g. sovereignty or indivisibility of security), reject others (certain political liberal norms) and re-interpret others (e.g. claiming the right to choose a sovereign path to democracy).

### **A way out of the impasse?**

The argument that the European post-Cold War order has entered a systemic crisis is not a prediction of an escalation beyond control. Yet, it does imply that constraints on the behaviour of states within that order have severely weakened. As a result, we run the risk of seeing the repetition of crises like the one over Ukraine. Though not the main focus of this article, the question needs to be asked whether there is a way out of the current impasse? Little of what has been said above offers much reason for optimism. Structural reasons make it difficult even to imagine how a revised normative framework for a European security order could be put in place. The credibility of norms has been eroded and there is profound disagreement on a common purpose. Tackling the crisis of the post-Cold War order is particularly difficult, because it requires the reversal of deep distrust. This indicates that progress will likely entail small steps of confidence-building measures. Those should go hand in hand with a clear long-term strategic vision of what a future shared purpose and joint normative framework could look like. But the current situation is such that there is little room for serious reflection on this long-term structures, let alone for dialogue. Raising the question about new shared norms for a future, revised post-Cold War order risks to be seen as a political concession and ultimately weakness. This increases the difficulty of getting out of the current crisis.

On the Western side, few leaders have risked formulating long-term perspectives. The major exception is French president Macron, who launched an appeal for reconciliation with Russia on 27 August 2019, calling to reassess relations with Russia 'in great depth'. Macron argued that 'pushing Russia away from Europe is a major strategic error, because we are pushing it either toward isolation, which heightens tensions, or toward alliances with other great powers such as China, which would not at all be in our interest' (Macron 2019). The appeal mainly stood out because of its geopolitical argumentation. It lacked any ideas (beyond the vague concept of civilisation) about which shared purpose or mutually beneficial normative framework could underpin this reconciliation. Within the EU, several member states strongly criticised Macron's call, underlining the difficulty the Union faces to take up a role as ordering agent in a new grand bargain on a revised normative framework for the European post-Cold War order.

Also, the global changes that have occurred since the end of the Cold War complicate a resolution of the crisis of the European security order. Several key issues for European security can no longer be solved in a purely Russian-Atlantic context. For example, it has been suggested that Trump's real reason behind the withdrawal from the INF treaty is that China is not a party to the treaty and thus not bound by it (see Allison and Herzog 2020). The White House has regularly insisted on trilateral arms control talks, including China. This implies that a renewal of the arms control regime requires broader multilateral agreements, which may be extremely difficult to achieve. China, a much smaller nuclear power than the US and Russia, has consistently refused to join in trilateral talks about nuclear disarmament, fearing this may entrench its nuclear backlog vis-à-vis the US and Russia.<sup>12</sup> Though it is beyond the scope of this article, it can be argued that the spectacular rise of China complicates the chances of a new deal for several structural reasons. First of all, there is the prominent rivalry between the US and China. The latter is certainly not new but has sharply increased under the Trump administration. Secondly, while China is a rising power, Russia is a power in decline (Krickovic 2017). This implies that an agreement needs to be found in a triangle with two competing giants, the US and China, and one weaker party, Russia. Moreover, this risks disrupting the fragile balance between Russia and China, mentioned by Bobo Lo (2016), whereby China recognises Russia's military primacy, while Russia recognises China's economic primacy. Any form of trilateral arms control would be based on more military equality between Russia and China.

## **Conclusion**

Long term stability in Europe requires a shared normative framework and mutually accepted rules of conduct. When the Cold War came to an end, an attempt was undertaken in the Paris Charter to put the shared purpose, common norms and rules on paper, driven by the aim to create security in Europe on the basis of its indivisibility. This normative framework was reproduced in a whole range of treaties and remained the primary point of reference for a considerable time. The Ukraine crisis was not a sudden U-turn. It was both the result of the steady erosion of the normative framework and a rupture in itself. The crisis underlined how the four pillars of the post-Cold War order in Europe had crumbled: the Paris principles of indivisible security and a Europe without dividing lines; the arms control regime; an effective collective security mechanism; and the European border regime.

The systematic violation and diverging interpretation of norms indicate that we are going through a systemic 'norm-transforming' change, whereby key actors retreat or violate central norms, whereby their belief in those norms has eroded and whereby their sense of commitment to the normative framework underpinning the post-Cold War European security order has dramatically weakened. The outcome of this transformation is unclear, but is likely a polarisation of normative frameworks, away from a single shared framework. Positions of both parties are barely determined by the common standards agreed at the end of the Cold War, but rather by a certain reading of their particularistic interests. Neither are the acts and intentions of the 'other side' evaluated in function of a common normative framework, so that negative intentions easily get read into their behaviour. As a result, the logic of competition and polarisation are likely to continue. The crisis over a European security order has taken on systemic features, whereby we risk stumbling from one incident to another.

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<sup>1</sup> A variation of Katzenstein's definition can be found in Finnemore and Sikkink, who define a norm as 'a standard of appropriate behavior for actors with a given identity' (Finnemore and Sikkink 1998, 891).

<sup>2</sup> Ruggie, in the context of the debates he was involved in, speaks mainly of 'regimes', but also refers to multilateralism as an 'institution'.

<sup>3</sup> Ruggie has applied this in the first place to the international economic order.

<sup>4</sup> According to Robert Cox, institutions play a key role in 'stabilising and perpetuating a particular order' (Cox, 1981, p. 136), by giving it 'a semblance of universality' (Cox, 1981, p. 139).

<sup>5</sup> Though it is not the purpose of our analysis, it goes without saying that this evolution is also linked to domestic developments. Ruggie mentions a 'permissive domestic political environment' as a critical factor for allowing multilateral regimes (Ruggie 1992, 582).

<sup>6</sup> The Open Skies Treaty entered into force in 2002 only.

<sup>7</sup> Malcolm Chalmers, deputy director general of the Royal United Services Institute, quoted in The Guardian 2018.

<sup>8</sup> Over time Moscow's relations with the OSCE have followed a zigzag pattern (Kropatcheva 2012), proposing the organisation as the basis for a pan-European collective security system at one point, and rejecting it as an organisation of double standards at other times.

<sup>9</sup> The non-binding resolution was approved following Russia's veto in the UNSC to a similar resolution.

<sup>10</sup> It should also be noted that no referendum was held in the case of Kosovo's independence.

<sup>11</sup> It goes without saying that the rhetorical defence of norms does not equal respecting them de facto.

<sup>12</sup> See the statement of June 9<sup>th</sup> 2020 (Ministry of Foreign Affairs of the People's Republic of China, 2020).