The Minsk Conundrum: Western Policy and Russia's War in Eastern Ukraine

Summary

- The Minsk agreements of September 2014 and February 2015, which sought to end Russia's war in eastern Ukraine, rest on two irreconcilable interpretations of Ukraine's sovereignty – what could be called the 'Minsk conundrum': is Ukraine sovereign, as Ukrainians insist, or should its sovereignty be limited, as Russia demands?

- Ukraine sees the agreements as instruments with which to re-establish its sovereignty in line with the following sequence: a ceasefire; a Russian withdrawal from eastern Ukraine; return of the Russia/Ukraine border to Ukrainian control; free and fair elections in the Donbas region; and a limited devolution of power to Russia's proxy regimes, which would be reintegrated and resubordinated to the authorities in Kyiv. Ukraine would be able to make its own domestic and foreign policy choices.

- Russia sees the Minsk agreements as tools with which to break Ukraine's sovereignty. Its interpretation reverses key elements in the sequence of actions: elections in occupied Donbas would take place before Ukraine had reclaimed control of the border; this would be followed by comprehensive autonomy for Russia's proxy regimes, crippling the central authorities in Kyiv. Ukraine would be unable to govern itself effectively or orient itself towards the West.

- These contradictory provisions are testimony to a stunning failure of Russian foreign policy. In 2014 Russia launched a campaign of violent subversion to compel Ukraine to 'federalize' its political system. Belying Russian expectations, Ukrainians fought back en masse, forcing Russia to resort to increasingly open military intervention. Russia inflicted crushing defeats on Ukrainian forces, yet was unwilling to pay the price that further high-intensity war would have exacted.

- Western views on how to implement the Minsk agreements are imprecise and inconsistent. One prevalent view is that implementation means finding a mid-point between the Russian and Ukrainian positions. However, attempts to do so have failed – heaping pressure on Ukraine, risking political instability in Kyiv, and not leading to any discernible change in Russian policy. Instead of trying to resolve an unresolvable contradiction, Western policymakers should acknowledge the starkness of the Minsk conundrum.

- An alternative approach would make the defence of Ukraine's sovereignty the unambiguous premise of Western policy. It would view the Minsk and Normandy processes mainly as conflict management tools. In line with the priority attached to upholding Ukraine's sovereignty, Western governments would meanwhile maintain support for long-term political and economic reform in Ukraine, using the EU/Ukraine Association Agreement as the anchor.

- This approach would also encourage the authorities in Kyiv to engage more inclusively with those living in occupied Donbas. Yet it would proceed from the assumption that the region should not be legally reincorporated into Ukraine for the foreseeable future. Finally, this approach would logically entail a lengthy stand-off with Russia over Ukraine – a prospect that many decision-makers in the West would find troubling and unnerving.

Introduction: the 'Minsk conundrum'

Russia's undeclared war in eastern Ukraine – which sets the Kremlin-backed 'Donetsk People's Republic' (DNR) and 'Luhansk People's Republic' (LNR) against Ukraine's central authorities – has entered its seventh year, with no end in sight. By mid-February 2020, the death toll had climbed to almost 14,000, with more than 30,000 people injured.[1] Ukraine is now home to almost 1.5 million registered internally displaced persons (IDPs), the ninth-largest number in the world.[2] The economic impact, measured in lost output and trade, and destroyed or damaged assets, almost certainly runs into tens of billions of dollars.[3] Unsurprisingly, the war has driven political relations between Ukraine and Russia to an unprecedented low. Relations between Russia and the leading Western powers have meanwhile sunk to their lowest point since the early 1980s.

Diplomatic stalemate mirrors deadlock on the ground. Implementation of the Minsk agreements of September 2014 and February 2015, which sought to end the war, remains the professed goal of Western policy. Indeed, 'Minsk implementation' is a mantra for policymakers, reiterated publicly by leaders and privately by officials. Yet implementation has made minimal progress. Bursts of activity – most recently in December 2019, when the heads of state of the 'Normandy Format'[4] met after a three-year gap – have not broken the logjam.

Attempts at implementation have foundered because they are mistakenly predicated on compromise. Compromise is not, however, an option. The Minsk agreements rest on an unresolvable contradiction – what could be called the 'Minsk conundrum': is Ukraine sovereign, as Ukrainians insist, or should its sovereignty be limited, as Russia's leaders demand?

The background to the Minsk agreements

This question drove the crisis that engulfed Ukraine in 2013–14. In 2007 Ukraine's president, Viktor Yushchenko, launched negotiations with the European Union over an Association Agreement (AA). At the core of the proposed pact was a Deep and Comprehensive Free Trade Agreement (DCFTA), which would eliminate most tariffs on trade in goods.[5] Even more significant, the DCFTA envisaged legal and regulatory approximation: Ukraine would transpose much of the EU *acquis communautaire* into its own legislation. Russia did not take the prospect of an AA seriously at first. But by late 2011, with the negotiations at an advanced stage, the Kremlin had come around to the view that it was a realistic threat.

Three factors in particular informed the Russian leadership's change of position. First, the Kremlin had become concerned about the EU's expanding profile in the non-Baltic post-Soviet space. The EU's presence and activity had grown appreciably after the 2009 launch of the Eastern Partnership, which was an attempt to invigorate EU policy towards Armenia, Azerbaijan, Belarus, Georgia, Moldova and Ukraine. Although the EU did not conceive of the AA as a geopolitical instrument,

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[1] Peterson, N. (2020), 'The War in Ukraine Was Supposed to End 5 Years Ago. But It Didn't', *The Daily Signal*, 19 February 2020, https://www.dailysignal.com/2020/02/19/the-war-in-ukraine-was-supposed-to-end-5-years-ago-but-it-didnt/ (accessed 6 May 2020).
[2] UNHCR Ukraine (2020), 'Internally Displaced Persons (IDP)', undated, https://www.unhcr.org/ua/en/internally-displaced-persons (accessed 6 May 2020). This figure includes IDPs displaced as a result of Russia's annexation of Crimea. The real number of displaced persons could well be much higher than the registered figure.
[3] See Åslund, A. (2018), *Kremlin Aggression in Ukraine: The Price Tag*, Atlantic Council Eurasia Center, March 2018, https://www.atlanticcouncil.org/wp-content/uploads/2018/03/Kremlin_Aggression_web_040218_revised.pdf (accessed 6 May 2020).
[4] The Normandy Format did convene between 2016 and 2019 but not at the level of heads of state.
[5] Negotiations on the DCFTA did not start until 2008, when Ukraine acceded to the World Trade Organization.

Russia saw the agreement in this light: as a challenge to its view of the post-Soviet space as its self-proclaimed sphere of influence.

Second, the AA promised to establish a radically different model of governance on Russia's doorstep – in the country that many Russians considered to be virtually indistinguishable, culturally and historically, from their own. The implications were huge, as 'implementation of the Agreement would have threatened the established modes of survival and enrichment of Ukraine's ruling elite'.[6] Moreover, if this could happen in Ukraine, why not in Russia? Merely raising that possibility implicitly challenged the authoritarian system which President Vladimir Putin had consolidated in Russia and which had, he believed, already been threatened by contagion from Ukraine after the 2004 Orange Revolution.[7]

Third, Russia was by now championing its own integration project, the Eurasian Economic Union (EAEU), which Putin (then prime minister) described in October 2011 as one 'pole' in a 'multipolar' global order.[8] Russian policymakers considered Ukraine's accession to the EAEU vital,[9] the point being that Ukraine could not join it *and* have an AA with the EU.[10] Stopping Ukraine from signing the AA had therefore become a priority for the Kremlin.

Successive Ukrainian leaders had rejected earlier Russia-led integration initiatives. They were especially wary about joining a customs union – the first stage of integration into the EAEU – given the constraints that this would place on their ability to run an independent trade policy and pursue Ukraine's EU integration, and given the much greater size of Russia's economy. So it proved with Viktor Yanukovych, who replaced Yushchenko as president in 2010. Although more open to cooperation with Russia, Yanukovych sought a balance between Ukraine's relations with the EU and those with Russia. He pressed on with the AA negotiations, which concluded in 2012. At the same time, he also flirted with engagement with the EAEU, floating various arrangements short of membership.[11] Russia was not fooled, however, and from 2012 stepped up economic pressure to force Yanukovych to drop the AA.[12] Increasingly isolated internationally by his administration's corruption, growing authoritarianism and economic incompetence, Yanukovych started to buckle. He had planned to sign the AA at an EU/Ukraine summit in Vilnius in November 2013. A week before, however, he announced that he would not do so, although he still refused to commit to the EAEU. The Kremlin stepped in with a $15 billion loan and other inducements, confident that Ukraine's economic problems would eventually force Yanukovych to give in.

Yanukovych's about-face sparked demonstrations in Kyiv – the so-called 'Euromaidan' protests – which at their peak drew hundreds of thousands of people. The authorities gradually (albeit ineptly and incoherently) intensified the use of force against the protesters in the early weeks of 2014,

[6] Dragneva, R. and Wolczuk, K. (2015), *Ukraine Between the EU and Russia. The Integration Challenge*, Basingstoke: Palgrave Macmillan, p. 47.
[7] See Ambrosio, T. (2009), *Authoritarian Backlash: Russian Resistance to Democratization in the Former Soviet Union*, Farnham: Ashgate Publishing Limited; and Horvath, R. (2013), *Putin's Preventive Counter-Revolution. Post-Soviet authoritarianism and the spectre of velvet revolution*, New York: Routledge.
[8] Putin, V. (2011), 'Владимир Путин: Новый интеграционный проект для Евразии — будущее, которое рождается сегодня' [Vladimir Putin: A new integration project for Eurasia – the future that is being born today], *Izvestiya*, 3 October 2011.
[9] Moshes, A. (2013), *Will Ukraine Join (And Save) the Eurasian Customs Union?*, PONARS Eurasia Policy Memo No. 247, April, http://www.ponarseurasia.org/sites/default/files/policy-memos-pdf/pepm_247_Moshes_April2013.pdf (accessed 6 May 2020).
[10] Accession to the EAEU would require Ukraine to delegate trade policy powers to the Eurasian Economic Commission, thus preventing it from negotiating a separate DCFTA with the EU.
[11] Dragneva, R. and Wolczuk, K. (2016), 'Between Dependence and Integration: Ukraine's Relations With Russia', *Europe-Asia Studies*, 68(4): pp. 678–98.
[12] Svoboda, K. (2019), 'On the Road to Maidan: Russia's Economic Statecraft Towards Ukraine in 2013', *Europe-Asia Studies*, 71(10): pp. 1685–704.

which culminated in the killing of dozens of people in the centre of the capital on 18–20 February. Weakened by elite defections and buffeted by international outrage at its brutality, Yanukovych's administration imploded. Yanukovych fled Kyiv on 21 February, arriving in Russia shortly afterwards. Ukraine's unicameral legislature, the Verkhovna Rada, removed him and installed Oleksandr Turchynov as acting president, pending a presidential election in May.[13]

Yanukovych's overthrow rocked the Kremlin, which ordered Russian troops and irregular forces to occupy Crimea. The proximate trigger for the decision may have been concern that the new leadership in Kyiv would cancel the lease on Russia's Black Sea Fleet base on the Crimean peninsula,[14] but the smoothness of the operation indicated that a contingency plan had been drawn up earlier. Having established control, Russia annexed the region. A referendum on 16 March (prohibited under Ukraine's constitution)[15] recorded an implausible 96.7 per cent vote for incorporation into Russia on an equally unlikely turnout of 83.1 per cent. Putin announced the annexation of Crimea on 18 March.

