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Eastern Voices: Europe's East Faces an Unsettled West

Ukraine's Foreign Policy and the Role of the West

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In this chapter we begin with a general analysis of mutual perceptions from both sides, then proceed to identify key interests and concerns regarding the war in Donbas, and analyze whether the political aspects of the Minsk agreements can be implemented. We then suggest some recommendations on the way ahead.

We argue that Putin's success in attacking Ukraine, which is impossible to achieve without undermining unity among Western powers, could embolden him to exert his power and influence in wider Europe. Moreover, as U.S.-EU ties are likely to undergo some stress after elections on each side of the Atlantic in 2016 and 2017, Russia will to be tempted to take advantage of such turbulence by pressing forward with its goals in Ukraine and pushing the so-called "grey zone" of insecurity westward before a new equilibrium is found within the Euro-Atlantic area.

Ukrainian Perceptions of the West amid War with Russia

Following the events of 2014-2016, Ukrainian decision-makers have accumulated a number of concerns about Western attitudes toward Russian aggression in Crimea and the Donbas.

First, the Crimea annexation ultimately destroyed Ukrainian trust in Western security assurances. This issue was openly raised by Ukrainian President Petro Poroshenko in his 2014 address to the

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U.S. Congress.[2] Although the Budapest Memorandum on Security Assurances[3] implied rather negative obligations from the United States, the UK and Russia (i.e. agreement to refrain from use of force), it also made them, as members of the UN Security Council, responsible for arranging international assistance for Ukraine in case of aggression.

The helpless reaction of the UN and the OSCE in February-March 2014 proved that existing international, global and regional organizations that are designed to deal with security matters have little impact when a member state faces aggression from another member state, particularly if that other state is a nuclear power. Consultations foreseen by the Budapest Memorandum were never held. In April 2014 negotiations were conducted in Geneva with participation of the United States, the EU, Ukraine, and Russia. Together the parties released a joint statement.[4] However, for reasons unexplained in public, the "Geneva format" was not renewed. Instead, further negotiations have been conducted in the so-called "Normandy format," which includes Ukraine, Russia, France, and Germany (but not the United States and the United Kingdom, two of the signatories to the Budapest Memorandum).

At the very beginning of the crisis, the new Ukrainian authorities had little hope for Western support, given the weak international reaction to the 2008 war between Russia and Georgia.[5] According to Ukrainian officials, their Western counterparts urged maximum restraint without offering any kind of practical support to stop and contain Russia.

Russia's annexation of Crimea also cast doubts over the readiness and willingness of major Western powers to fulfill their NATO obligations should a similar crisis arise in the Baltic region. Russia continues to benefit from such anxieties and vague Western political commitments. In addition, by engaging in provocative and dangerous behavior in the Baltics, which it justifies publicly as a "reaction" to NATO "reinforcements," Russia makes it easy for pro-Russian political players in Germany, France, Italy and other countries to advance arguments against any military assistance to Ukraine as a non-member of Alliance.

Although the United States and the EU sanctioned Russia and NATO responded to Russian provocations towards the Alliance's eastern neighbors, this policy remains dependent on a consolidated approach that itself is reliant on the perception that all NATO member states are

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[2] Remarks by Ukrainian President Poroshenko to the U.S. Congress, Council on Foreign Relations (published September 18, 2014), http://www.cfr.org/ukraine/remarks-ukrainian-president-poroshenko-us-congress/p33470 (accessed November 22, 2016).

[3] United Nations, Letter dated 7 December 1994 from the Permanent Representatives of the Russian Federation, Ukraine, the United Kingdom of Great Britain and Northern Ireland and the United States of America to the United Nations addressed to the Secretary-General, text of the Memorandum on Security Assurances in Connection with Ukraine's Accession to the Treaty on the Non-Proliferation of Nuclear Weapons, (December 19, 1994), http://www.un.org/en/ga/search/view_doc.asp?symbol=A/49/765 (accessed November 22, 2016).

[4] U.S. Department of State, "Geneva Statement on Ukraine," April 17, 2014, http://www.state.gov/r/pa/prs/ps/2014/04/224957.htm (accessed November 22, 2016).

[5] Ukrainian skepticism regarding Western support was well illustrated by the discussion between acting head of Ukrainian security service, Valentyn Nalyvaychenko, and Ukrainian Prime Minister Arseniy Yatsenyuk, who even cited his phone conversation with U.S. Vice President Joe Biden. See Official Copy of Transcript of the National Security and Defence Council meeting on 28th of February 2014 [in Ukrainian], *Ukrainska Pravda*, February 22, 2016, http://www.pravda.com.ua/articles/2016/02/22/7099911/ (accessed November 22, 2016).

sharing the burden, as well as on the ability of political leaders to withstand domestic pressures. In 2015-2016, however, the debates that erupted over how to deal with the even more urgent migration crisis revealed serious fissures within the European Union. Moreover, statements by U.S. President Donald Trump have also raised serious concerns in both western and eastern Europe whether the new U.S. administration might advance new approaches that would question long-standing principles that have guided U.S. foreign policy towards Europe.[6]

Second, Kyiv believed that the Western powers only began to develop efficient countermeasures against Russia after they suffered directly from the consequences of the Kremlin's aggression in Ukraine. It took the destruction of the MH 17 aircraft and three hundred passenger deaths, including of EU citizens, in July 2014 before the West was ready to impose sectoral sanctions[7] on the Kremlin because of Russia's military intervention (and still, in February 2015 these sanctions were connected to implementation of Minsk-2, and not to the clear withdrawal of Russian troops, which had been the initial reason for introducing sanctions). When the city of Mariupol came under indiscriminate rocket attack in January 2015, however, resulting in 30 deaths and hundreds of injured, the EU did not manage to augment its economic sanctions.

Other examples emerged in the trilateral negotiations between Ukraine, the EU and Russia about launching the EU-Ukraine DCFTA (Deep and Comprehensive Free Trade Agreement, which was a component part of the EU-Ukraine Association Agreement signed in 2014). Consultations about implementation of the DCFTA dragged out due to Russian objections, resulting in delay of the DCFTA for one year until January 1, 2016.

At the same time, when the Russian energy company Gazprom threatened to cut gas supplies to Ukraine due to unsettled arrears and penalties, the EU Commission and major EU countries intervened very actively and forced the Russian gas giant to disconnect its claims to Ukraine from its transit business with the Ukrainian company Naftogas. Moreover, Ukraine was given loans and bank guarantees that facilitated alternative gas contracts with the European energy companies and, consequently, diversification of gas imports.[8]

Third, Ukraine is concerned about a possible agreement between the West and Russia to reset their relations at the cost of Ukraine's territory and sovereignty. This perception is fueled particularly by the European approach to implementation of the Minsk agreements. For instance, after German Chancellor Angela Merkel met with Ukrainian President Poroshenko in Berlin in February 2016, the German government continued to insist on constitutional reform in Ukraine and Russian

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[6] "Trump election: Juncker warns president may upset US ties with Europe," *BBC*, November 11,2016, http://www.bbc.com/news/world-europe-37957673 (accessed November 22, 2016).

[7] European Council, "Statement by the President of the European Council Herman Van Rompuy and the President of the European Commission in the name of the European Union on the agreed additional restrictive measures against Russia", July 29, 2014, http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/144158.pdf (accessed November 22, 2016).

