

### The Minsk Agreement

A diagnosis of the Ukrainian crisis and its resolution

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#### I. Introduction

The Minsk accord on 12 February aroused a heated public debate and a variety of contradicting assessments. Despite its roadmap purpose, the agreement does not guarantee the further dynamics of the military conflict in Eastern Ukraine as it fails to serve as a precise and binding document for the both sides of the conflict. As the first Minsk agreement in September shows, the viability of such ceasefire instruments for de-escalation can only be assessed after a certain period of time. In hind sight, it is clear that the failure of the September peace accord resulted from the increasing ceasefire violations and mutual accusations coming from the both sides. The further escalation of the conflict cannot be justified only by the limitations of the ceasefire document as it is rather the unwillingness of specific conflict parties that undermines any attempts of peaceful stabilisation.

Similarly, the February agreement was followed by the rebels' military offensive on the transport hub Debaltseve, which pushed the Ukrainian armed forces out of the town. The ceasefire violations urged the Ukrainian authorities to consider requesting the UN and EU to launch a peacekeeping operation in the Eastern Ukraine.<sup>1</sup>

Despite the unpredictable future of the Minsk agreement, the text itself is of a particular research interest because it reflects the current state of the Ukrainian crisis, as well as its wider political and security environment. As a product

of a substantial diplomatic effort, this compromise document illustrates the strengths and weaknesses of the sides that took part in its elaboration: Ukraine, Russia and the EU.

The Minsk agreement showed that the termination of military action and state integrity is of vital importance for Ukraine and determines its behaviour in negotiations. Nevertheless, the negotiations and subsequent developments on the ground also highlight that Ukraine is facing two significant obstacles in the road to normalisation: firstly, finding a mutually acceptable solution, and secondly, re-establishing control and order in Eastern Ukraine. The process also highlighted the ambiguity of Russia's involvement in the Eastern-Ukrainian conflict: Russia was not recognised as a side, but as an external actor with an assumed influence over the Donetsk and Luhansk rebels. As for the EU, the Minsk agreement is a case study on its crisis management capabilities, and highlights the discrepancy between EU's ability to facilitate conflict resolution and its own inconsistent approach to both the situation in Ukraine and relations with Russia.

Analysing the limitations of the Minsk accord, benefits and pitfalls of the agreement for Ukraine and Russia, and the role of the agreement for the EU can therefore shed light on the complexity of Ukrainian crisis resolution. In light of the deteriorating security situation on the ground, and the by now apparent failure of the September agreement, it is high time to recognise the full extent of these complexities.

#### II. Problems and Limitations

The Minsk agreement consists of two documents: "The Package of Measures for the Implementation of the Minsk Agreements" and a supporting Declaration, agreed by the leaders of Russia, Ukraine, France and Germany. The first document

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<sup>1</sup> Novoe Vremya, February 18, 2015 [[Link](#)]

was elaborated and signed by the Trilateral Contact Group, the same group that worked on the September protocol. The group is composed of OSCE representative Heidi Tagliavini, Ukraine's second president Leonid Kuchma, the ambassador of the Russian Federation to Ukraine Mikhail Zurabov and the two leaders of self-proclaimed Donetsk and Luhansk Republics, Aleksandr Zakharchenko and Igor Plotnitskiy.<sup>2</sup> However, it should be noted that the document does not indicate the two Eastern republics as party to either the conflict or the agreement. Instead, it mentions "individual areas of Donetsk and Luhansk regions".<sup>3</sup> Importantly, the status of Zakharchenko and Plotnitskiy, who are two of the signatories of the accord, is not mentioned.<sup>4</sup> The Declaration in support of the conflict resolution measures highlights respect for Ukraine's sovereignty and integrity, as well as the leaders' commitment to facilitate a peaceful resolution of the Eastern-Ukrainian conflict, particularly by using "their influence on relevant parties".<sup>5</sup>

A closer examination of the agreement shows that it carries significant limitations that can impede an eventual settlement. Similar to the September Minsk protocol, the February agreement does not define the sides of the conflict. Additionally, the February accord does not clarify such key terms as "foreign armed forces" and "illegal groups".<sup>6</sup> While the Ukrainian state claims the presence of Russia's armed forces and military equipment in Eastern Ukraine, neither the rebels nor the Russian state officially recognise this. Moreover, the Ukrainian state perceives the rebels' military formations as illegal, whereas the self-proclaimed republics

make the same claim concerning the voluntary armed battalions that support the Ukrainian state. As a result, the purpose of the provision on removing foreign armed forces and illegal groups from the territory of Ukraine is undermined by the absence of common understanding and interpretation of the terms, a clear indication of the complexity of conflict resolution in Eastern Ukraine.