The 'Novorossiya project'

Annexing Crimea was cathartic for Russia's leaders and for many ordinary Russians. But it did nothing to counteract Ukraine's increasingly westward orientation. By the time that Russia had annexed Crimea, Ukraine's new leaders were making it clear that they would sign the AA with the EU. How did Russia intend to stop them?

The answer was the 'Novorossiya project', a campaign of violent subversion designed to turn the east and south of Ukraine, where many of the country's (non-Crimean) ethnic Russians and Russian-speakers lived, against the authorities in Kyiv. The initiative reflected a view of Ukraine that was and is widely held in Russia – summed up by the claim, which Putin often makes, that Russians and Ukrainians are 'one people' with a shared destiny.[16] In this account, Ukraine is not a 'real' country, as Putin told US President George W. Bush in 2008.[17] Supposedly a mish-mash of disparate regions glued together under Tsarist and Soviet rule, Ukraine is thought to be inherently weak and unstable because of its regional, linguistic and confessional fault lines. It is seen at the same time as an organic part of the 'Russian world', without which it becomes an unsustainable entity. By extension, Ukraine's integration into 'alien' Western-led structures would be perverse and dangerous.[18]

Set against the paralysis that gripped Ukraine's government machinery following the ouster of Yanukovych, this outlook encouraged Russian decision-makers to think that they could bring the authorities in Kyiv to their knees. As one source has written:

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[13] Wilson, A. (2014), *Ukraine Crisis. What it Means for the West*, New Haven and London: Yale University Press, pp. 66–98.

[14] Treisman, D. (2018), 'Crimea: Anatomy of a Decision', in Treisman, D. (ed.) (2018), *The New Autocracy. Information, Politics and Policy in Putin's Russia*, Washington, DC: Brookings Institution Press, pp. 277–97.

[15] Under article 73 of Ukraine's constitution, a referendum on territorial questions must be held across the country, not just in the area in question. This also rendered unconstitutional the subsequent referendums held in Donbas in May.

[16] For example, Website of the President of the Russian Federation (2019), 'Интервью Оливеру Стоуну' [Interview with Oliver Stone], 19 July 2019, http://www.kremlin.ru/events/president/news/61057 (accessed 6 May 2020).

[17] Stent, A. (2019), *Putin's World. Russia Against the West and With the Rest*, New York: Hachette Book Group, p. 131.

[18] As has been written, '… the traditional Russian version of history fails to see Ukraine at all, or fails to see it as a separate entity from Russia. At best, Ukrainians are 'younger brothers', junior shareholders in the Russian empire rather than its victims.' Morrison, J. (1993), 'Pereyaslav and after: the Russian-Ukrainian relationship', *International Affairs*, 69(4): p. 680.

> The general feeling inside the Kremlin was that Ukraine had ceased to exist as a state. The central government was no more, and the eastern regions would follow Crimea into Russia's embrace. The locals would be in favour, and there would be no military resistance.[19]

Putin hinted at such thinking when proclaiming the annexation of Crimea on 18 March 2014:

> After the Revolution, for a number of reasons the Bolsheviks – let God judge them – added historical sections of the south of Russia to the Republic of Ukraine. This was done with no consideration for the ethnic composition of the population, and these regions today form the south-east of Ukraine.[20]

The Novorossiya project seems to have originated among an assortment of officials, political consultants, nationalist ideologues and business figures.[21] Sergei Glaziev, Putin's adviser for the EAEU, played a prominent early role.[22] Compared with the invasion of Crimea, which was a disciplined military operation, the Novorossiya project was a loosely organized affair executed by networks of provocateurs and saboteurs (both locals and Russians), supported by Russian intelligence operatives. The Presidential Administration in Moscow provided general oversight of this opaque constellation; Vladislav Surkov, another of Putin's senior advisers, would emerge during 2014 as the key official dealing with Ukraine.[23]

Although the overthrow of Yanukovych set off unrest in eastern and southern Ukraine, it was soon apparent that the Kremlin had misjudged the mood there. Seeking to exploit discontent at events in Kyiv, local activists and Russian agents organized rallies and attacked official buildings in cities in the east and the south during March. They attracted little support in Kharkiv, Dnipro and Odesa (and elsewhere in the south), where the authorities remained broadly loyal to the provisional leadership in Kyiv. The situation in Donbas in the east was more volatile. Yet here too events belied the Kremlin's expectations. Disorder swept parts of Donetsk and Luhansk oblasts after Yanukovych's flight (Donetsk oblast was Yanukovych's home region and the electoral base of his Party of the Regions). Many there feared his Euromaidan successors, whom they considered illegal usurpers. Such concerns were amplified by a strong sense of regional identity (although sympathy for separatism was minimal). Fragile from the start, the local standing of the new authorities in Kyiv evaporated as power was appropriated by regional forces – business oligarchs, organized crime figures, remnants of the Yanukovych 'clan' and socially excluded groups.[24] But alongside hostility towards the new leaders in Kyiv, there was ambivalence about growing Russian influence, which at least some of these actors saw as a threat to the positions that they were carving out for themselves.[25] The Kremlin would have to intervene more directly to take charge in Donbas.

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[19] Zygar, M. (2017), *All the Kremlin's Men. Inside the Court of Vladimir Putin*, New York: Public Affairs, p. 283.
[20] Website of the President of the Russian Federation (2014), 'Обращение Президента Российской Федерации' [Address of the President of the Russian Federation], 18 March 2014, http://www.kremlin.ru/events/president/news/20603 (accessed 6 May 2020).
[21] Toal, G. (2017), *Near Abroad. Putin, the West, and the Contest Over Ukraine and the Caucasus*, New York: Oxford University Press, pp. 244–52.
[22] Zygar (2017), *All the Kremlin's Men*, p. 284; and Umland, A. (2016), 'The Glazyev Tapes: Getting to the root of the conflict in Ukraine', European Council on Foreign Relations, 1 November 2016, https://www.ecfr.eu/article/commentary_the_glazyev_tapes_getting_to_the_root_of_the_conflict_in_7165 (accessed 6 May 2020).
[23] Shandra, A. and Seely, R. (2019), *The Surkov Leaks. The Inner Workings of Russia's Hybrid War in Ukraine*, RUSI Occasional Paper, July 2019, London: Royal United Services Institute, https://rusi.org/sites/default/files/201907_op_surkov_leaks_web_final.pdf (accessed 6 May 2020).
[24] Wilson, A. (2016), 'The Donbas in 2014: Explaining Civil Conflict Perhaps, but not Civil War', *Europe-Asia Studies*, 68(4): pp. 631–52; and Malyarenko, T. and Wolff, S. (2018), 'The logic of competitive influence-seeking: Russia, Ukraine and the conflict in the Donbas', *Post-Soviet Affairs*, 34(4): pp. 200–01.
[25] Malyarenko, T. and Wolff, S. (2019), *The Dynamics of Emerging De-Facto States. Eastern Ukraine in the Post-Soviet Space*, London and New York: Routledge, pp. 44–47.

Putin referred to Novorossiya during his annual phone-in on 17 April:

> ... what was called Novorossiya (New Russia) back in tsarist days – Kharkov, Lugansk, Donetsk, Kherson, Nikolayev and Odessa – were not part of Ukraine then. These territories were given the Ukraine in the 1920s by the Soviet Government. Why? Who knows? They were won by Potemkin and Catherine the Great in a series of well-known wars. The centre of that territory was Novorossiisk, so the region is called Novorossiya. Russia lost these territories for various reasons, but the people remained.[26]

Putin's remarks signalled support for the orchestrated violence that had exploded five days earlier. On 12 April armed irregulars, some of whom had participated in the invasion of Crimea, seized the cities of Sloviansk and Kramatorsk in Donetsk oblast, which they then used as bases for raids against other urban centres. The insurgency gained momentum during the second half of April. Its leaders proclaimed the establishment of the Donetsk People's Republic (DNR) on 6 April, and of the Luhansk People's Republic (LNR) on 27 April. Both regimes held referendums on 11 May, claiming large majorities for 'self-dependence' (*samostoyatelnost*).[27]

Russia's objectives

Given its antecedents, the phrase 'Novorossiya' inferred absorption by Russia (or at least separation from Ukraine), as certain Russian nationalists and imperialists wanted.[28] This sowed confusion about Russia's goals. Would it annex the DNR and LNR as it had swallowed Crimea? Would it set them up as pseudo-independent states like Abkhazia and South Ossetia? Or would it drive a land corridor along the coast of the Sea of Azov to Crimea (a fear that some judged to be credible given Russian military manoeuvres, along Ukraine's border, which looked like a prelude to full-scale invasion)?

For the Kremlin, the Novorossiya project was in fact a means to an end: taking territory and, in return for formal reincorporation into Ukraine, forcing the leadership in Kyiv to assent to far-reaching autonomy for the areas concerned. These regions would then exert a stranglehold over the central authorities, stymieing Ukraine's Western integration.[29] In short, the Novorossiya project aimed to promote 'a secessionist revolt that the Kremlin could use to exert leverage over the geopolitical future of Ukraine'.[30]

Within this framework, the Kremlin had three objectives. The first was to promote the 'federalization' of Ukraine, allegedly to reflect the latter's divisions and to restore stability. As Russia's foreign minister, Sergei Lavrov, stated several times in the second half of March, the

[26] Website of the President of the Russian Federation (2014), 'Прямая линия с Владимиром Путиным' [Direct line with Vladimir Putin], 17 April 2014, http://www.kremlin.ru/events/president/news/20796 (accessed 6 May 2020). As one scholar has commented, 'This was bad history. "Novorossiya" (New Russia) was an invented label for a new set of Imperial Russian territories in the nineteenth century, not a twenty-first century reality.' Wilson (2014), *Ukraine Crisis,* p. 120.

[27] The Russian word for 'independence', *nezavisimost*, would have jarred with the Kremlin's objective, which was to see the DNR/LNR formally reintegrated into a 'federalized' Ukraine.

[28] Laruelle, M. (2016), 'The three colors of Novorossiya, or the Russian nationalist mythmaking of the Ukrainian crisis', *Post-Soviet Affairs*, 32(1): pp. 55–74.

[29] Russia devised a virtually identical concept, the so-called 'Kozak Memorandum' of 2003, as a formula for the resolution of the Moldova/Transnistria dispute. Hill, W. (2012), *Russia, the Near Abroad and the West. Lessons from the Moldova-Transdniestria Conflict*, Washington, DC: Johns Hopkins University Press, pp. 197–220.