[8] Contracts about reverse gas flows were negotiated and concluded before the conflict. See "Reverse-flow woes," *The Economist*, Nov. 5, 2013, http://www.economist.com/blogs/schumpeter/2013/11/gazprom; and "Germany's RWE first EU company to deliver gas to Ukraine," Deutsche Welle, April 15, 2014, http://www.dw.com/en/germanys-rwe-first-eu-company-to-deliver-gas-to-ukraine/a-17567424.

involvement in determination how the local elections in Donetsk and Luhansk were to be held.[9] French president Hollande reiterated this position in an address to the Parliamentary Assembly of the Council of Europe.[10]

The key point is that from the very first Minsk agreement in September 2014, Russia and Ukraine each pursued contradictory goals. According to our reading of Poroshenko's peace plan[11] and Putin's peace arrangement,[12] as well as the Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk on September 5, 2014[13], Moscow linked peace with limiting Ukraine's sovereignty by means of federalization and a "special status" for the Donbas. Kyiv, on the other hand, saw peace as a tool to recover occupied territories and escape from Russian military pressure.

Despite unbridgeable differences between Ukraine and Russia about the ultimate destination of the Minsk agreements, the EU and the United States not only insist on implementation of these flawed agreements, they also seek selective cooperation with Russia, regardless of the Kremlin's long-term goals.

Within the EU, initial steps were taken to engage in new cooperation with Russia in January 2015, just when Russian troops were trying to seize the strategic town of Debaltseve, in violation of the Minsk-1 agreements. An issues paper prepared by the European External Action Service under Federica Mogherini, High Representative of the European Union for Foreign Affairs and Security Policy, suggested to "engage with Russia in the short- to medium-term" due to "significant interests on both sides."[14] Debaltseve was seized in a month, four days after the Minsk-2 agreements entered into force. The return of Debaltseve to Ukraine was not even discussed in the negotiation process until late 2016.

The EU Global Strategy, also prepared under Mogherini, states that "the EU and Russia are interdependent" and that cooperation must include "climate, the Arctic, maritime security, education, research and cross-border cooperation...deeper societal ties."[15] In our view, that is a

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[9] Website of the Federal Government of Germany, "Work continues to achieve a peaceful solution", February 1, 2016, https://www.bundesregierung.de/Content/EN/Artikel/2016/02_en/2016-02-01-poroschenko-in-berlin_en.html (accessed November 22, 2016).

[10] Hollande on Minsk accords: First, Donbas elections, then control over border, UNIAN, October 11, 2016, http://www.unian.info/politics/1566876-hollande-on-minsk-accords-first-donbas-elections-then-border-control.html (accessed November 22, 2016).

[11] Official Website of President of Ukraine, "In Donbas, Petro Poroshenko presented the peaceful plan on the settlement of the situation in the east of Ukraine," June 20, 2016, http://www.president.gov.ua/en/news/petro-poroshenko-predstaviv-v-donbasi-mirnij-plan-z-vregulyu-33044 (accessed November 22, 2016).

[12] Russian news agency TASS, "Putin peace plan not dogma, aims to achieve peace in Ukraine -- Peskov," September 3, 2014, http://tass.com/russia/747963 (accessed November 22, 2016).

[13] OSCE, "Protocol on the results of consultations of the Trilateral Contact Group, signed in Minsk, 5 September 2014," http://www.osce.org/home/123257?download=true (accessed November 22, 2016).

[14] Peter Spiegel, "Is EU preparing to re-engage with Russia", Brussels Blog, "Issues Paper on relations to Russia, Foreign Affairs Council of January 19, 2015," (Brussels blog), *Financial Times*, http://blogs.ft.com/brusselsblog/files/2015/01/Russia.pdf (accessed November 22, 2016).

[15] EU Institute for Strategic Studies "Shared Vision, Common Action: A Stronger Europe. A Global Strategy for the European Union's Foreign And Security Policy" (June 2016), p.33, http://www.iss.europa.eu/uploads/media/EUGS.pdf, (accessed November 22, 2016).

political mistake, which was poignantly explained by Robert Cooper: "Russia's ambition seems to be ensuring that its neighbours are weakened by conflict and poor government. How this benefits Russia is hard to understand; it certainly does not benefit us. Perhaps that is the point."[16] As long as Russia views "common interests" as European dependence on any kind of Russian assistance, resources or cooperation, including dealing with troubles in countries between Russia and the EU, it will use such instruments to demand concessions. Essentially, the current Russian regime is ruling the country not by giving Russian society more opportunities to develop itself and therefore seeking more benefits from international cooperation, but by tying people's welfare more tightly to state power and its projection abroad. From this point of view, Russia will not swap stabilization of Ukraine for offers of deepened trade or cooperation from the West.

In our opinion, it is just a matter of time before the instrument of selective cooperation backfires and destroys a tenuous European solidarity. Competition among individual countries to win more benefits from "selective cooperation" with Russia will always cast a shadow over the need for a common policy. For example, during the December 2015 EU summit, Italy already questioned the EU approach to sanctions against Russia, as German energy companies lobbied their government to approve Nord Stream 2.[17] This was repeated at the October 2016 EU summit, when Italian Prime Minister Matteo Renzi initially resisted new sanctions on Russia[18] (although he ultimately joined the consensus), and just a few days later the EU Commission changed regulations regarding access to the European internal gas markets in a way that favored German and Russian companies.[19]

So far it seems that the main message of those who are trying to shape the Trump Administration's foreign policy attitudes is a vague promise to the Russian leadership of reciprocity and mutual respect. For instance, Newt Gingrich hinted that in the past fifteen years Russia was treated unfairly as the "Soviet Union" while being "a relatively large power with a relatively powerful military."[20]

At the same time, former State Secretary Henry Kissinger, who was invited to several meetings with Trump and Mike Pence during and after the campaign, when asked about his attitude toward Russia and Ukraine, said that he would "try to make Russia a partner in a solution" of the crisis in the Donbas. Kissinger presented his general framework of "diplomacy to integrate Russia into a world order which leaves scope for cooperation." With regard to Ukraine, he speculated that "Russia can contribute to this by forgoing its aspiration to make Ukraine a satellite; the United States and Europe must relinquish their quest to turn Ukraine into an extension of the Western

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[16] Robert Cooper, "The EU's global strategy: Three quotations," European Council on Foreign Relations (commentary), July 15,2016, http://www.ecfr.eu/article/commentary_the_eus_global_strategy_three_quotations_7077, (accessed November 22, 2016).

[17] "Italy's Renzi joins opposition to Nord Stream 2 pipeline deal," *Financial Times*, December 15, 2015, https://www.ft.com/content/cebd679c-a281-11e5-8d70-42b68cfae6e4 (accessed November 22, 2016).

[18] "Italy's Renzi forces retreat from new sanctions on Russia," *Financial Times*, October 21, 2016, https://www.ft.com/content/1cd7f7dc-9730-11e6-a80e-bcd69f323a8b, (accessed November 22, 2016).

[19] European Commission, "Gas markets: Commission reinforces market conditions in revised exemption decision on OPAL pipeline," October 28, 2016 (press release), http://europa.eu/rapid/press-release_IP-16-3562_en.htm, (accessed November 22, 2016).