The failure of the September ceasefire agreement can be partially explained by its inefficient implementation mechanism, specifically the ceasefire monitoring by OSCE.<sup>7</sup> The OSCE Special Monitoring Mission in Ukraine was established in March 2014 with a mandate to report on the security situation.<sup>8</sup> However, the organisation's regular reports have not been a sufficient mechanism, as the organisation lack appropriate measures to deal with specific incidents. In addition, personnel and equipment shortages, as well as reported rebel restrictions to access investigation sites, has contributed to the failure of the OSCE mission in Ukraine to fulfil its purpose.<sup>9</sup>

The ceasefire monitoring role of OSCE was retained in the February Minsk accord, but expanded to supervising the withdrawal of foreign troops, disarmament of illegal groups and monitoring the local elections in the Donetsk and Luhansk regions.<sup>10</sup> Apart from this, the political leaders of Germany, France, Russia and Ukraine agreed to establish "an oversight mechanism in the Normandy format", which implies further consultations on the implementation of the Minsk agreement.<sup>11</sup>

A crucial measure of conflict de-escalation would be restoration of state control over the borderline, in particular the open and

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<sup>2</sup> *The Package of Measures for the Implementation of the Minsk agreement*, February 12, 2015, [[Link](#)]

<sup>3</sup> Ibid.

<sup>4</sup> Novoe Vremya, February 13, 2015 [[Link](#)]

<sup>5</sup> *Declaration of Minsk in Support of the "Package of Measures for the Implementation of the Minsk agreement"*, 12 February, 2015 [[Link](#)]

<sup>6</sup> *The Package of Measures*, February 12, 2015 [[Link](#)]

<sup>7</sup> Novoe Vremya, February 12, 2015 [[Link](#)]

<sup>8</sup> OSCE Special Monitoring Mission to Ukraine [[Link](#)]

<sup>9</sup> Carnegie Europe, February 12, 2015 [[Link](#)]

<sup>10</sup> *The Package of Measures*, February 12, 2015 [[Link](#)]

<sup>11</sup> *Declaration of Minsk*, February 12, 2015 [[Link](#)]

uncontrolled Ukrainian-Russian border in the conflict zone.<sup>12</sup> However, according to the February Minsk agreement, this can be achieved no earlier than the end of 2015 after local elections are held in individual areas of Donetsk and Luhansk regions and a constitutional reform establishing the decentralisation of the Ukrainian state is adopted.<sup>13</sup> By making the restoration of border control conditional on those two elements, the Minsk accord undermines one of the core prerequisite of conflict resolution.

The September protocol envisaged that the post-conflict settlement in Eastern Ukraine would be achieved by establishing a special three-year order of self-governance in certain areas of Donetsk and Luhansk regions.<sup>14</sup> It is noteworthy that the respective law was adopted by the Ukrainian parliament in September and grants the local governments in the East powers to create people's militia units to maintain public order, and participate in the appointment of the heads of prosecution offices and courts.<sup>15</sup> Additionally, the Ukrainian state guarantees the right to language self-determination and support the use of Russian in education, local governance and other public spheres.<sup>16</sup> The Ukrainian state also guarantees to assist in establishing cross-border cooperation between individual areas in Donetsk and Luhansk and regions in the Russian Federation.<sup>17</sup>

The provisions of the February Minsk accord on the status of individual areas of Donetsk and Luhansk regions are based on these special orders of self-governance. The February document does not indicate a specific term for

the status of the individual areas; however, it envisages the establishment of the special self-governance order on permanent basis.