[30] Toal (2017), *Near Abroad. Putin, the West, and the Contest Over Ukraine and the Caucasus*, p. 239.

Kremlin wanted to bring this about through constitutional reform.[31] As the diplomatic community swung into action to contain the crisis, Lavrov persuaded his counterparts to give their general endorsement to this demand. Ukraine, Russia, the US and the EU met in Geneva on 17 April and called for a ceasefire, disarmament and an amnesty. They also advocated, in the interests of constitutional reform, 'a broad national dialogue, with outreach to all of Ukraine's regions and political constituencies', with a process that would 'allow for the consideration of public comments and proposed amendments'.[32]

Russia's second goal was to ensure that 'federalization' was seen as the outcome of negotiations between the authorities in Kyiv and the DNR/LNR. Russia sought to confer a spurious legitimacy on its own activities by pretending that it was not a party to the conflict, which it portrayed as a civil war, and that constitutional reform would be a settlement between equal Ukrainian sides.

To accomplish its first two objectives, Russia needed something else: control of Donbas. More irregulars, along with operatives from Transnistria, were therefore sent in to achieve this third goal by taking charge of the DNR/LNR during the spring and summer. They set up embryonic state structures and imposed top-down order on chaotic local situations, subjugating or driving out local elites identified as obstacles to the extension of Russian influence, while assembling a new counter-elite from marginalized parts of society.[33] Tighter control also enabled the Kremlin to rein in those Novorossiya operatives who had criticized what they saw as Russia's failure to intervene sooner and more firmly.[34]

Russia reiterated its demands throughout the summer at meetings of the Normandy Format group, set up on 6 June on the margins of events commemorating the 70th anniversary of the D-Day landings in France. Comprising Ukraine, Russia, Germany and France, this became the main forum for attempts to manage the crisis.[35] The Normandy heads of state set up a Trilateral Contact Group (TCG) on 8 June. The TCG contained representatives from Russia, Ukraine and the Organization for Security and Co-operation in Europe (OSCE), and was charged with conflict management and resolution.[36] At Russia's insistence, DNR/LNR representatives joined the TCG on 23 June. According to the Kremlin, this put them on a par with the authorities in Kyiv.

War in Donbas

The Novorossiya project was, however, already in trouble. Besides failing in Kharkiv, Dnipro and southern Ukraine, it lacked broad support in Donbas. Weak coordination among the insurgents was another vulnerability. These weaknesses were soon felt. On 13 April, the day after Sloviansk had been seized, Turchynov announced the start of an Anti-Terrorist Operation (ATO). Because of the

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[31] For example, Website of the Ministry of Foreign Affairs of the Russian Federation (2014), 'Выступление и ответы на вопросы сенаторов Министра иностранных дел России С.В.Лаврова в ходе 349-го внеочередного заседания Совета Федерации Федерального Собрания Российской Федерации, Москва, 21 марта 2014 года' [Speech and answers to senators' questions by Minister of Foreign Affairs of Russia S.V. Lavrov during the 349th extraordinary sitting of the Federation Council of the Federal Assembly of the Russian Federation, Moscow, 21 March 2014], https://www.mid.ru/web/guest/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/69394 (accessed 6 May 2020).

[32] US Mission to International Organizations in Geneva (2014), 'Text of the Geneva Statement on Ukraine released by the US, EU, Ukraine and Russia', 17 April 2014, https://geneva.usmission.gov/2014/04/18/text-of-the-geneva-statement-on-ukraine-released-by-the-us-eu-ukraine-and-russia/ (accessed 6 May 2020).

[33] Malyarenko and Wolff (2019), *Dynamics of Emerging De-Facto States*, pp. 47–50.

[34] For differences between Russia and insurgent groups on the ground, Matveeva, A. (2017), *Through Times of Trouble. Conflict in Southeastern Ukraine Explained from Within,* London: Lexington Books, pp. 111–12, 215–16 and 276–77.

[35] A bilateral US/Russia channel was also created. This involved Surkov and senior US officials, initially Victoria Nuland (assistant secretary of state) and, from 2017 to 2019, Kurt Volker (special representative to Ukraine).

[36] In May 2015, the TCG set up four working groups covering security, political, economic and humanitarian issues.

dire condition of Ukraine's army, the ATO initially relied on reservists, militias funded by business oligarchs, volunteer battalions (later formally integrated into the Ministry of Interior and subordinated to a newly created National Guard) and, from May, 'territorial defence battalions' formed in each oblast of the country and trained by the Ukrainian Armed Forces. After an uncertain beginning, the ATO pushed DNR/LNR forces on to the defensive in May. Politically, it was reinforced by surging patriotism throughout Ukraine, exemplified by the crowdfunding of ATO units and Petro Poroshenko's victory in the presidential election on 25 May, the first time that a Ukrainian president had been elected without a second round run-off.[37] Bit by bit, Ukraine was taking the initiative.

Poroshenko was confident enough about developments to put forward a 15-point peace plan on 20 June. Its political sections made concessions to the insurgents – a partial amnesty, joint police patrols in the post-ceasefire conflict zone, decentralization ('by means of the election of executive committees, defence of the Russian language, draft changes to the Constitution'), pre-term local and parliamentary elections and joint appointment of governors – but Poroshenko envisaged a process controlled by his administration. Crucially, he called for a 10-km buffer zone on the Ukraine/Russia border to stop Russia resupplying its proxies.[38]

As diplomatic exchanges between Kyiv and Moscow continued during the summer of 2014, Russia responded to the ATO by sending into Ukraine more irregulars and heavier and more advanced equipment, including surface-to-air missiles,[39] and by supporting DNR/LNR forces with long-range artillery firing from its own territory. Even so, Ukrainian forces recaptured Sloviansk, the symbolic centre of the insurgency, on 5 July, and had pushed the DNR/LNR forces into a narrow strip running from Donetsk through Luhansk to the Russian border by early August. With the Novorossiya project on the verge of defeat, Ukraine's negotiators sent Surkov their latest peace proposals on 25 August. These suggested that the border buffer zone be established by 5 September and that Russia secure the 'self-disbandment' of the DNR/LNR by 14 September.[40] For Russia, this was probably the final straw.

Russia now intervened decisively. Up to 6,500 Russian troops, organized into battalion tactical groups, invaded Donetsk oblast.[41] They decimated a large Ukrainian force at Ilovaisk, southeast of Donetsk; Ukraine lost several hundred soldiers and many of its armoured vehicles. The ATO never recovered from this shattering reversal. DNR and LNR units, again supported by regular Russian forces, regained much of the lost territory in subsequent days. Poroshenko felt impelled to seek an immediate ceasefire.

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[37] Poroshenko came top in every region in Ukraine, a remarkable achievement in a country that had traditionally been electorally divided. Wilson (2014), *Ukraine Crisis*, pp. 151–53.

[38] Politikus.Ru (2014), 'В Сеть попал текст мирного плана Порошенко' [Network acquires text of Poroshenko's peace plan], *Politikus.ru*, 20 June 2014, https://politikus.ru/events/22147-v-set-popal-tekst-mirnogo-plana-poroshenko.html (accessed 6 May 2020).

[39] One of which, on 17 July, destroyed Malaysian Airlines flight MH17, killing the 298 people on board.

[40] Inform Napalm (2016), 'План действий по синхронизации шагов Украины и Российской Федерации, направленных на полную имплементацию Мирного плана Президента Украины П.Порошенко' [Action plan for the synchronization of steps by Ukraine and the Russian Federation aimed at full implementation of the peace plan of President of Ukraine P. Poroshenko], 25 October 2016, https://drive.google.com/drive/folders/0BxCzAWE6sxSfR2FCN2Qycy1yOHc (accessed 6 May 2020). This document is from a haul hacked from Surkov's email account and subsequently published.

[41] Sutyagin, I. (2015), *Russian Forces in Ukraine*, RUSI Briefing Paper, March 2015, p. 4, London: Royal United Services Institute, https://rusi.org/sites/default/files/201503_bp_russian_forces_in_ukraine.pdf (accessed 6 May 2020).

Map 1: Eastern Ukraine, status of conflict, May 2020
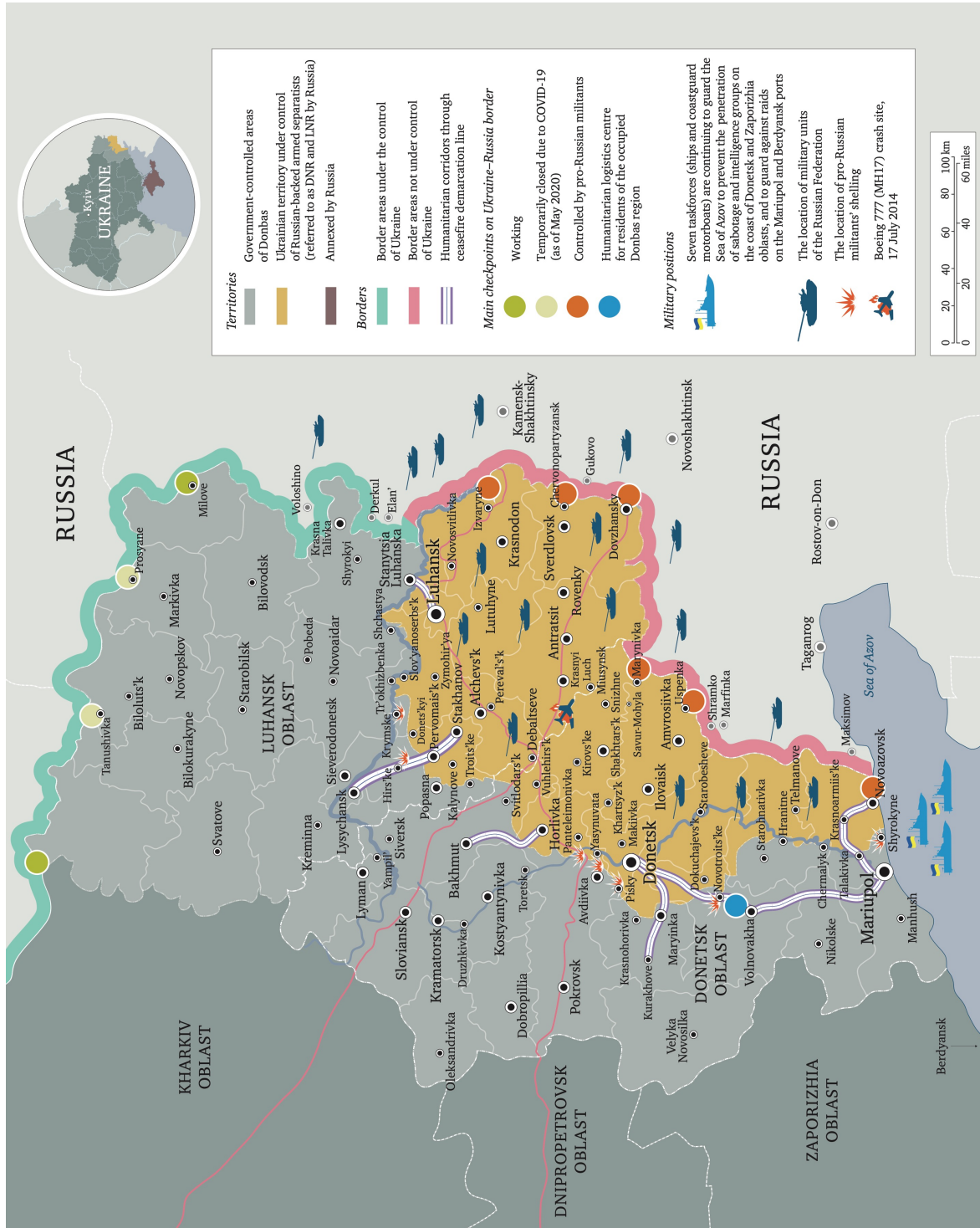
Adapted from Ukrainian Ministry of Defence (2020), 'The Situation in the Joint Forces Operation Area in the East of Ukraine', https://www.mil.gov.ua/news/2020/05/05/shhodenne-zvedennya-pressluzhbi-minoboroni-ukraini-shhodo-obstanovki-v-rajoni-provedennya-operaczii-obednanih-sil/ (accessed 19 May 2020).