[20] The Daily 202 Live: Q&A with Gingrich on how Trump will change Washington, *Washington Post*, December 20, 2016, https://www.washingtonpost.com/news/powerpost/wp/2016/12/20/the-daily-202-live-qa-with-gingrich-on-how-trump-will-change-washington/?utm_term=.038a1da65c3e (accessed January 04, 2017).

security system. The result would be a Ukraine whose role in the international system resembles that of Austria or Finland, free to conduct its own economic and political relationships, including with both Europe and Russia, but not party to any military or security alliance."[21] However, in the case of Ukraine, Kissinger suggests "autonomy" for the parts of the Donetsk and Luhansk regions as an element of a peace solution, which contradicts his "neutrality" examples of Austria and Finland and falls in line with Putin's plans to control Ukraine, using leverage afforded to him by such "autonomous regions." Moreover, Ukraine had non-bloc status between 2010 and 2013 and Budapest "security assurances" from the Russian nuclear power, but that did not prevent Russian aggression in 2014.

The main problem of this realistic approach is that it is based on the outdated stereotyped perception of Ukraine as a "divided nation," in which internal struggle between parts of the country "would lead eventually to civil war or breakup";[22] a perception influenced by a Russian imperial interpretation of history. However, Ukraine's most recent history has shown that the country lost territories not due to civil unrest but only after well-organized and disguised external military aggression, the effect of which has been to consolidate Ukrainian society and bring different regions closer. Should political realism prevail in the new U.S. Administration, these facts would have to be respected. On the other hand, if Ukraine is perceived by the new U.S. Administration as a "toxic asset" that only increases costs because of its domestic troubles, then the realist approach demands that the West transfer this burden to Russia, especially if Moscow wants to claim it.

In short, it is too early to make certain predictions about Trump's attitudes toward the Russian-Ukrainian conflict, although there is a clear intention to change the basic approaches to U.S.-Russian relations set forth by Obama and George W. Bush. It should also be remembered that the probable policy shift of the new Administration is marred by Senate investigations into potential Russian links and contacts, including potential business interests, of the President and associates such as Secretary of State Rex Tillerson and, even more important, evidence of hostile Russian intrusions during the U.S. electoral campaign. For a democratically elected government it would be a challenge to isolate a new approach to Russia from the need to respond to allegations that Russia sought to manipulate public opinion during the elections. Both Moscow and Kyiv will follow the news from Washington on these matters in order to understand whether the new Administration has a new strategy toward them and their conflict, or decides to avoid making decisions and taking risks.

In sum, despite massive direct and indirect Western support during the war years, Ukraine is concerned about the short-term nature of such support and the fragile unity underpinning Western approaches when it comes to imposing real costs on Russia.

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[21] "World Chaos and World Order: Conversations With Henry Kissinger," transcript of an interview with Henry Kissinger, *The Atlantic*, November 10, 2016, http://www.theatlantic.com/international/archive/2016/11/kissinger-order-and-chaos/506876/ (accessed January 04, 2017).

[22] Henry A. Kissinger, "How the Ukraine Crisis Ends," *The Washington Post*, March 6, 2014, cited from http://www.henryakissinger.com/articles/wp030614.html (accessed January 04, 2017).

Western Perceptions of the Conflict Between Ukraine and Russia

The West is preoccupied with working with Russia on conflict resolution for a number of reasons that go beyond the Kremlin's possession of nuclear arms, the necessity to engage Russia in Syria, on Iran or the Korean peninsula, negotiations on the Arctic, climate change or other issues.

First, Russian claims over Ukraine are not considered to be completely illegitimate. It was common practice to treat Ukraine as a "grey zone" between EU/NATO Europe and Russia[23] and to consider that under certain conditions Ukraine could join re-integration projects inspired by Moscow. The failure of the Euro-Atlantic integration reforms of the "Orange revolution" governments, and the pro-Russian stance of the Yanukovych presidency, seemed to support that view of Ukraine.

In addition, growing Russian assertiveness, which included both hostile actions toward former Soviet republics and economic incentives for key EU countries (Italy, Austria, Germany, and France) and euroskeptic or pro-Russian governments in central-eastern Europe (Hungary, the Czech Republic, Slovakia), prompted ideas of respecting Russian "special interests" and favoring its partnership over relations with other CIS countries.

The most recent examples of using economic and trade-related arguments to justify renewed relations with Russia have been provided by center-left governments in Austria and Greece[24] as well as a broad coalition of parliamentary business lobbyists in the French Senate[25] and the National Assembly.[26] It is worth mentioning that in February 2015 Francois Fillon, the frontrunner in the 2016 French Republican presidential primary, called German and French leaders to support Russia's interest in a neutral Ukraine and to reject the notion that Russia intended to capture Ukraine.[27] Since that time he has only strengthened his stance about returning to close dialogue with Putin regardless of his behavior.[28]

These calls have been even stronger in countries that depend on Russian energy imports. Both the center-left Prime Minister of Slovakia, Robert Fico, and the right-wing Prime Minister of Hungary, Viktor Orban, included revival of trade with Russia as a key concern for their countries, since each

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[23] Robert Legvold and Celeste A. Wallander, eds., *Swords and Sustenance. The Economics of Security in Belarus and Ukraine* (Cambridge: Cambridge University Press, 2004), p. 227.
[24] "Austrian president rails against EU sanctions on Russia," *Deutsche Welle*, April 6, 2016, http://dw.com/p/1IR2J, accessed November 22, 2016).
[25] "French Senate Urges Government To Lift Sanctions On Russia," *Radio Free Europe/Radio Liberty*, June 9, 2016, http://www.rferl.org/a/french-senate-urges-government-lift-european-union-sanctions-russia/27787635.html (accessed November 22, 2016).
[26] Nicholas Vinocur, "France's lower house calls on EU to lift Russia sanctions," *Politico*, April 28, 2016, http://www.politico.eu/article/frances-lower-house-calls-on-eu-to-lift-russia-sanctions-russian-prime-minister/ (accessed November 22, 2016).
[27] "Ukraine: Fillon "félicite" Hollande pour son implication," *Europe 1*, February 11, 2016, http://www.europe1.fr/politique/fillon-felicite-hollande-sur-le-dossier-ukrainien-2369999 (accessed November 22, 2016).
[28] Daniel Vernet, "L'amitié pas claire de François Fillon avec Vladimir Poutine," *Slate*, November 11, 2016, http://www.slate.fr/story/129149/francois-fillon-ami-poutine (accessed November 22, 2016).

has suffered from Russian countersanctions.[29] According to Dariusz Kalan, much of Russia's influence in these central-eastern European countries, especially Hungary, has been based on lucrative, corruption-laden business deals.[30]

However, it was the Obama Administration that started the "reset policy" toward Russia, only months after the 2008 Russian-Georgian war, despite Russia's de facto annexation of Abkhazia and South Ossetia. And it took two years for the Obama Administration to review its relations with a more authoritarian Russia, initially opposing congressional efforts to penalize Russia and then only reluctantly approving some selective restrictive measures, such as the Magnitsky Act.[31]

The essence of the initial Western inability to confront a new reality and to contest Russian claims over Ukraine may be found in widespread Western acceptance of Putin's own characterization of his aggression against Ukraine as a "crisis in Ukraine." **The term "Ukrainian crisis," used often in international media, is simply not correct. Ukraine's domestic crisis ended with the escape of Yanukovych to Russia, the return of the 2004 constitutional reform, which prevents monopoly of power, and the smooth legitimization of new Ukrainian authorities. These developments were in fact key reasons why Putin decided to intervene, in an attempt to divert Ukrainian efforts from its reform agenda and aggravating the country's economic and political situation.**

As the war broke out, it became evident that Russia had enough strength to defeat and capture three Baltic states before NATO could respond. According to U.S. Lieutenant General Ben Hodges, commander of U.S. Army Europe, the situation has not changed much after two years of conflict.[32] It is true that the July 2016 NATO Warsaw summit adopted decisions that raised the stakes for Russia in case of military escalation.[33] However, a country without NATO backing has even less chance to survive an encounter with the Russian military machine.