### III. Ukraine: the Price of Peace

On the face of it, the Minsk negotiations and resulting agreement demonstrated the following achievements of the Ukrainian state:

- Political, civilian and financial support from the EU, NATO, IMF, the US;
- The self-proclaimed republics of the Eastern Ukraine are not internationally recognised;
- Formal preservation of state integrity and borders.

Nevertheless, after the February Minsk negotiations it has become obvious that the most crucial purpose of the agreement, termination of the military conflict and normalisation of the situation in Eastern Ukraine, has not been achieved.

One of the key pitfalls of the Minsk accord for Ukraine is that the country's' claims of a Russian military presence in Eastern Ukraine (which are supported by the US, NATO and the EU) were not fully reflected in the agreement. Russia is not recognised as a side of the conflict, which implies that the Ukrainian state will be solely responsible for the material aspect of post-conflict settlement. Apart from this, a restoration of Ukraine's control over the conflict areas implies serious challenges for the Ukrainian state.

Firstly, the steps of post-conflict settlement, particularly holding local elections, have to go through the dialogue between the Ukrainian state and the representatives of the two Eastern-Ukrainian regions.<sup>18</sup> However, in practice, the sides do not recognise the legitimacy of each

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<sup>12</sup> Novoe Vremya, February 12, 2015 [\[Link\]](#)

<sup>13</sup> The Package of Measures, February 12, 2015 [\[Link\]](#)

<sup>14</sup> The Minsk Protocol [\[Link\]](#)

<sup>15</sup> "On the Special Order of Self-Governance in Individual Areas of Donetsk and Luhansk Republics" [\[Link\]](#)

<sup>16</sup> Ibid.

<sup>17</sup> Ibid.

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<sup>18</sup> The Package of Measures, February 12, 2015 [\[Link\]](#)

other and remain rivals. Furthermore, parts of the population in areas controlled by the self-proclaimed republics are against reintegrating into Ukraine under the authority of the incumbent government. This creates a substantial impediment for conflict settlement.

Secondly, the Ukrainian state has to restore socio-economic relations with the areas, including provision of social payments and regaining control over the banking system. The state is also in charge of reconstructing the areas, which has been severely damaged by the conflict. However, with the uncontrolled Ukrainian-Russian border and without a stable presence of state authorities, the efficiency of these measures is highly questionable.

Thirdly, the Ukrainian state has to adopt a new constitution establishing a decentralised order in the country. However, the adoption of a new constitution under time pressure poses certain risks, most notably insufficient scrutiny by legal expertise and the public. For the Ukrainian state, who has been coping with a political crisis for a year, and the Ukrainian society, which has experienced serious social turbulence, a rushed constitutional reform at this stage might become an additional destabilising factor.

Finally, in the eyes of the Ukrainian public, the military conflict in Eastern Ukraine partially justified the delay of necessary systemic reforms. The failure of the government to implement the reforms after the termination of the military conflict might escalate the social tension to a critical point.

#### **IV. Russia: Uncomfortable Balance**

The Minsk agreement hardly contributed to clarifying the role of Russia in the Ukrainian crisis. On the one hand, the economic sanctions imposed by the EU and US on Russia are still in place. Within the US, there is also an ongoing

debate on supplying Ukraine with lethal weapons. In its 2014 Annual Report, NATO recognises Russia's "use of military force to annex Crimea and destabilise Eastern Ukraine" as a threat to the international order.<sup>19</sup>

On the other hand, the Minsk agreement largely follows Russia's official position on the Ukrainian crisis, in particular the denial of any Russian involvement in the conflict. According to the Minsk supporting Declaration, President Putin is one of the brokers of the ceasefire agreement, rather than an active party in the conflict. Accordingly, it could be argued that the Minsk accord plays a symbolic role of a temporary diplomatic compromise but has rather limited strategic potential. Importantly, one of the prerequisites of conflict resolution in Eastern Ukraine would be the correspondence of declared peace intentions and actions on both sides.

In light of the deteriorating relations between Russia and the West, Putin's participation in the Minsk negotiations might provide a 'time-out' for Russia. However, enhancement of sanctions against Russia is a possibility that remains largely dependent on the outcome of the ceasefire in Eastern Ukraine.