The Minsk-1 agreement

This was the context in which the first Minsk agreement ('Minsk-1') was signed in the capital of Belarus on 5 September 2014. Echoing Poroshenko's earlier peace plan, it called for the following measures: an OSCE-monitored ceasefire; an exchange of prisoners; the withdrawal of 'armed formations, military equipment and fighters and mercenaries' from Ukraine; the establishment of an OSCE-monitored 'security zone' along the border; and an economic reconstruction programme for Donbas.[42] (A memorandum on 19 September repeated the demand for a ceasefire and the withdrawal of heavy weapons. It proposed banning landmines and drones, except OSCE drones, and reiterated the call for foreign troops to be withdrawn. This was also a first attempt to delineate the line of contact.)[43]

Yet the humiliation of Ilovaisk ended Poroshenko's hopes of setting the terms of a political settlement. With his administration reeling, three clauses were inserted into Minsk-1 at Russia's insistence, calling for: (1) the adoption of a 'law on special status' that would temporarily decentralize power to occupied Donbas; (2) on this basis, the holding of local elections; and (3) 'an inclusive nationwide dialogue'. These provisions stopped short of constitutional change but did recast the debate: 'The political clauses of Poroshenko's peace plan envisioned that the abnormal situation in Donbas be rapidly brought back to normal. Minsk-1 provided that the existing abnormal situation be regulated and prolonged, albeit temporarily.'[44] Instead of being dissolved, the DNR and LNR would now be elements of a future political settlement.

In line with Minsk-1, the Verkhovna Rada passed a temporary law on special status on 16 September. Signed on 16 October by Poroshenko, it was to be in force for three years (and extended annually after that). It scheduled pre-term local elections in occupied Donbas for 7 December. It gave the DNR and LNR rights to establish their own police forces, to appoint judges and prosecutors, and to pursue 'language self-determination'. The law also prohibited the central authorities from dismissing local councils (parliaments).[45]

The announcement of a ceasefire had little effect. As fighting continued, Russia bolstered the DNR/LNR regimes to make them invulnerable to renewed pressure from Ukraine, and thus avoid a repetition of the summer crisis. The establishment of more authentic proto-states required several measures: the reorganization of regional militias into more disciplined armed forces and police units; the replacement of Russian (and Transnistrian) DNR/LNR leaders by 'locals'; the establishment of public order (sometimes by physically eliminating recalcitrant warlords); and the delivery of basic public services by the DNR/LNR authorities. To strengthen the legitimacy of the regimes, 'presidential' and 'parliamentary' elections were held on 2 November, before the date stipulated in the temporary law on special status. Although this violated the Minsk-1 agreement, the

[42] Organization for Security and Co-operation in Europe (OSCE) (2014), 'Протокол о результатах консультаций Трехсторонней контактной группы, Минск, 5 сентября 2014 г.' [Protocol on the results of consultations of the Trilateral Contact Group, Minsk, 5 September 2014], 5 September 2014, https://www.osce.org/ru/home/123258 (accessed 6 May 2020).
[43] OSCE (2014), 'Memorandum of 19 September 2014 outlining the parameters for the implementation of commitments of the Minsk Protocol of 5 September 2014', 19 September 2014, https://www.osce.org/home/123806 (accessed 6 May 2020).
[44] Shandra, A. (2019), *Leaked Kremlin emails show Minsk protocol designed as path to Ukraine's capitulation*, Euromaidan Press, October 2019, p. 7, http://euromaidanpress.com/2019/10/25/leaked-kremlin-emails-show-minsk-protocol-designed-as-path-to-ukraines-capitulation-euromaidan-press-report/ (accessed 6 May 2020).
[45] Website of the Verkhovna Rada of Ukraine (2014), 'Zakon Ukrainy "Про особливий порядок місцевого самоврядування в окремих районах Донецької та Луганської областей"' [Law of Ukraine on the special regime of local self-government in certain regions of Donetsk and Luhansk oblasts], 16 September 2014, https://zakon.rada.gov.ua/laws/show/1680-18/ed20140916 (accessed 6 May 2020).

results enabled the installation of new Moscow-backed local leaders.[46] On 15 December, Russia created an inter-ministerial commission to manage the DNR/LNR economies.[47]

Developments in Ukraine simultaneously showed that the DNR/LNR and the rest of the country were moving further apart. Parliamentary elections on 26 October produced a majority coalition in the Rada committed to deeper Western integration. Voting had confirmed that Ukraine's east/west electoral divide was shifting eastwards, with 'pro-Western' parties doing better in the south and much of the east than their 'pro-Russian' rivals.[48] In November, the authorities in Kyiv began cutting economic and financial ties with the DNR/LNR (to reduce budgetary spending on state institutions on territory no longer under their control), establishing a limited number of crossing points across the line of contact and fortifying their military positions in the region.[49]

Fighting intensified in parts of Donetsk oblast at the turn of the year.[50] Most notably, insurgents supported by Russian troops attacked Ukrainian positions at Debaltseve, a transport hub near the administrative line between Donetsk and Luhansk oblasts. Although not as destructive as the battle at Ilovaisk, this engagement was still a major setback for Ukraine's forces, which withdrew from Debaltseve on 18 February 2015.

The Minsk-2 agreement

As fighting raged at Debaltseve, emergency negotiations, brokered by Chancellor Angela Merkel of Germany and President François Hollande of France, took place in Minsk. These produced a 'package of measures for the implementation of the Minsk agreements' ('Minsk-2'). This document, signed on 12 February 2015 by representatives from the OSCE, Russia, Ukraine, the DNR and LNR, has been the framework for subsequent attempts to end the war.[51]

Minsk-2 is not an easy document to grasp. The product of hasty drafting, it tries valiantly to paper over yawning differences between the Ukrainian and Russian positions. As a result, it contains contradictory provisions and sets out a convoluted sequence of actions. It also has a gaping hole: although signed by Russia's ambassador to Ukraine, Mikhail Zurabov, the agreement does not mention Russia – an omission that Russia has used to shirk responsibility for implementation and maintain the fiction that it is a disinterested arbiter.

Nine of the agreement's 13 points cover conflict management: a ceasefire and the pullback of heavy weaponry from the contact line (articles 1 to 3); an amnesty for those involved in the fighting (article 5); an exchange of hostages and unlawfully detained persons (article 6); humanitarian assistance (article 7); the resumption of socio-economic links between Ukraine and occupied Donbas (article 8); the withdrawal of 'all foreign armed formations, military equipment and also

46 Malyarenko and Wolff (2019), *Dynamics of Emerging De-Facto States*, pp. 50–56.
47 Mykhnenko, V. (2020), 'Causes and Consequences of the War in Eastern Ukraine: An Economic Geography Perspective', *Europe-Asia Studies*, 72(3): pp. 550–51 and 554.
48 Shevel, O. (2015), 'The parliamentary elections in Ukraine, October 2014', *Electoral Studies*, 39, pp. 153–77.
49 Iwański, T. (2015), 'Still together, but apart? Kyiv's policy towards the Donbas', *OSW Commentary*, 6 February 2015, https://www.osw.waw.pl/en/publikacje/osw-commentary/2015-02-06/still-together-apart-kyivs-policy-towards-donbas (accessed 6 May 2020).
50 The number of regular Russian troops in Ukraine reportedly peaked at about 10,000 in mid-December. Sutyagin (2015), *Russian Forces in Ukraine*, p. 4.
51 OSCE (2015), 'Комплекс мер по выполнению Минских соглашений' [Package of measures for the implementation of the Minsk agreements], 12 February 2015, https://www.osce.org/ru/cio/140221 (accessed 6 May 2020). The Minsk-2 agreement was endorsed by United Nations Security Council Resolution 2202 on 17 February.

mercenaries' from Ukraine, and the disarmament of 'all illegal groups' (article 10); and the activities of the TCG (article 13).

Four other sections address political matters:

- Article 4: elections in Donbas. The day after the pullback of heavy weaponry from the contact line, a dialogue on local elections will start in accordance with Ukrainian law and the temporary law on special status adopted in September 2014. No later than 30 days after the signing of the Minsk-2 agreement (i.e. by 14 March), Ukraine's parliament will adopt a resolution defining the area in which the temporary law on special status will apply (to be based on the delineation line in the memorandum of 19 September 2014).

- Article 9: the process of re-establishing 'full control' over the Ukraine/Russia border by the Ukrainian authorities. There is now no reference to Poroshenko's buffer zone or an OSCE-monitored security zone. Instead, the process of returning the border to Ukraine's control begins the day after local elections have been held and concludes 'after' the 'comprehensive political settlement' (i.e. local elections plus constitutional reform providing for decentralization) due by the end of 2015 – but 'on condition' that article 11 (next bullet) has been implemented 'in consultation with and upon agreement by' the DNR/LNR.[52]

- Article 11: constitutional reform. A new Ukrainian constitution will enter into force by the end of 2015. Its 'key element' will be 'decentralization', which will take account of the 'peculiarities' of occupied Donbas, as agreed with the DNR/LNR representatives. Ukraine will also adopt 'permanent legislation' on special status before the end of 2015. This law will include: an amnesty; 'the right of linguistic self-determination'; the involvement of the local authorities in the appointment of prosecutors and courts; agreements between Ukraine's central authorities and the local authorities covering 'economic, social and cultural development'; state support for the socio-economic development of Donetsk and Luhansk oblasts; assistance from the central authorities to support 'transnational cooperation' between the occupied regions and regions of the Russian Federation; rights for local parliaments to create 'people's militia units'; and no early termination of the powers of local parliaments and elected officials.