Therefore, the major Western powers think that re-arming Ukraine could not deter escalation of the conflict, since Russia could definitely launch a preventive invasion to defeat the Ukrainian army before Western assistance and a military buildup could make Ukraine's defense forces strong enough to withstand full-scale attack.

In 2015, just a few days before talks in Minsk, speaking at the Munich security conference, German Chancellor Angela Merkel ruled out the idea of strengthening the Ukrainian army, since she did

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[29] "EU should drop Russia sanctions, Slovak PM says after meeting Putin," *Reuters*, August 26,2016, http://www.reuters.com/article/us-ukraine-crisis-slovakia-idUSKCN1111A1 (accessed November 22, 2016).
[30] Dariusz Kalan, "Hungary in the grip of a bear hug," European Council on Foreign Relations (commentary), May 5, 2016, http://www.ecfr.eu/article/commentary_hungary_in_the_grip_of_a_bear_hug_7019 (accessed November 22, 2016).
[31] "H.R. 6156 (112th): Russia and Moldova Jackson-Vanik Repeal and Sergei Magnitsky Rule of Law Accountability Act of 2012," *GovTrack*, https://www.govtrack.us/congress/bills/112/hr6156/text (accessed November 22, 2016).
[32] Jochen Bittner, "How dangerous Nato really is," *Die Zeit*, June 29, 2016, http://www.zeit.de/politik/2016-06/eastern-europe-nato-defence-alliance (accessed November 22, 2016).
[33] NATO, "Warsaw Summit Communiqué," July 9, 2016, http://www.nato.int/cps/en/natohq/official_texts_133169.htm (accessed November 22, 2016).

not believe it would persuade Putin that he might suffer military defeat.[34] At the same time French President Francois Hollande warned that the only alternative to negotiations was war.[35]

However, European leaders seemed to be "led from behind" by the Obama Administration on this matter. On the eve of the Russian assault of Debaltseve in February 2015, Ben Rhodes, a deputy national security adviser and one of President Barack Obama's closest aides, told CNN that supplying weapons to Ukraine was not an answer to the crisis in Ukraine.[36] Later, in March 2015, it was revealed that this decision was made contrary to advice from the Secretary of Defense, the Chairman of Joint Chiefs of Staff and the Director of National Intelligence.[37]

Hopefully, there is gradual evolution of the views in France and, especially, in Germany to support economic sanctions against Russia and backing of the EU financial aid loans for Ukraine. As for the United States, in both Republican and Democratic camps there is a consensus that Ukraine must obtain lethal arms to protect itself, although this should not take shape as a unilateral American decision without the consent of key EU and NATO allies. During his confirmation hearings, Secretary of State Tillerson suggested that in 2014 he would have recommended supplying weapons and offering air surveillance to Ukraine to respond to Russian aggression in Crimea and eastern parts of the country.[38]

Second, many Western authorities tend to believe that Ukraine is part of the problem, and that it can be influenced at relatively lower cost and can be controlled in the process of peace-making. The West is inclined to forget about its own strategic intelligence failure when it came to Russia's easy takeover of Crimea, and is tempted instead to lay the blame on weak Ukrainian security and defense institutions and radical nationalistic movements that were operating within the broad protest movement of the Euromaidan.

In February 2014, the actions of Russian special forces troops in Crimea not only caught the West by surprise, they did not correspond to prevailing Western perceptions of Russian policy tools and Russian goals in Europe and the CIS. As Daniel Treisman has observed, "Before the operation in Crimea, Putin's decisions could generally be rationalized in terms of costs and benefits, but since then, his foreign policy calculus has been harder to decipher."[39]

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[34] "Merkel says 'weapons won't help' resolve eastern Ukraine crisis," *Deutsche Welle*, February 7, 2015, http://dw.com/p/1EXch (accessed November 22, 2016).
[35] "Hollande warns of war if Ukraine peace plan fails after Putin meeting," *Radio France International*, February 7, 2015, http://en.rfi.fr/europe/20150207-hollande-warns-war-if-ukraine-peace-plan-fails-after-putin-meeting (accessed November 22, 2016).
[36] Barbara Starr and Laura Koran, "U.S. shifts stance on military aid to Ukraine," *CNN*, February 3, 2015, http://edition.cnn.com/2015/02/02/politics/us-ukraine-lethal-aid/ (accessed November 22, 2016).
[37] Agence France-Presse in Washington, "US military chief backs arming Ukraine against separatists," *The Guardian*, March 3, 2015, https://www.theguardian.com/us-news/2015/mar/03/us-military-chief-backs-arming-ukraine-against-separatists (accessed November 22, 2016).
[38] Rex Tillerson confirmation hearing for secretary of state -- live blog, *CNBS News*, January 11, 2017, http://www.cbsnews.com/news/rex-tillerson-confirmation-hearing-for-secretary-of-state-live-blog/ (accessed January 12, 2017).
[39] Daniel Treisman, "Why Putin Took Crimea," *Foreign Affairs*, May/June 2016, https://www.foreignaffairs.com/articles/ukraine/2016-04-18/why-putin-took-crimea (accessed November 22, 2016).

On the other hand, the Ukrainian leadership is far less unpredictable and its parochial interests could be easily identified and targeted by soft and hard political tools. According to then-U.S. Assistant Secretary of State Victoria Nuland, "The ability of the United States and the international community to continue to support Ukraine depends upon the commitment of its leaders… to clean up corruption, restore justice, and liberalize the economy." If very detailed demands are not met Ukrainian elites are threatened to "slide backwards once again into corruption, lawlessness, and vassal statehood."[40]

We expect that the new U.S. Administration, relying on a cooperative Congress, will make its support for Ukraine even more dependent on Kyiv's commitment to reform itself and fight corruption. Washington, not Brussels or other European capitals like Berlin, London or Warsaw, provides the lion's share of military and financial assistance for Ukraine and shapes IMF loan requirements, which are two crucial elements for Ukraine's survival. Therefore, Ukraine's leaders, who are incapable of closing the gaps between their promises and their actions, face a hard choice: either subdue their egoistic interests and spur domestic changes, or continue feuds for power and wealth only to end up with an imposed peace agreement as a part of possible broader pact between the new U.S. Administration and Putin.

Meanwhile, the EU also faces a certain problem with influencing Ukraine. The Dutch advisory referendum rejecting the Association Agreement and internal disagreements about reforming the Schengen regime have compromised two of the soft power tools available to the EU to influence Kyiv's decision-makers.