#### **V. The EU: Old Instruments for New Challenges**

In facing the challenge of the Ukrainian crisis, the EU has applied its arsenal of conflict-prevention and crisis-management tools, including diplomacy, economic and political pressure. The Minsk negotiations demonstrated the EU's diplomatic strength by bringing together the sides of the conflict and elaborating a compromise agreement. Being sensitive to the war threat near its borders, the EU achieved a guarantee of war prevention in Eastern Ukraine, formalised in the Declaration signed by both the Ukrainian and Russian presidents, as well as the

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<sup>19</sup> Secretary General's Annual Report 2014 [[Link](#)]

compromise agreement of the Trilateral Contact Group.<sup>20</sup>

However, the EU has been criticised for inconsistent and insufficient action in relation to the situation in Ukraine. For instance, a Carnegie Europe scholar, Judy Dempsey suggests that the Ukrainian crisis shows the “pitiful state” of the EU’s security, defense and foreign policy.<sup>21</sup> In regards to the Minsk negotiations, it has also been pointed out that along with the declaration of full respect to Ukraine’s sovereignty and integrity, the German and French leaders did not bring up the Crimean issue.<sup>22</sup> In general, the negotiations highlight the incompatibility of the EU’s crisis-management measures with specific security challenges.

An example of such incompatibility is the fact that the Minsk declaration provides the diplomatic basis for continuing the trilateral talks between the EU, Russia and Ukraine on energy issues, as well as on solving Russia’s concerns in regards the implementation of Deep and Comprehensive Free Trade Agreement between the EU and Ukraine.<sup>23</sup>

The Minsk negotiations thus highlight several of the Union’s weaknesses. Firstly, the EU does not have a consolidated foreign policy towards Russia. In general, EU members can be divided into two groups according to their vision of Russia: either as a partner or a threat.<sup>24</sup> While for certain EU states, such as Hungary and Slovakia, economic relations with Russia are of high importance, some members, for instance Poland and Lithuania, condemn the Russian state for “expansionism” and “contempt for democracy”.<sup>25</sup> As a result, decision-making when

it comes to relations with Russia is often impeded by attempts to elaborate a compromise that would balance the member states’ interests and values.

Secondly, it remains unclear which EU institution is “the voice” of the Union’s foreign policy. To understand the EU’s stance on Russia’s role in the Ukrainian crisis, one has to examine statements of the Union’s High Representative for foreign affairs, Federica Mogherini, look at the decisions of the Council of the EU and consider the position of the European Council President Donald Tusk. Quite apart from this, there is also the issue of coherence between the official EU position and the action taken by individual political leaders.

The EU weaknesses could be partially solved by revising its security strategy. The current European Security Strategy was adopted in 2003. The elaboration of a new strategic document could be an opportunity for the EU to bring together its foreign and security policies and formalise its unified position towards Russia.

## VI. Conclusion

The limitations of the Minsk agreement reflect the complexity of the Ukrainian crisis. One of the crucial impediments in conflict resolution is the disagreement among the involved actors on the sides of the conflict; therefore, the aims of conflicting parties remain unclear.

It can be argued that a necessary first step towards resolving the Eastern-Ukrainian military conflict would be the elaboration of a single rhetoric on the conflict, acceptable to and adopted by all the involved actors. Until this happens, the parties have to continue to develop their individual strategies of dealing with the conflict with the least possible damage. This increases the risk that the sides will opt for freezing the conflict. The Ukrainian state, for instance, withdrew its armed forces from

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<sup>20</sup> Novoe Vremya, February 13, 2015 [\[Link\]](#)

<sup>21</sup> Carnegie Europe, February 12, 2015 [\[Link\]](#)

<sup>22</sup> Centre for European Reform, February 13, 2015 [\[Link\]](#)

<sup>23</sup> Declaration of Minsk, February 12, 2015 [\[Link\]](#)

<sup>24</sup> Leonard M., Popescu N. (2007) “A Power Audit of EU-Russia Relations”

<sup>25</sup> Ibid.

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Debaltseve, leaving it under the rebels' control, but sparing the army's human resources, while the rebels and Russia has shown no sign of retreat. The prospect of another frozen conflict thus appears increasingly likely, with significant implications for long-term stability and security in Europe.

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