- Article 12: elections in Donbas. Election-related questions will be dealt with on the basis of the temporary law on special status adopted in September 2014 and agreed with the DNR/LNR. Elections will be held in accordance with the relevant standards of the OSCE's Office for Democratic Institutions and Human Rights (ODIHR).

The political sections of Minsk-2 are weighted heavily in Russia's favour. In particular, the provisions on special status go way beyond the brief reference in Minsk-1. Exceptionally far-reaching in scope, they would be enshrined in a permanent law and an amended constitution. Putin homed in on this point at a press conference in Budapest on 17 February:

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[52] The agreement does not specify a date by which the handover of control over the border is to be concluded. This happens at an unspecified time 'after' the political settlement. Does this mean the formal enactment of constitutional reform or the full implementation of the demands in article 11, some of which are also imprecisely worded and would take time to deliver? Furthermore, because Minsk-2 does not envisage a buffer zone, there would be nothing to prevent Russia from resupplying its DNR/LNR proxies before it did return the border to Ukraine's control.

> Perhaps not everyone has yet noticed, but this is extremely important – the Ukrainian side, the authorities in Kyiv, in fact, have agreed to implement a deep constitutional reform so as to satisfy requests for the self-dependence [*samostoyaltelnost*] – however it's called: decentralization, autonomization, federalization – of certain regions of their country. This is the essential, deeper meaning of the decision taken by the authorities.[53]

Russia was not finished. Surkov coordinated the drafting of extra demands (published on 13 May as proposals from the DNR/LNR). These would give the occupied regions even greater powers: responsibility for legal regulation of the Ukraine/Russia border; the right to conclude agreements with foreign states; their own charters (which would, for example, prevent the president of Ukraine from dismissing local executive organs); their own budgets to ensure 'financial autonomy'; and rights to introduce states of emergency and hold elections and referendums. Lastly, Ukraine would write a neutrality clause into its constitution.[54]

Implementation of these measures would in effect destroy Ukraine as a sovereign country. The DNR and LNR would be reincorporated into Ukraine but as distinct political, economic and legal entities tied to Russia – thus introducing a constitutional Trojan Horse that would give the Kremlin a lasting presence in Ukraine's political system and prevent the authorities in Kyiv from running the country as an integrated whole. Indeed, radical devolution to Donbas might well prompt other regions to press for similar powers, causing central authority to unravel and effectively balkanizing Ukraine.[55]

The implications for Ukrainian foreign policy would be far-reaching. A neutrality clause in the constitution would rule out NATO accession.[56] Yet the DNR and LNR would be able to sign agreements with other countries (i.e. Russia), perhaps establishing Russian military bases on their territories.[57] Fresh doubts would also surround EU integration. The adoption of Russia's demands might so weaken the central authorities in Kyiv that implementation of the AA would be rendered impossible.

Tellingly, the word 'sovereignty' does not appear in Minsk-2. The German and French leaders seem to have been so keen for a ceasefire that they assented to political provisions at odds with Ukraine's existence as a sovereign entity and, probably, its EU integration. This explains why the Kremlin used military power so demonstrably as talks were in session: to intimidate Western interlocutors who, it judged, lacked the stomach for confrontation – and who might be induced to get Ukraine to fold.[58]

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[53] Website of the President of Russia (2015), 'Заявления для прессы и ответы на вопросы журналистов по итогам российско-венгерских переговоров' [Statements for the press and answers to journalists' questions regarding the results of Russian–Hungarian negotiations], 17 February 2015, http://www.kremlin.ru/events/president/transcripts/47706 (accessed 6 May 2020). Again, it is significant that Putin did not use the word 'independence' (*nezavisimost*), which would contradict the formal reincorporation of occupied Donbas into Ukraine.
[54] Shandra (2019), *Leaked Kremlin emails show Minsk protocol designed as path to Ukraine's capitulation*, pp. 9–14.
[55] After Minsk-2 was signed, 'separatist' groups emerged in other regions of Ukraine, almost certainly with active Russian support, although they were small and short-lived. Leonor, A. (2015), 'The Kremlin's other separatist projects in Ukraine', Euromaidan Press, 26 October 2015, http://euromaidanpress.com/2015/10/26/the-kremlins-other-separatist-projects-in-ukraine/ (accessed 6 May 2020).
[56] The chances of Ukrainian accession to NATO are close to zero in any case, given the opposition of several NATO members.
[57] Haran, O. and Bukovsky, P. (2015), 'Ukraine After the Minsk agreements', in Wilson, A. (ed.) (2015), *What Does Ukraine Think?*, London: European Council on Foreign Relations, p. 23, https://www.ecfr.eu/page/-/WHAT_DOES_UKRAINE_THINK_pdf.pdf (accessed 6 May 2020). By way of precedent, Ukraine's 'non bloc' status under Yanukovych (2010–14) was compatible with the continued presence of Russia's Black Sea Fleet in Crimea. Russian plans for Transnistria (the 2003 Kozak Memorandum) are also instructive. Russia intended to retain its military presence in Transnistria following the reintegration of the region even though Moldova's constitution contains a neutrality clause.
[58] Giles, K., Sherr, J. and Seaboyer, A. (2018), *Russian Reflexive Control*, Defence Research and Development Canada Contract Report, October 2018, pp. 19–20, https://www.academia.edu/37659617/Russian_Reflexive_Control (accessed 6 May 2020).

Yet despite Russia's efforts, Minsk-2 was not just the product of intense pressure on Ukraine. It also marked the ignominious collapse of the Novorossiya project. Confounding predictions in Moscow in the spring of 2014,[59] few Ukrainians threw in their lot with Russia. On the contrary, Ukrainians fought back en masse, probably killing several hundred Russian troops and irregulars[60] and nearly overrunning the DNR/LNR until they were stopped by Russia's army at Ilovaisk and, to a lesser extent, at Debaltseve. As they fought, they created a toxic problem for Russia, whose leaders still insist that it is not at war with its neighbour and that Russians and Ukrainians are 'one people'. Russia could have had little doubt by early 2015 that even if it inflicted mass casualties on Ukraine, it would incur further heavy losses itself. This was a price that its leaders were unwilling to pay for sensitive domestic reasons – indicated by the harassment of Russian journalists and activists investigating this subject, and by the classification of data attesting to Russian casualties in peacetime 'special operations'.[61] Ukraine could not destroy Russia's proxies, yet Russia was unwilling to sustain further high-intensity war with Ukraine; Ukraine was unable to prevail, but its readiness to fight to defend its sovereignty gave Russia pause.[62]

It is precisely because Minsk-2 reflects this stalemate on the battlefield that it is an inherently contradictory document. As noted, the agreement makes the return of the border to Ukrainian control contingent on a political settlement agreeable to Russia and its proxies. However, it also includes provisions favouring the re-establishment of Ukrainian control over Donbas before a settlement has been finalized. Articles 1 and 2 envisage a lasting ceasefire and the pullback of heavy weaponry from the contact line before a dialogue on elections is held. Article 4 is ambiguous about whether the dialogue begins the day after the pullback has started or the day after it has finished; Ukraine can credibly argue that the pullback of heavy weaponry must be completed before election preparations begin. More important still, Russia has yet to withdraw its troops, equipment and irregulars from Ukraine, as article 10 in effect requires it to do without preconditions – thus relinquishing control over the border.[63] Russia has meanwhile strengthened the DNR/LNR's armed formations and tightened its control over them, such that they are now effectively appendages of its own military.[64] Taken together, these circumstances make it impossible to hold elections in Donbas according to OSCE/ODIHR standards, as stipulated in article 12.

Furthermore, special status as set out in Minsk-2 – let alone the even more extreme demands made by Russia in May 2015 – is simply unworkable. It far exceeds what most Ukrainians consider an acceptable price for peace, as polls repeatedly show.[65] Any Ukrainian leader who even appeared open to these ideas would probably commit political suicide. When, on 31 August 2015, Poroshenko put to the Rada a draft permanent law amending the constitution, rioting in Kyiv led to the deaths

[59] See the report published by the Russian Council on International Affairs, Grushchin, A., Dankov, A., Markedonov, S. and Rakeda, S. (2016), 'Конфликты на постсоветском пространстве: перспективы урегулирования и роль России' [Conflicts in the post-Soviet space: prospects for settlement and the role of Russia], *Рабочая Тетрадь* [*Working Paper*], No. 36/2016, p. 18, https://drive.google.com/file/d/19p_5ZLSQdvlLUSaSaaVceaTMks2ChZLB/view (accessed 6 May 2020).

[60] Miller, J., Vaux, P., Fitzpatrick, C. and Weiss, M. (2015), *An Invasion by Any Other Name: The Kremlin's Dirty War in Ukraine*, New York: The Institute of Modern Russia, pp. 77–78, https://www.imrussia.org/media/pdf/An_Invasion_by_Any_Other_Name.pdf (accessed 6 May 2020).

[61] Ibid., pp. 60–64.

[62] Freedman, L. (2019), *Ukraine and the Art of Strategy*, New York: Oxford University Press, pp. 115–27.

[63] A reputable Ukrainian source has estimated that in December 2018 Russian forces in Donbas numbered approximately 11,000. They included about 2,000 regular service personnel plus irregular contingents ('volunteers', mercenaries and private military contractors). Razumkov Centre (2019), *Національна безпека і оборона* [*National Security and Defence*], No. 1–2 (177–178), pp. 38–39, http://razumkov.org.ua/uploads/journal/ukr/NSD177-178_2019_ukr.pdf (accessed 19 Feb. 2020).

[64] Ibid., pp. 36–42. See, too, Jensen, D. (2017), *Moscow in the Donbas: Command, Control, Crime and the Minsk Peace Process*, NDC Research Division, NATO Defence College 01/17 – March 2017, http://www.ndc.nato.int/news/news.php?icode=1029 (accessed 6 May 2020).

[65] Zolkina, M. (2019), 'What are Ukrainians willing to compromise for peace?', Atlantic Council Ukraine Alert, 30 October 2019, https://www.atlanticcouncil.org/blogs/ukrainealert/what-are-ukrainians-willing-to-compromise-for-peace/ (accessed 6 May 2020).

of four law enforcement officers; this despite the fact that the draft did not refer to special status.[66] Poroshenko's successor, President Volodymyr Zelenskyy, who made ending the war central to his election campaign in 2019, has also had to tread carefully. He proposes folding a reintegrated Donbas into the nationwide decentralization programme launched in 2014.[67] Under the terms of a draft law on decentralization submitted to the Rada in December 2019, however, the DNR and LNR would not receive anything like the powers listed in Minsk-2; nor would they gain constitutional 'special status'.[68] This is unacceptable to Russia.