Moreover, the Netherlands demanded that the European Council conclusions regarding Ukraine of December 15, 2016[41] be supplemented by an annex about the implementation status of the EU-Ukraine Association Agreement. From the Ukrainian point of view, this document was approved to assure Dutch voters that the EU is not going to impose any obligations on EU member states that may go beyond what was concluded in the Association Agreement. This impression was strengthened by the fact that the EU sanctions against Russia were extended until June 2017.

However, there is a risk that these political provisions could be used by the new governments in the Netherlands, France, Germany, and may be Italy, to block new decisions to assist Ukraine in the fields of security, mobility of citizens and support of the reform process. In this case, this annex could be seen as the Union's failure to conduct a proactive policy in the Eastern Neighborhood.

In addition, EU-Ukraine trade relations cannot by themselves be an immediate game changer. Despite high expectations, the economic results of the Deep and Comprehensive Free Trade Agreement (DCFTA) between Ukraine and the EU would be rather modest. According to the

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[40] U.S. Department of State, "Ukrainian Reforms Two Years After the Maidan Revolution and the Russian Invasion," Testimony of Victoria Nuland, Assistant Secretary, Bureau of European and Eurasian Affairs, Statement Before the Senate Foreign Relations Committee Washington, DC, March 15, 2016, http://www.state.gov/p/eur/rls/rm/2016/mar/254707.htm (accessed November 22, 2016).

[41] http://www.consilium.europa.eu/en/press/press-releases/2016/12/15-euco-conclusions-final/ (accessed January 04, 2017).

European Commission, even though EU countries in 2015 accounted for 40% of Ukraine's exports and 34% of Ukraine's imports, overall trade has stagnated since 2008,[42] due to structural problems of the Ukrainian economy. In addition, according to the Economist Intelligence Unit, Ukraine's two major export drivers in 2015-2016 were agricultural products and metals (44.3 percent and 24.5 percent of all exports, respectively, between January and June 2016), both of which may suffer from "greater economic uncertainty in the EU following the UK's Brexit vote."[43] In short, the DCFTA and Association Agreement are likely to have more political than economic short-term significance for Ukraine, which means that the EU cannot expect Ukrainian concessions on a peace deal in return for more favorable trade conditions.

Third, most Western interlocutors believe that the Minsk agreements are the only real way to stop the war. The Minsk agreements' success, however, relies on the presumption that the gradual removal of sanctions could prompt Russia to withdrawal from the Donbas. This view is shared by the German,[44] French,[45] and former Italian[46] ministers of foreign affairs. One possible explanation for such behavior is their need to balance their respective countries' interest in Russian resources with their respective security commitments as part of the EU and NATO.

Many Western leaders are attracted to the theory that deep and comprehensive economic ties serve as safeguards against hostility. Therefore, according to this line of thinking, improving economic relations would nudge positive domestic developments in post-Soviet Russia. These expectations grew bolder in 2008-2012, during the Presidency of Dmitry Medvedev, despite Russia's invasion of Georgia. Germany played the role of engine in developing a strategic partnership between the EU and Russia. As German President and former Foreign Minister Frank-Walter Steinmeier has stressed, Europe needs Russia "as a partner for security and stability in Europe – and far beyond," and Russia "faces formidable modernization challenges: renewing infrastructure, investment, creation of a socially just society," which can be addressed through partnership and mutual integration with Germany and the EU.[47]

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[42] European Commission, "European Union, Trade in goods with Ukraine" (November 2016), http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113459.pdf (accessed November 22, 2016).
[43] Economist Intelligence Unit, "Trade decline begins to abate," http://country.eiu.com.ezproxy.members.marshallcenter.org/article.aspx?articleid=1344490718&Country=Ukraine&topic=Economy&subtopic=Recent+developments (Limited access, accessed November 22, 2016).
[44] "Germany's Steinmeier favors gradual phasing-out of Russia sanctions," *Reuters*, June 19,2016, http://www.reuters.com/article/us-ukraine-crisis-germany-steinmeier-idUSKCN0Z50AI (accessed November 22, 2016).
[45] David Whitehouse, "France's Ayrault Wants to Lift Russia Sanctions, Needs Results," *Bloomberg*, May 20, 2016, http://www.bloomberg.com/news/articles/2016-05-20/france-s-ayrault-wants-to-lift-russia-sanctions-needs-results (accessed November 22, 2016).
[46] Denis Dyomkin and Giulio Piovaccari, "Italian PM Renzi welcomes Putin but mentions differences," *Reuters*, June 10, 2015, http://www.reuters.com/article/us-italy-russia-putin-idUSKBN0OQ15O20150610 (accessed November 22, 2016).
[47] Frank-Walter Steinmeier, Federal Minister for Foreign Affairs, "Time for a German-Russian Modernization Partnership," Federal Foreign Office, May 13, 2008, http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Reden/2008/080513-BM-Russland.html, (accessed November 22, 2016).

Meanwhile, Russia's interest in building such a "Partnership for Modernization"[48] with the EU, and Germany in particular, did not prevent the regime from rigging the 2011 Duma elections and using force to crack down on the 2012 Bolotnaya protests. Despite growing evidence of the Kremlin's authoritarian turn, key European states sought to maintain a cooperative approach toward Russia. It was argued that since "it is Russia which is far more dependent on economic and energy relations with its most important markets: EU member states," the EU and key European countries such as Germany could use asymmetric interdependence "to create new formats for dialogue with Russian society" and spur gradual changes in the country keeping economic and security cooperation with a "difficult state" like Russia."[49]

However, Russia's attack against Ukraine and the annexation of Crimea has proven that mutual economic interdependence is considered by Russian authorities to be a tool, not an obstacle, for aggressive policy. Indeed, there was an evident asymmetry in economic relations between Ukraine and Russia. In 2013 Russia's imports from Ukraine amounted to $15.8 billion (or 5 percent of its total imports and 24 percent of Ukraine's exports). This was the largest share among the Commonwealth of Independent States, and Ukraine was one of Russia's largest trading partner.[50] Nonetheless, that same year Russia blocked billions of dollars worth of Ukrainian exports, making it clear that it was prepared to incur some economic losses in exchange for political concessions.[51] The same pattern of behavior was repeated when the Kremlin ordered asymmetric trade countersanctions against EU and Turkish producers in 2015 (first and fourth trade partners respectively[52]). Furthermore, Putin authorized the invasion in Ukraine despite the risk of losing one of its biggest natural gas markets, its traditional transit route for energy into Europe, an important market for Russian exports, and severing cooperation between Russian and Ukrainian companies in certain sensitive areas.

From this point of view, the EU's search for a modus vivendi with Moscow cannot ignore Russia's interpretation of interdependence as a kind of weapon.[53] In this context, proposing the gradual removal of sanctions without a clear demonstration of how and when they can also be expanded

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[48] Council of European Union, "Joint Statement on the Partnership for Modernisation EU-Russia Summit 31 May-1 June 2010," http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/er/114747.pdf (accessed November 22, 2016).

[49] Stefan Meister, "Germany's Russia policy: Bolder towards Moscow?" European Council of Foreign Relations (commentary), October 23, 2013, http://www.ecfr.eu/article/commentary_germanys_russia_policy_bolder_toward_moscow222# (accessed November 22, 2016).

[50] "Russia's trade ties with Europe," *BBC*, March 4, 2014, http://www.bbc.com/news/world-europe-26436291> (accessed November 22, 2016).

[51] Roman Olearchyk, "Russia accused of triggering trade war with Ukraine," *Financial Times*, August 15,2013, https://www.ft.com/content/99068c0e-0595-11e3-8ed5-00144feab7de (accessed November 22, 2016).

[52] European Commission, "European Union, Trade in goods with Russia" (November 2016), http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_113440.pdf (accessed November 22, 2016).

[53] Denis Cenusa, Michael Emerson, Tamara Kovziridse and Veronika Movchan, "Russia's Punitive Trade Policy Measures towards Ukraine, Moldova and Georgia," CEPS Working Paper, No. 400, Centre for European Policy Studies (September 2014), https://www.ceps.eu/system/files/WD%20300%20Punitive%20Trade%20Measures%20by%20Russia_0.pdf (accessed November 22, 2016).

and strengthened only proves to Moscow that it can wait and influence certain European countries to secure more favorable conditions.

In short, sanctions are not goals in themselves in the context of conflict in the Donbas, they have become a test of the EU's ability to carry out a coordinated and substantive response to violations of the post-WWII order in Europe and of the U.S. commitment to protect its democratic allies.

To conclude, the West is facing a difficult dilemma as it approaches the limits of its limited engagement in the conflict between Russia and Ukraine. It faces suspicion, hidden agendas and zero-sum game thinking on the Russian and, to some extent, also the Ukrainian side.

Stakes and Levers of the West and Ukraine in the Conflict

In order to understand how the conflict in the Donbas shapes Ukraine's response, including its choice of the foreign policy tools, one needs to take into account the following:

- after two years of conflict Russia has consolidated its military and political control over its proxies in the Donetsk and Luhansk regions;
- since most Ukrainian combat-ready troops are concentrated in the Donbas and military reserves are limited, Russia has a good reason to conduct limited military operations to exhaust the country's defense and coerce it to a humiliating peace agreement or even try to provoke a change of regime;
- Russia has been pursuing a goal of a regime change in Ukraine even if it means greater violence and further destabilization of a neighbor;
- War in the Donbas is perceived by majority of Ukrainians as a struggle for national survival. According to polls, 52% of Ukrainian would choose armed or civil resistance against foreign intervention, while 3% would flee abroad.[54]
- Putin's aggression contributed to a dramatic shift in Ukrainian society over the past two years. A May 2016 poll by the Democratic Initiatives Foundation showed that support for joining the Eurasian Economic Union collapsed to 14% (support to join the EU is 59%). Support for joining NATO skyrocketed to 43% (25% is in favor of non-bloc status), and a potential referendum would be won by NATO supporters. These changes in geopolitical attitudes happened in all regions of Ukraine.[55] Also, DIF polls in the liberated areas of the Donbas show

[54] "The Opinions and Views of the Population of Ukraine on the Methods How to Resist Invaders/Occupiers," [in Ukrainian], Kyiv International Institute of Sociology, September 28, 2016, http://www.kiis.com.ua/?lang=ukr&cat=reports&id=546&page=1 (accessed November 22, 2016).

[55] In the east and south the option for a Customs Union or military union with Russia collapsed as well, and the number of EU and NATO supporters increased dramatically. In these regions the supporters of 'non-allied status' still dominate. However, to a great extent they are demoralized and not politically active. According to the polls, if referenda on EU and NATO membership would take place, they would be won in the east and south as well. See

that a majority of respondents choose an all-Ukrainian identity over a regional one. Even in the Donbas (which is under control of Ukraine), less than 7% of respondents said they support the separation of the so-called 'LNR' and 'DNR' ("People's Republic of Luhansk" and "Donetsk National Republic") from Ukraine.[56]

- At times the Ukrainian leadership plays into Russian hands and damages the trust of Western partners by discrediting its own reform processes. Its bargaining position on the occupied territories is also not very clear, even to Ukrainian experts.

There are significant limits to Ukraine's ability to negotiate compromise in the framework of the Minsk agreements. Ukraine will pursue a number of non-negotiable priorities in the nearest future, among them "securing continued international support for Ukraine's sovereignty and territorial integrity, including non-recognition of Russia's annexation of Crimea; reorienting its economy as quickly as possible toward Europe; and seeking continued international assistance to ameliorate the country's economic situation."[57]

If these goals are sacrificed in the process of peace-making in the Donbas, the whole deal would soon fall apart due to huge domestic resistance in Ukraine and highly expected Russian interference. A closer examination of the implementation elements within the Minsk agreements reveals that they cannot result in stable peace.

Although military cooperation with the West is very important for Kyiv, the main point of concern is Western attitudes towards Ukraine's economic restructuring. Among the first who called for "a modern-day equivalent of the Marshall Plan" for Ukraine was George Soros, who urged the U.S. and German governments, as well as the IMF, to rescue the country from financial collapse[58] and to stop treating Ukraine like "another Greece."[59] It is apparent, however, that in the midst of the Brexit debacle the EU is more concerned about and focused on its own internal problems rather than troubles on its periphery.

Nevertheless, it is crucial for the West to understand that providing Ukraine with a standard bailout easing, which stipulates mainly austerity measures, instead of huge investments in productivity-growth spots and close oversight of performance, would just preserve the oligarchic monopolistic economy, which can result only in another destabilization and violent turmoil in the next election cycle. And the resulting domestic troubles will invite just another Russian invasion, as in 2014.

Ilko Kucheriv Democratic Initiatives Foundation, opinion poll press release, July 6,2016, http://dif.org.ua/article/gromadska-dumka-pro-nato-noviy-poglyad (accessed November 22, 2016).

[56] "Donbas. Public Opinion about the Conflict," [in Ukrainian] Ilko Kucheriv Democratic Initiatives Foundation, July 16, 2016, http://dif.org.ua/article/donbas-poglyad-naselennya-na-konflikt (accessed November 22, 2016).

[57] Vincent L. Morelli, "Ukraine: Current Issues and U.S. Policy," Congressional Research Service, August 3, 2016, p.16, https://www.fas.org/sgp/crs/row/RL33460.pdf (accessed November 22, 2016).

[58] George Soros, "Sustaining Ukraine's Breakthrough," *Project Syndicate*, February 26, 2014, https://www.project-syndicate.org/commentary/george-soros-calls-on-the-eu--and-germany-in-particular--to-take-the-lead (accessed November 22, 2016).

[59] George Soros, "Last Chance for Ukraine and Europe," *Project Syndicate*, March 30, 2015, https://www.project-syndicate.org/commentary/ukraine-eu-last-chance-by-george-soros-2015-03, (accessed November 22, 2016).

So far, Ukraine has no additional resources to sustain the postwar reconstruction of the Donbas. The current economic policies of austerity and energy market liberalization depend on close cooperation with EU financial institutions, U.S. credit guarantees and a credit lifeline from the IMF. However, the West is reluctant to commit even more resources or relieve Ukraine from its sovereign debt,[60] so that the country can channel saved money to the post-conflict areas.