Minsk-2 can therefore be read in quite different ways. Ukraine's version puts the re-establishment of control in the east before a political settlement. Russia would evacuate its troops and return the border to Ukraine. Elections would be held according to OSCE/ODIHR standards. Donbas would be reintegrated in line with the national decentralization programme (with some extra powers) and subordinated afresh to the authorities in Kyiv. As a result, Ukraine would be restored as a sovereign state. Russia's version of Minsk-2 reverses key elements of this sequencing. A finalized political settlement would come before Ukraine retakes control of Donbas: elections would be held in the DNR and LNR; and Kyiv would agree a comprehensive devolution of power to these regimes. This would entrench Russian-controlled statelets, breaking the back of the Ukrainian state, preventing the central authorities from running the country as an integrated unit and torpedoing its westward integration. Only then would Ukraine regain control over the border, although whether Russia would allow that is moot.[69] In short, Minsk-2 supports mutually exclusive views of sovereignty: either Ukraine is sovereign (Ukraine's interpretation), or it is not (Russia's interpretation)[70] – this is the 'Minsk conundrum'.

Minsk implementation

Western imprecision and inconsistency

'Minsk implementation' has been the avowed goal of Western policy since 2015. But what does that mean? What outcome would serve Western interests? Answers to these basic questions have been muddled and mutable. US and EU policies have not been as clear and as consistent as they could and should have been or as policymakers like to think.[71] Some decision-makers focus on making Russia change its policy (and, failing that, punishing it with economic sanctions); some would be

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[66] Shandra (2019), *Leaked Kremlin emails show Minsk protocol designed as path to Ukraine's capitulation*, p. 13. The draft permanent law was adopted at first reading but did not get any further and was eventually withdrawn from the Rada agenda in 2019. In the absence of permanent legislation, the temporary law on special status passed on 16 September 2014 has been rolled over each year since its expiry in 2017 as part of a 'de-occupation' law naming Russia as an aggressor and occupying power. The de-occupation law also wound up the ATO and transferred responsibility for military operations to the armed forces.

[67] For the decentralization programme, see Romanova, V. and Umland, A. (2019), *Ukraine's Decentralization Reforms Since 2014: Initial Achievements and Future Challenges*, Research Paper, London: Royal Institute of International Affairs, https://www.chathamhouse.org/sites/default/files/2019-09-24-UkraineDecentralization.pdf (accessed 6 May 2020).

[68] Website of the Verkhovna Rada (2019), 'Проект Закону про внесення змін до Конституції України (щодо децентралізації влади)' [Draft Law on the introduction of changes to the Constitution of Ukraine regarding the decentralization of power], 13 December 2019, http://w1.c1.rada.gov.ua/pls/zweb2/webproc4_1?pf3511=67644 (accessed 6 May 2020).

[69] Article 9 ties re-establishment of Ukrainian control over the border to finalization of the political settlement. The implication is that Russia might suspend the handover if dissatisfied over special status and constitutional reform – potentially, a pretext for indefinite delay. In any case, Russian demands in May 2015 would make the DNR/LNR responsible for border management. The experience of Moldova is also relevant. After President Vladimir Voronin of Moldova indicated that he would sign the Kozak Memorandum in November 2003, Russia's defence minister, Sergei Ivanov, reportedly stated that Russian troops would remain in a federalized Moldova for a further 20 years. Hill (2012), *Russia, the Near Abroad and the West*, p. 149.

[70] Allan, D. (2019), 'The Minsk Agreements Rest on Incompatible Views of Ukraine's Sovereignty', Chatham House Expert Comment, 15 July 2019, https://www.chathamhouse.org/expert/comment/minsk-agreements-rest-incompatible-views-sovereignty (accessed 19 Feb. 2020).

[71] As evidence of policy coherence, Western decision-makers often point to the sanctions that the US and the EU have imposed on Russia for its actions in Ukraine. The US and the EU have indeed been united on this issue. But sanctions are a means to an end; most are tied to Minsk implementation but say nothing about how those enacting them understand 'implementation'.

content if Ukraine gave in to Russia's agenda; some want a compromise (which they rarely define); some face two ways, voicing support for Ukraine's sovereignty while hoping that an agreement acceptable to Russia is possible; and others seem prepared to accept anything that returns Europe to what they consider normalcy. In so far as there is a prevalent view in Western capitals, particularly in Europe, it is that implementation means identifying a point between the Russian and Ukrainian positions as regards elections and special status.

In this connection, two diplomatic initiatives stand out:[72]

- **The Morel Plan.** Attributed to Ambassador Pierre Morel, then chair of the Minsk TCG Working Group on Political Affairs, this proposed that elections in occupied Donbas be held under legislation agreed by the authorities in Kyiv and the DNR/LNR. Ukraine would at the same time provisionally adopt a special-status law, which would become permanent once the OSCE/ODIHR had ruled the elections to be free and fair. The proposal was discussed in 2015 but never published. It ran into trouble when, following critical coverage in the Ukrainian media, Poroshenko distanced himself from what he referred to as 'Morel's personal opinion'.

- **The Steinmeier Formula.** Articulated (though again not published) in 2015 and 2016 by Germany's foreign minister, Frank-Walter Steinmeier, this also called for the entry into force of a special-status law on the same day that elections were held in Donbas. Again, the law would apply provisionally until the OSCE/ODIHR had published an assessment that the elections were free and fair, when it would become permanent (Steinmeier's proposal differed from the Morel Plan in requiring that elections only be free and fair 'in the main'). The Steinmeier Formula also got nowhere because of opposition in Ukraine. But it was resuscitated in the autumn of 2019, when Zelenskyy signed the first written version. Another sharp reaction in Ukraine forced him to back down, and to reassure domestic critics that he would not assent to elections in Donbas while Russian troops were there.[73]

Both proposals were deeply flawed. They suggested that free and fair elections could be held in Donbas before Russian troops had withdrawn and before the authorities in Kyiv had reclaimed control of the border – and that this would be acceptable to mainstream Ukrainian opinion. None of that withstands even cursory scrutiny. Both proposals were also based on the 2015 draft permanent law on special status. Yet the explosive reaction to the law in Ukraine at the time exposed the strength of domestic opposition to it. Nor, given what we know about Russian thinking, would the law have been anywhere near enough for the Kremlin. The conclusion should be clear: by trying to find the middle ground between the Ukrainian and Russian positions, initiatives such as the Morel and Steinmeier proposals risk plunging Ukraine into fresh instability – and still not satisfying Russia.

Russian precision and consistency

While some Western policymakers have tried to find a way to implement Minsk-2 so that everyone gets something, their Russian counterparts have kept things simple. Since February 2015, they have

[72] See the three articles by Socor, V. (2019), 'Steinmeier's Formula: Its Background and Development in the Normandy and Minsk Processes', *Eurasia Daily Monitor*, 16(130), 24 September 2019, https://jamestown.org/program/steinmeiers-formula-its-background-and-development-in-the-normandy-and-minsk-processes-part-one/ (accessed 6 May 2020).
[73] Allan, D. and Litra, L. (2019), 'Zelenskyy Finds That There Are No Easy Solutions in Donbas', Chatham House Expert Comment, 23 October 2019, https://www.chathamhouse.org/expert/comment/zelenskyy-finds-there-are-no-easy-solutions-donbas# (accessed 6 May 2020).

maintained that Ukraine must agree the Russian interpretation of the political sections of Minsk-2 with the DNR/LNR before it could even notionally get the border back.

Russian decision-makers did learn one lesson from the failure of the Novorossiya project. They no longer think that Ukraine will collapse imminently; getting it to assent to their version of Minsk-2 will take longer than they thought. But their underlying view of Ukraine has not fundamentally changed. In their eyes, it remains an accident of history: internally split, weak, unstable, the plaything of others – a geopolitical battleground, not a sovereign country.[74] By such logic, the support of Western countries, led by the US, is what has prevented Ukraine from capitulating.[75] Cutting it off from its Western sponsors is therefore key. This explains why Russia has kept up incessant pressure – periodic military escalation, economic sanctions, information war, cyber-enabled attacks, covert meddling in Ukraine's domestic politics. By trying to divide and disorient Ukraine, Russia hopes to convince others that its neighbour is a failed state. According to this reasoning, Western capitals will eventually prioritize the restoration of ties with Russia, withdrawing their support for Ukraine and/or pushing it to make concessions. Either way, Ukrainians will have to give in to Russia's demands.

The replacement earlier this year of Surkov by Dmitriy Kozak as the senior Russian official responsible for Donbas should be seen in this context. Born in Soviet Ukraine and one of Putin's trusted fixers, Kozak has already sounded more constructive than the relentless Surkov. Yet there is no evidence that Russia has altered its position on Minsk-2 implementation. Moreover, it was Kozak who fronted the abortive attempt to resolve the Moldova/Transnistria dispute along lines almost identical to Russia's preferred solution for Donbas.[76] His appointment may be a belated response to the emergence of President Zelenskyy, whose freshness has at times left Putin looking leaden-footed[77] but whose election also appears to have given rise to the perverse judgment in Moscow 'that Russia-friendly or even pro-Russian forces could return to power in Kyiv'.[78] The move may also be an attempt to capitalize on renewed political infighting and fragmentation in Kyiv in recent months.[79] In addition, the Kremlin may judge that Kozak's business-like reputation will help to exploit signs that Ukraine's external support could be wavering following the 'Ukrainegate' scandal in the US (which underlined President Donald Trump's limited interest in Ukraine) and the

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[74] For example, Surkov's interview in February 2020 in which he said: 'There is no Ukraine. There is Ukrainian-ness. That is, a specific brain disorder.' Chesnakov, A. (2020), 'Сурков: мне интересно действовать против реальности' [Surkov: I am interested in acting against reality], *Aktualnye Kommentarii*, 26 February 2020, http://actualcomment.ru/surkov-mne-interesno-deystvovat-protiv-realnosti-2002260855.html (accessed 6 May 2020). Although they express themselves less obnoxiously in public, other senior Russians share his scornful view of Ukrainian national identity.

[75] For example, Putin's claim in August 2015 that Ukraine was under 'external management'. See TASS (2015), 'Путин уверен, что "внешнее управление" на Украине закончится' [Putin confident that 'external management' in Ukraine will come to an end], Tass.ru, 17 August 2015, https://tass.ru/politika/2191898 (accessed 6 May 2020).

[76] Wolczuk, K. and Shelest, H. (2020), 'Could Zelenskyy's Strategy for Donbas Lead Ukraine Into a Kremlin Trap?', Chatham House Expert Comment, 14 February 2020, https://www.chathamhouse.org/expert/comment/could-zelenskyy-s-strategy-donbas-lead-ukraine-kremlin-trap (accessed 6 May 2020). Kozak also oversaw the inter-ministerial commission managing the DNR/LNR economies.

[77] For example, when Putin signed a decree in April 2019 offering Russian passports to inhabitants of occupied Donbas, Zelenskyy countered by offering Ukrainian passports to 'all people who suffer from authoritarian and corrupt regimes', firstly 'to the Russian people who suffer most of all'. BBC (2019), 'Ukraine's president-elect rejects Russian passport plan', 28 April 2019, https://www.bbc.com/news/world-europe-48085505 (accessed 6 May 2020).

[78] Fischer, S. (2019), *The Donbas Conflict. Opposing Narratives and Interests, Difficult Peace Process*, SWP Research Paper 5, Berlin: German Institute for International and Security Affairs, April 2019, p. 22, https://www.swp-berlin.org/fileadmin/contents/products/research_papers/2019RP05_fhs.pdf (accessed 6 May 2020).

[79] Timtchenko, I. (2020), 'From virtual candidate to compromised president: Zelenskyy's tough first year', Atlantic Council Ukraine Alert, 23 April 2020, https://www.atlanticcouncil.org/blogs/ukrainealert/from-virtual-candidate-to-compromised-president-zelenskyys-tough-first-year/ (accessed, 6 May 2020).

eagerness of President Emmanuel Macron of France to mend fences with Moscow. Whatever the reason for Kozak's assignment, it arguably heralds new dangers for Ukraine.[80]

Proposing an alternative approach

In the view of this author, however, there is an alternative way to approach implementation of the Minsk agreements. It has six parts.

First, Western governments should define their objective, unequivocally, as the defence of Ukraine's sovereignty. This would be the bottom line that too often has been missing from policy debates in Western capitals. It would mean being guided by what the authorities in Kyiv decided was feasible in terms of implementation, particularly as regards elections and special status, even if this proved unacceptable to Russia, as it almost certainly would. Equally, Western leaders should support a Ukrainian leader who freely reached agreement with Russia on these questions, although the likelihood of that seems remote given where Ukrainian public opinion is.[81] What they should not do is push Ukraine to cede ground on the core issues. That would contradict their commitment to uphold Ukraine's sovereignty. Nor would it work. The likeliest effect would be to undermine the authorities in Kyiv, destabilizing the political situation there and encouraging Russia to press for more concessions.

Second, in the absence of a settlement acceptable to Ukraine, Western governments should view the Minsk agreements and the Normandy process primarily as mechanisms for ending the conflict in Donbas. This is, after all, the starting point of both Minsk-1 and Minsk-2. Decision-makers should welcome practical dialogue and confidence-building measures (e.g. withdrawal of weapons, prisoner exchanges, allowing the OSCE mission full access to the conflict zone, environmental/ ecological risk mitigation)[82] to de-escalate the fighting, minimize casualties and build a sustainable ceasefire. But they should not expect movement over political issues, which would continue to divide Ukraine and Russia. The Minsk and Normandy processes would see many more 'draws', as Zelenskyy described the December 2019 Normandy summit.[83]

The third element of this approach is not, strictly speaking, part of the Minsk agreements but flows from the commitment to uphold Ukraine's sovereignty. It would require Western capitals to maintain support for political and economic reform in Ukraine. The short- to medium-term priority is that Ukraine fulfils its commitments under the Stand-By Arrangement negotiated with the International Monetary Fund (IMF), preserving macroeconomic stability and pressing ahead with

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[80] For example, the assessment of the analyst Andrei Okara in Rosbalt (2020), 'Для Киева Козак опаснее Суркова' [Kozak more dangerous than Surkov for Kyiv], Rosbalt.ru, 27 January 2020, https://www.rosbalt.ru/russia/2020/01/27/1824780.html (accessed 6 May 2020).
[81] According to Kyiv's Razumkov Centre in February 2020, 62 per cent of Ukrainians opposed constitutional special status for occupied Donbas (compared to 21 per cent in favour), while an even bigger percentage (68 per cent) were against a federal system (compared with 11 per cent in favour). Ukrinform (2020), 'Twenty percent of Ukrainians support restoration of peace in Donbas through use of force', 26 February 2020, https://www.ukrinform.net/rubric-defense/2884847-twenty-percent-of-ukrainians-support-restoration-of-peace-in-donbas-through-use-of-force.html (accessed 6 May 2020).
[82] For environmental challenges, Hamilton, R. (2019), 'Coal Mines, Land Mines and Nuclear Bombs: The Environmental Cost of the War in Eastern Ukraine', 26 September 2019, Black Sea Strategies E-Notes, https://www.fpri.org/article/2019/09/coal-mines-land-mines-and-nuclear-bombs-the-environmental-cost-of-the-war-in-eastern-ukraine/ (accessed 6 May 2020).
[83] Moshes, A. (2019), *The Normandy Summit on Ukraine: no winners, no losers, to be continued*, 11 December 2019, FIIA Comment, Helsinki: Finnish Institute for International Affairs, https://www.fiia.fi/en/publication/the-normandy-summit-on-ukraine (accessed 6 May 2020).

structural reforms to unlock its economic potential.[84] Looking further ahead, the focus should be gradual implementation of the EU/Ukraine AA, which provides a long-term anchor that Ukraine otherwise lacks, and related fundamental reforms (such as public administration reform) which are supported by international donors. This would strengthen institutional resilience in the face of Russian pressure, which will continue without a political settlement to the Kremlin's liking.

The scale of the reform challenge is daunting. Implementing the AA would require rebuilding (or building from scratch) much of Ukraine's state.[85] It is debatable whether Ukraine has the capacity to deliver the AA in its entirety, in which case the prioritization of certain chapters would be advisable. Such an undertaking would also require a major commitment from Western countries and donors. Sustaining that at a time of 'Ukraine fatigue', and with governments and electorates battered by the COVID-19 pandemic, will be testing to say the least. It is imperative that donors apply firm conditionality to assistance, particularly as regards IMF programmes, which Ukraine has frequently failed to deliver since the mid-1990s. In addition, Western assistance should include the supply of defensive military equipment to reinforce the capabilities of Ukraine's armed forces, thus raising the cost to Russia should it again decide to dial up the violence in a major way.[86] Although there can be no military solution to the conflict, a warning in 2016 by International Crisis Group is still valid:

> Until there is a clearly positive change in the core Russian approach, the international community needs to build its policy toward Moscow over eastern Ukraine on the assumption that anything, including more serious fighting, is possible. For now, this may seem highly unlikely… But large Russian units have already fought twice in Ukraine, once (February 2015) even during peace talks. Moscow could resort to such means again should the lower-cost, lower-visibility approach of supporting the entities in a protracted conflict fail.[87]

Fourth, Western governments should encourage the authorities in Kyiv to take a more inclusive approach towards those in occupied Donbas. Unlike the *de facto* states in Abkhazia and Transnistria, the DNR and LNR are not fully consolidated. Unlike with the conflicts in Georgia and Moldova, Russian actions were critical in fomenting war in 2014. Partly as a result (and partly because the regimes are synonymous with turbulence, criminality and violence), the legitimacy of the DNR/LNR leaderships is questionable.[88] Crucially, people either side of the contact line retain similar identities.[89] Yet the longer the occupied region exists in a separate space dominated by Russia, the likelier it is that an identity overtly hostile towards Kyiv will crystallize, causing the current division to harden still further.

[84] Pivovarsky, A. (2016), 'Stuck in Transition: Successes and Failures of Economic Reform in Ukraine', in Hale, H. and Orttung, R. (2016), *Beyond the Maidan. Comparative Perspectives on Advancing Reforms in Ukraine*, Stanford, California: Stanford University Press, pp. 221–44; and Ash, T. (2017), 'Economic Reforms' in Ash, T., Gunn, J., Lough, J., Lutsevych, O., Nixey, J., Sherr, J. and Wolczuk, K. (2017), *The Struggle for Ukraine*, Chatham House Report, London: Royal Institute of International Affairs, pp. 39–47, https://www.chathamhouse.org/publication/struggle-for-ukraine (accessed 6 May 2020).
[85] Wolczuk, K. and Žeruolis, D. (2018), *Rebuilding Ukraine: An Assessment of EU Assistance*, Research Paper, London: Royal Institute of International Affairs, https://www.chathamhouse.org/publication/rebuilding-ukraine-assessing-eu-assistance-ukraine (accessed 6 May 2020).
[86] Bennett, K. (2015), 'The Realist Case for Arming Ukraine', *The American Interest*, 20 February 2015, https://www.the-american-interest.com/2015/02/20/the-realist-case-for-arming-ukraine/ (accessed 6 May 2020).
[87] International Crisis Group (2016), *Russia and the Separatists in Eastern Ukraine*, Crisis Group Europe and Central Asia Briefing No. 79, 5 February 2016, p. 2, https://www.crisisgroup.org/europe-central-asia/eastern-europe/ukraine/russia-and-separatists-eastern-ukraine (accessed 6 May 2020).
[88] Von Twickel, N. (2020), 'The state of the Donbas: A study of eastern Ukraine's separatist-held areas', in De Waal, T. and Von Twickel, N. (2020), *Beyond Frozen Conflict. Scenarios for the Separatist Disputes of Eastern Europe*, edited by Michael Emerson, London: Rowman and Littlefield International, pp. 66–74 and 106–12.
[89] De Waal, T. (2018), *Uncertain Ground. Engaging With Europe's De Facto States and Breakaway States*, Washington, DC: Carnegie Endowment for International Peace, p. 66.

Certain actions by the authorities in Kyiv have added to this danger. One was the decision to cut or to disrupt economic, financial and social ties in late 2014, particularly the requirement that those in the occupied zone register on Kyiv-controlled territory at least every 60 days to qualify for state benefits and to acquire basic documents (including birth and death certificates, passports). Pension rights remain the biggest problem: hundreds of thousands of pensioners, it is estimated, do not receive regular payments. A related issue is the blockade imposed on occupied Donbas in 2017. Supposedly intended to combat smuggling and corruption, it depressed trade across the contact line, thus hitting living standards and prompting the DNR and LNR authorities to retaliate by expropriating large companies on their territories.[90] Besides weakening the economic interaction that could help over time to rebuild political trust, such isolationist actions lend respectability to negative stereotyping of those in occupied Donbas, making reconciliation even more difficult.[91] This is about more than a pragmatic argument over how to make reintegration eventually happen; there is a principle at stake. Ukraine's justified claim to sovereignty over occupied Donbas should go hand in hand with a recognition that those there are entitled to be treated as Ukrainian citizens. Commendably, Zelenskyy has adopted an inclusive tone, but more needs to be done to address humanitarian issues, rebuild trade links and facilitate people-to-people ties.

That said, fifth, Western governments should assume that the DNR and LNR will not be *de facto* parts of Ukraine any time soon. For reasons of principle and consistency, Western capitals should continue to recognize Ukraine's *de jure* sovereignty over occupied Donbas. But an attempt at early reintegration would impose intolerable strains on Ukraine. A return to pre-2014 realities is inconceivable. Reconciling communities traumatized by war will be an immense challenge. The cost of economic reconstruction will be colossal. The DNR and LNR are enmeshed in Russia's military/security, economic and media spaces.[92] The political gap separating them and Kyiv-controlled territory is wide and will become wider if Ukraine continues to reform to EU standards. Integration on terms agreeable to Ukraine would mean the effective dissolution of the DNR/LNR regimes. There is no chance that the Kremlin would accept that in the foreseeable future. A reformed and prosperous Ukraine might eventually act as a magnet, drawing people in occupied Donbas to reintegrate voluntarily. But that is not a plausible outcome for many years. And Russia's attitude would still have to change before it could happen. Until then, the priority for Western governments should be to help defend the sovereignty of unoccupied Ukraine against Russian pressure.