As an example, Ukraine's negotiations in March 2015 with a pool of private lenders and bondholders, most of them from United States,[61] resulted in no necessary assistance from the U.S. government, as if there was no war going in the Donbas or the annexation of Crimea had never happened. Indeed, it was not feasible to let Ukrainian elites become "free riders" and main beneficiaries of a "haircut" and debt relief. However, a restructuring deal between private lenders and Ukrainian government placed the debt burden on the public and over the medium term undermined the well-being of the common people, who remain the main agents of civil society and proponents of Western institutions of democracy and rule of law[62].

It is true that the Ukrainian economy is struggling to find its way to recovery and modernization. In addition to the negative impact of the Crimea annexation and war in the Donbas, the performance of the national economy is constrained by such serious factors as corruption, lack of innovation, an absence of long-term capital investment, depreciation of critical infrastructure, the low labor costs and high capital outflow rates. According to the latest WEF Competitiveness Index, Ukraine's basic requirements for competitiveness, so far, have been extremely low.[63] Without immediate implementation of the long-term decisions to reform the economy, the Ukrainian government cannot endure external and internal security threats linked to the conflict in the Donbas.

The most important counterargument about the Minsk agreements is that their implementation has not been owned by the Ukrainian people, including those who live in the conflict zone. From the very beginning the work of the trilateral contact group and its foreign facilitators on ceasefire, demining, exchange of POWs, election issues has been carried out without the consent of the people and their representatives in the national parliament and local councils, volunteer organizations and civil activists. According to the May 2016 poll of the Democratic Initiatives Foundation, only 13% of Ukrainians believe that elections in the DNR/LNR or their 'special status' would lead to peace in the Donbas. 43% of Ukrainians consider these elections impossible in the near future, and 21% consider that these elections may happen, but only under Ukrainian law.[64]

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[60] George Soros, "Europe at War," *Project Syndicate*, January 12, 2015, https://www.project-syndicate.org/commentary/european-leadership-in-supporting-ukraine-by-george-soros-2015-01 (accessed November 22, 2016).
[61] Chris Vellacott, "Factbox-Ukraine bonds and holders as Kiev seeks talks with creditors," *Reuters*, March 11, 2015, http://uk.reuters.com/article/ukraine-debt-idUKL5N0W831R20150311 (accessed November 22, 2016).
[62] See the results of the polls below in the text.
[63] Klaus Schwab, ed., "Global Competitiveness Report 2015-2016. Ukraine," World Economic Forum, p. 354, http://www3.weforum.org/docs/gcr/2015-2016/Global_Competitiveness_Report_2015-2016.pdf (accessed November 22, 2016).
[64] "Donbas. Public Opinion about the Conflict," [in Ukrainian] Ilko Kucheriv Democratic Initiatives Foundation, July 16, 2016, http://dif.org.ua/article/donbas-poglyad-naselennya-na-konflikt (accessed November 22, 2016).

As a consequence, it is crucial that Western powers understand and agree with the red lines Ukraine has established as necessary to maintain Ukraine's sovereignty and essential for any sustainable peace, as they engage in peace negotiations with Russia.[65]

Finally, Ukraine wants to understand how the West views the future of Crimea's status and ways of defusing possible conflicts between Russia and Ukraine over this territory. In an interview on ABC's "This Week" on July 31, 2016, Republican presidential candidate Donald Trump suggested that the people of Crimea would rather be part of Russia.[66] Although his remarks were widely condemned, there is no secret that the West de facto accepted the seizure of Crimea. Sanctions related to Crimea are quite weak and often violated by Western companies. While Western powers and institutions do not recognize elections to the Russian Duma from Crimea, in general they seem to accept tacitly the results of Russian Duma elections, despite illegitimate voting in the occupied Crimean constituencies for all-national Russian parties' slates. In the Ukrainian view, such voting delegitimizes the entire Duma.

A Constitutional "Special Status" for the Occupied Areas in the Donbas?

With the Minsk-2 agreement, Western powers and Russia not only imposed constitutional changes on Ukraine, President Poroshenko himself went beyond his authority by agreeing to change the constitution (clause 11). It will be almost impossible for Poroshenko to collect the 300 votes (out of 450) needed for the second reading of the constitutional changes. Also, this attempt would lead to destabilization, as he would be accused of having betrayed national interests.

What are the main arguments against a constitutional 'special status' for the occupied areas? First, Russia's plans for the "Bosnianization" of Ukraine go even beyond so called "Finlandization."[67] To achieve it, the Kremlin may try to use footnotes to clause 11 of the Minsk-2 accords. In contrast to the constitutional unitary status of Ukraine, it is designed to give autonomy and therefore legitimie separatist-held areas in the Donbas (including legitimization of so-called 'people's militia' and appointment of judges and prosecutors with "participation" of Russia's proxies). Clause 8 would make Ukraine (and, consequently, the West and international organizations) pay for the reconstruction of the destroyed Donbas economy.

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[65] "Implementation of the Minsk Agreements: "Red Lines" for Ukraine," Institute of World Policy, October 12, 2016, http://iwp.org.ua/eng/public/2145.html (accessed November 22, 2016).

[66] The Associated Press, "Donald Trump Suggests U.S. Should Accept Russia's Annexation of Crimea," *Fortune*, August 1, 2016, http://fortune.com/2016/08/01/donald-trump-accept-russia-annexation-crimea/ (accessed November 22, 2016).

[67] Henry Kissinger, "To settle the Ukraine crisis, start at the end," *The Washington Post*, March 5, 2014, https://www.washingtonpost.com/opinions/henry-kissinger-to-settle-the-ukraine-crisis-start-at-the-end/2014/03/05/46dad868-a496-11e3-8466-d34c451760b9_story.html?utm_term=.826fd889e2fd or Zbigniew Brzezinski, "Russia needs to be offered a 'Finland option' for Ukraine," *Financial Times*, February 22, 2014, https://www.ft.com/content/e855408c-9bf6-11e3-afe3-00144feab7de (accessed November 22, 2016).

Second, trying to avoid new escalation, Western partners have pressed Ukraine to implement clause 11 on constitutional changes, ahead of implementing ceasefire and ahead of implementing other clauses from 1 to 10. In the eyes of Ukrainians this smacks of "appeasing" Russia for its aggression. Kyiv stresses that it can have dialogue only with those representatives of the occupied areas who are legitimately elected, that is, according to clause 9, under Ukrainian law and OSCE monitoring. Kyiv also demands withdrawal of foreign troops, according to clause 10.

Elections in the Occupied Areas "Under Ukrainian Law and OSCE Monitoring"?

It is difficult to imagine free and fair elections on the territory controlled by Russian security services and armed half-criminal units. Who will have the right to vote? More than one and a half million pro-Ukraine voters have left the Donbas, but they need to have the right to vote. Who will be able to run? Should the amnesty be provided to those who were killing, torturing, and kidnapping Ukrainian citizens? Who will provide security at the polling stations? Ukrainian police or armed Russia's proxies? Which electoral system should apply? The same one as in Ukraine (based on party lists) or a different one? Will Ukrainian parties and mass media be able to function freely? At present, there are no Ukrainian media at all in these areas, only Russian channels.