Finally, the approach sketched here would logically entail a lengthy stand-off with Russia. This would last until Russia's leaders acknowledged Ukraine to be a sovereign country. That seems inconceivable as long as the current leadership holds power in Moscow, and is also unlikely to happen quickly in a post-Putin world. By implication, those US and EU sanctions on Russia that are tied to implementation of the Minsk agreements would remain in place for the foreseeable future. Are Western capitals really prepared for that?

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[90] The blockade started as an unofficial action in January 2017 organized by Ukrainian activists. The expropriation of assets by the DNR/LNR regimes on 2 March followed a decision by the authorities in Kyiv the day before to regulate trade across the line of contact for the first time, although the blockade at that point remained unofficial. The expropriation added to political pressure on Poroshenko to make the blockade official, which he did on 15 March.

[91] The embargo has been compared with the counterproductive Georgian blockade of Abkhazia in the 1990s. De Waal (2018), *Uncertain Ground*, p. 65.

[92] Razumkov Centre (2019), *Національна безпека і оборона* [*National Security and Defence*], No. 1–2 (177–178), pp. 35–42, 44–48, 53–62; and Von Twickel (2020), 'The state of the Donbas', pp. 57, 76, 92–102.

Why not jettison the Minsk agreements?

The deficiencies of the Minsk agreements, and the consequent failure to implement them, have prompted calls for them to be abandoned and replacements negotiated.[93] A variation on this is the suggestion that the authorities in Kyiv should simply cut ties with the DNR and LNR, which in this version cannot be reintegrated and are a costly burden on Ukraine.[94]

These are dangerous arguments, which misread Russian intentions. There is no obvious reason why Russia would accept a course that amounted to relinquishing its central objective: imposing its conception of special status on Ukraine. The main effect of a unilateral Ukrainian decision to withdraw from the Minsk framework or to sever all links with occupied Donbas would be to remove any remaining diplomatic constraints on Russia, giving it a pretext to re-escalate the fighting. In addition, such a move might well splinter Western support for Ukraine, which would be left even more isolated. One analyst wisely counsels:

> The Minsk Agreements have often been called into question by critics arguing that they disadvantage Ukraine and have failed to bring about an end to the conflict. But all relevant actors should remember how unlikely it is that a new agreement could be reached – still less a better one – and how dangerous it would be if there were none at all.[95]

Conclusions

Russia's undeclared war in Donbas is Moscow's latest attempt to limit the sovereignty of Ukraine, which successive Russian leaders have seen as the heart of their country's self-proclaimed sphere of influence. Having annexed Crimea in March 2014, Russia launched a campaign of violent subversion in eastern and southern Ukraine. Using teams of insurgents (local activists and provocateurs from Russia itself), Russia tried to force Ukraine to 'federalize' its political system. The aim was to create pro-Moscow regimes in these regions that would, once reintegrated into Ukraine, enable Russia to control its neighbour from within. The Novorossiya project quickly turned out to be a crass misjudgment – 'a conceit of Russian geopolitical culture' as one observer put it.[96] Few locals sided with Russia. The readiness of many more to fight in self-defence compelled Russia to resort to increasingly open military intervention to save its proxies. Russia inflicted crushing defeats on Ukrainian forces in September 2014 and February 2015, yet was unwilling to pay the price that further high-intensity war would have exacted. Out of these contradictory circumstances emerged the Minsk agreements.

By almost any standard, this was a stunning failure of Russian foreign policy. The Kremlin pursued two objectives during the crisis of 2013–14. Its immediate goal was to prevent Ukraine from signing an AA with the EU. In this, it failed: the AA was signed by Ukraine and the EU in 2014[97] and entered into force in 2017. Russia's second, more ambitious objective was to press Ukraine into the

[93] For example, Kruk, K. (2015), 'The road to hell is paved with good intentions: how the special status for Donbas will destabilize Ukraine', ConstitutionNet, 31 August 2015, http://constitutionnet.org/news/road-hell-paved-good-intentions-how-special-status-donbas-will-destabilize-ukraine (accessed 6 May 2020).

[94] For example, Motyl, A. (2019), 'It's Time for Ukraine to Let the Donbass Go', *Foreign Policy*, 6 December 2019, https://foreignpolicy.com/2019/12/06/ukraine-better-without-donbass-costly-reconstruction-pro-russia-west/ (accessed 6 May 2020).

[95] Fischer (2019), *The Donbas Conflict*, p. 34. See also Pifer, S. (2017), *The Eagle and the Trident. U.S.—Ukraine Relations in Turbulent Times*, Washington, DC: Brookings Institution Press, p. 326: '… it is not clear that letting the Donbas go would solve the problem with Russia. Nothing suggests that Moscow wants the Donbas; it wants a mechanism to pressure Kyiv.'

[96] Toal (2017), *Near Abroad. Putin, the West, and the Contest Over Ukraine and the Caucasus*, p. 270.

[97] The political chapters were signed on 21 March 2014, the economic ones on 27 June 2014.

EAEU. Most unlikely at the time, this is virtually unimaginable now. The vision of a Russia-dominated regional bloc with Ukraine at its core – the central plank of Putin's foreign policy when he returned as president in 2012 – is in ruins:

> Russia's goal of getting Ukraine to join a Russia-led bloc is further than ever from being realized. While many Ukrainians prefer to have good relations with both Europe and Russia, the events of 2014 have made that harder, and polling shows that, forced to choose, most would choose the EU. The war has soured the Ukrainian public toward Russia, and the fact that much of the pre-2014 population that was most pro-Russian resided in Crimea or the occupied Donbas, and cannot now vote, makes it harder still that a pro-Russian government will come to power in Kyiv. So the tension between Ukrainian democracy and Russia's ambitions there is higher than ever.[98]

This tension pulses through the Minsk agreements, which reflect two irreconcilable views of Ukraine's sovereignty – the Minsk conundrum. Ukraine sees the agreements as instruments with which to re-establish its sovereignty. It demands a meaningful and lasting ceasefire, followed by the complete withdrawal of Russian troops and the return of the border to its control. Free and fair elections in the DNR/LNR would be held according to OSCE/ODIHR standards. Power would be devolved to Donbas, broadly in line with the countrywide decentralization programme, but without giving the region constitutional 'special status'. Following reintegration of the DNR/LNR, Ukraine would make its own domestic and foreign policy choices. By contrast, Russia views the Minsk agreements as tools with which to break Ukraine's sovereignty. It demands that elections be held in occupied Donbas before Ukraine has reclaimed control over the border, knowing that its proxies would win. An extreme form of special status would be written into Ukraine's constitution, crippling the central authorities and turning the DNR and LNR into Russian-controlled mini-states. Ukraine would be unable to govern itself effectively or to orient its foreign policy to the West. Only then would Russia return the border to Ukraine's control, although it is doubtful that this would actually happen.

Western attempts to resolve the Minsk conundrum – notably, the Morel Plan and the Steinmeier Formula – have sought to bridge the Russian and Ukrainian stances. Not only have they failed; they have heaped pressure on Ukraine and made a delicate situation there even more fragile. Nor have they led to any discernible change in Russia's stance. On the contrary, Russia's leaders have felt vindicated in their view, first, that Ukraine is inherently weak and unviable; and, second, that Western governments lack the spine for a drawn-out confrontation. Well-intentioned attempts at conflict resolution may therefore have made a political settlement that protects Ukraine's sovereignty even less likely. Such episodes underline the need for extreme caution when talking about Minsk implementation, which easily merges with a presumption that the Ukrainian and Russian positions can be split down the middle. Rather than searching for an optimal point acceptable to all, Western policymakers should acknowledge the starkness of the Minsk conundrum – that either Ukraine is sovereign, or it is not – and stop trying to square this circle.

There is, however, an alternative way to approach implementation of the Minsk agreements. It has six elements:

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98 D'Anieri, P. (2019), *Ukraine and Russia. From Civilized Divorce to Uncivil War*, Cambridge: Cambridge University Press, pp. 266–67. Ukraine, one Russian analyst has written, 'is now lost to Russia forever'. Medvedev, S. (2020), *The Return of the Russian Leviathan*, translated by Stephen Dalziel, Cambridge: Polity Press, p. 84.

- It would make the defence of Ukraine's sovereignty the unambiguous premise of Western policy. This would mean adhering to Ukraine's interpretation of the Minsk agreements, particularly as regards elections and special status.

- It would use the agreements and the Normandy process mainly as tools for managing the conflict and reducing the chances of renewed escalation.

- In line with the priority attached to upholding Ukraine's sovereignty, it would meanwhile focus on supporting long-term political and economic reform in Ukraine, with policy guided by the provisions of the EU/Ukraine AA and other fundamental reforms.

- It would also require encouraging the authorities in Kyiv to engage with the population of occupied Donbas more inclusively.

- Yet it would proceed from the assumption that the DNR/LNR should not be legally reincorporated into Ukraine for the foreseeable future, and that this would realistically happen only when those there wanted it (and, almost certainly, when Russia permitted it).

- Finally, it would entail confrontation with Russia over Ukraine until such time as Russia's leaders accepted Ukraine as a sovereign country.

Some policymakers would recoil from this prospectus, which they would find troubling and unnerving. It challenges a widespread cultural predisposition in Western capitals: the presumption that, despite major difficulties, Western and Russian geopolitical differences in Europe can ultimately be resolved in a spirit of dialogue and compromise which, with the application of sufficient reason and pragmatic common sense, will more or less satisfy everyone's interests and leave all parties broadly content. The twin realities laid bare by Russia's war in eastern Ukraine – Ukraine's determination to defend its sovereignty and Russia's determination to break Ukraine's sovereignty – mean that the Minsk agreements are not susceptible to such logic.

A protracted stand-off over Ukraine need not preclude cooperation with Russia in other areas, to the extent that this is possible. It would, however, mean a relationship with Russia that would be fractious, difficult and sometimes dangerous – and that would therefore require constant attention and management. That is a sobering prospect. But those inclined to reject such an approach because they find it too uncomfortable ought to ponder the alternative. Attempts to implement the Minsk agreements that do not start from an unequivocal commitment to support Ukraine's sovereignty will continue to fail and will continue to risk destabilizing Ukraine itself – with potentially grave implications for long-term security in eastern Europe. More than six years after Russia launched its calamitous and futile war against Ukraine, Western decision-makers need to decide which of these answers to the 'Minsk conundrum' best serves their countries' interests and most closely accords with their professed principles.

About the author

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Acknowledgments

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Cover image: Volodymyr Zelenskyy, Angela Merkel, Emmanuel Macron and Vladimir Putin attend a press conference after a summit on Ukraine at the Élysée Palace in Paris, 9 December 2019.

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