Moreover, two main issues remain unsolved. First, Kyiv's control over the Ukrainian-Russian border has not been restored. Unfortunately, according to Minsk-2 this should happen at the end of the peace process (clause 9). Kyiv asked the EU to consider deploying an EU mission on the border (like EUBAM on Ukrainian-Moldovan border) but there has been no response yet. Second, there has been no withdrawal of foreign troops, mercenaries, illegal armed formations, and Russian military equipment (as required by clause 10 of Minsk-2).

Without demilitarization of the region it is difficult to imagine free elections. The OSCE does not have the capacity to monitor the whole region. Some argue that "EU policymakers should therefore discuss a step-by-step approach for lifting the sanctions depending on progress on the Minsk accords."[68] In this regard, Ukrainian experts are concerned that some Western politicians are going just to tick the box to obtain a pretext for reducing or lifting sanctions on Russia. By agreeing to formal elections, Russia would like to create a camouflage for presenting the Russian-Ukrainian conflict as Ukraine's internal problem and involve Kyiv into direct dialogue with Russia's proxies.

These concerns are shared not only by political opponents of President Poroshenko but also by the expert community in Ukraine. In principle, Poroshenko will be able to collect enough votes (only 226 out of 450) to get the special election law passed. His idea is to proceed after the elections to restore Ukraine's border control (which is questionable, given Russia's position) and to involve

[68] Judy Dempsey, "Is Europe Wobbling Over Sanctions on Russia?" Commentary of Vice chair of the Group of the Progressive Alliance of Socialists and Democrats in the European Parliament Knut Fleckenstein, June 1, 2016, http://carnegieeurope.eu/strategiceurope/63706 (accessed November 22, 2016).

former separatists into the formal structures under control of Ukrainian state. By doing that he may be able to present himself as a peacemaker for domestic consumption and to secure Western approval, but this long and controversial approach could also erode his support and thus risk further destabilization.

Recommendations

- ***Increase military assistance to Ukraine both by providing necessary equipment for the army and supporting modernization of Ukraine's indigenous defense industry.*** Support for the army should entail defensive lethal arms, encrypted command and communication systems, unmanned aerial vehicles and modern reconnaissance equipment. Modernization of Ukraine's indigenous defense industry should include joint ventures to restore naval, air and missile defense capabilities.
- ***Consider the possibility of establishing a special legal bilateral framework, similar to the U.S.-Israel memorandum of understanding, to regulate military assistance between Ukraine and the United States, or at least provide Ukraine with the status of a major non-NATO ally*** such as Egypt, South Korea, Morocco or Pakistan.
- ***Include Ukraine into the NATO's Enhanced Opportunities Program*** (Georgia is already part of this program, together with Sweden, Finland, Jordan, and Australia).
- ***Consolidate existing international sanctions against Russia and establish single legal and political framework for all existing sanctions,*** contemplating their cancellation only after Russia's withdrawal from the Donbas and beginning of a political dialogue about the future of Crimea. Consideration should be given to including cultural and sport events conducted in Russia as part of such sanctions, even though this does not seem very realistic given the weak Western response to the annexation of Crimea (compared with the boycott of the Moscow Olympic Games after the Soviet invasion to Afghanistan).
- ***Additional measures need to be taken***, including strict implementation of the "Crimean part" of the sanctions regime, and increasing international monitoring of the situation in Crimea, including defending the rights of Crimean Tatars, who are again facing repression.
- ***Sanctions against the Russian delegation in the Parliamentary Assembly of the Council of Europe should not be lifted*** given that there is no progress regarding the situation in Crimea and the Donbas. Illegitimate voting in occupied Crimean constituencies for all-national Russian parties' slates is cause not to recognize the legitimacy of the entire Duma.
- ***Promote policies, companies and trans-border projects that help to reduce the presence of Russian energy resources in the European and Ukrainian markets.*** The best case scenario presumes EU-U.S. cooperation to reduce the share of Russian oil and natural gas in the European markets, including its substitution with alternative sources and reversing existing joint projects between Russian and European energy companies. It is especially important to support Ukrainian efforts to substitute Soviet-era nuclear power stations with modern Western

stations and assist in the development of indigenous Ukrainian nuclear fuel production and alternative renewable energy installations.

- ***Develop a common multilateral approach, agreed among all stakeholders, for the short- and long-term financial support of Ukraine***, which can be maintained despite Russian efforts to continue the conflict in the Donbas. It is essential to make such support conditional on Ukraine's achievement of real transparency and accountability in domestic politics.
- ***Continue pressure on Ukrainian leaders on anti-corruption and judicial reforms***. For example, it is important to put under severe scrutiny and audit all kinds of foreign assets, including offshore entities, owned by Ukrainian public persons. One of the most effective mechanism of Western assistance has been support of non-governmental watchdogs, think tanks and independent media, including the emerging Suspilne Movlennia (state-owned former national broadcasting company), which has investigated corruption cases and helped to launch e-declarations for civil servants and government leaders.
- ***Immediate EU implementation of a visa-free regime for Ukrainians should be supplemented by legal countermeasures against Ukrainian government officials (including former public officers) and their associates who are responsible for, or complicit in, ordering, controlling, or otherwise directing, acts of significant corruption.*** The model for such a legal step is provided by the draft of the Global Magnitsky Human Rights Accountability Act.[69]
- ***Act to constrain neighboring countries from unfriendly actions or open assistance to Russian actions that destabilize Ukraine*** (e.g. Hungarian policy in Transcarpathia).
- ***Withdrawal of Russian troops and heavy weapons, demilitarization of the Donbas, return of all Ukrainian hostages and POWs, restoratinon of law and order, and international monitoring/control over the Ukrainian-Russian border are all preconditions for any consideration of special constitutional states for presently occupied area of the Donbas or elections in the occupied areas.*** Anything less will reward the Kremlin for its aggression. Without that, both special status as well as elections in the occupied areas look like legitimization of Russia's de facto control over occupied areas. If Russia agrees to leave the Donbas but has reservations against hypothetical injustices there once it is gone, it is possible to use the experience of Israel-Egypt relations over Sinai to reach agreement on a gradual disengagement and demilitarization of the Donbas according to a negotiated division of the occupied territories into the zones. This should include lower presence of both Ukrainian and Russian armed forces on the Ukrainian-Russian border, enforced by an international observer contingent on all roads and transport routes between two countries in the former area of conflict. If this does not work, one can not exclude that the Minsk agreements need to be renegotiated. In any case, until withdrawal and restoration of Ukraine's sovereign control over its border, sanctions cannot be reduced. They appear to have been the main tool stopping Russia's military attack.

[69] US Congress, S.284 - Global Magnitsky Human Rights Accountability Act, https://www.congress.gov/bill/114th-congress/senate-bill/284/text (accessed November 22, 2016).

- ***An effective ceasefire is necessary for Kyiv to concentrate on domestic reforms.*** There are successful examples of countries like West Germany, South Korea, and Israel where Western economic and security assistance appeared to be decisive factors. More recent examples include Cyprus, which joined the EU despite having a frozen conflict on its territory; and Moldova, which entered into a visa-free regime and association agreement with the EU despite the conflict over Transnistria. In the latter case, despite Western overtures Moldova's ruling coalition was unable to start effective struggle against corruption. That is why Western support and pressure for reforms in Ukraine remain crucial.